



U.S. Department
of Transportation
Federal Transit
Administration

REGION V
Illinois, Indiana,
Michigan, Minnesota,
Ohio, Wisconsin

200 West Adams Street
Suite 320
Chicago, IL 60606-5253
312-353-2789
312-886-0351 (fax)

August 9, 2016

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

Re: Federal Financial Assistance for the Euclid Corridor Transportation Project

Dear Mr. Calabrese,

In October 2004 the Federal Transit Administration (FTA) and the Greater Cleveland Regional Transit Authority (GCRTA) transacted a Full Funding Grant Agreement (FFGA) whereby FTA awarded \$82.2 million in discretionary capital investment funds and \$60 million in Federal funding under the Congestion Mitigation/Air Quality program for the Euclid Corridor Transportation Project (the "Euclid Corridor project," now called "the HealthLine"). Obviously, this Federal financial assistance paid for the lion's share of the costs of the project. By all accounts, the HealthLine has been a success, both as a means of mobility for travelers and a spur for commercial development in the Euclid corridor.

As you know, the favorable *project justification* rating for the HealthLine—based on the criteria established in 49 U.S.C. § 5309—was premised in large part on the ridership estimates for a Bus Rapid Transit system having a western terminus in the Public Square, in the heart of Cleveland's central business district. Moreover, the ridership estimates were premised on a Downtown Transit Zone carefully designed to facilitate cross-town bus circulation within the perimeter bounded by St. Clair Avenue, Superior Avenue, East 23rd Street, and West 3rd Street. Specifically, the environmental record for the HealthLine contemplated a Downtown Transit Zone that would evenly distribute GCRTA's buses over the street network, thereby mitigating the noise impacts in any one location, with exclusive bus lanes on Superior Avenue through Public Square. Indeed, these principles were memorialized in the Interagency Agreement between GCRTA and the City of Cleveland executed in August 2004, as a condition precedent to the FFGA.

Very recently, however, I have learned that, at the City's direction, the exclusive bus lanes on Superior Avenue have not been re-opened, notwithstanding the completion of the reconstruction of Public Square. Further, as I understand it, the feeder buses that are essential to fuel a significant amount of the ridership on the HealthLine have been excluded from the Downtown Transit Zone. Accordingly, I have alerted Secretary Foxx and the Acting Federal Transit Administrator, Carolyn Flowers, of a potential breach of the FFGA between my agency and yours, and the need to protect the substantial investment of Federal financial assistance to the HealthLine.

I write today to put GCRTA on notice of my concerns. If you have any data or information pertinent to the Downtown Transit Zone, Public Square, or the HealthLine of which I am unaware, I would appreciate receiving it. I will call you shortly to discuss these matters.

Sincerely,

A handwritten signature in black ink, appearing to read "Marisol R. Simón". The signature is fluid and cursive, with a prominent initial "M" and "S".

Marisol R. Simón
Regional Administrator

cc: Ms. Carolyn Flowers, FTA Acting Administrator



City of Cleveland
Frank G. Jackson, Mayor

Office of the Mayor
Cleveland City Hall
601 Lakeside Avenue, Room 202
Cleveland, Ohio 44114
216/664-3990 • Fax 216/420-8766
www.cleveland-oh.gov

October 3, 2016

Marisol R. Simón
Regional Administrator
U. S. Department of Transportation
Federal Transit Administration
200 West Adams Street, Suite 320
Chicago, IL 60606-5253

George F. Dixon III
President, Board of Trustees
Joseph A. Calabrese
Chief Executive Officer
Greater Cleveland Regional Transit Authority
1240 West 6th Street
Cleveland, Ohio 44113-1302

Dear Administrator Simón and Messers Dixon and Calabrese:

Thank you for attending our September 21, 2016, meeting to discuss whether Superior Avenue across Public Square should be open to GCRTA buses. In addition to yourself and City staff, representatives of ODOT and NOACA attended the meeting. At the meeting we explained that many citizens have asked us to keep Superior Avenue at Public Square closed.

In July, 2016, Mayor Jackson met with GCRTA officials and the City and GCRTA mutually agreed to the continued closure of Superior Avenue while the parties studied the impact upon GCRTA's operations and financial condition. During our due diligence, the Department of Public Safety restated concerns that the street's closure was safest for the public for several reasons depicted in a Public Safety memo attached as Exhibit A.

It is important that these safety concerns be balanced against the potential harm to GCRTA operations and finances should the roadway remain closed for an extended period of time. The risks include increased travel time on bus routes and an increased annual cost to GCRTA operations. However, we did point out that a number of transit zone enhancements have been made in the last decade to reduce travel time and assist ridership along the Healthline and Superior Avenue.

At the completion of the meeting, we collectively agreed to schedule a separate time for representatives of GCRTA knowledgeable about the Healthline's operations and costs, as well as the data and projections studied as part of the Euclid Corridor Project, to meet with appropriate City staff to identify the facts sought by the Mayor. FTA agreed to participate in that meeting. The Mayor committed that the City would make a final decision on the use of Superior Avenue at Public Square once the information from GCRTA was obtained and the City had an opportunity to review the data in light of the City's safety concerns.

At the end of the meeting on September 21st, it was our understanding that Superior Avenue through the Public Square park would remain closed until the follow-up meeting occurs to discuss: (1) GCRTA's assertion of impact on its operations and finances; and (2) the Public Safety concerns.

We were subsequently informed by GCRTA that "the clock is running on breach and has been running since August 1." If the data supports re-opening Superior we will do so, as long as GCRTA implements adequate measures to address the safety concerns identified in Exhibit A. We have set a meeting date of October 13, 2016, at 11:30 AM, and all parties except FTA have confirmed. We now seek final confirmation of this key meeting.

Sincerely,



Darnell Brown
Chief Operating Officer

cc: Board of Trustees, Greater Cleveland Regional Transit Authority
Ken Silliman, Chief of Staff, Office of the Mayor
Michael McGrath, Director, Department of Public Safety
Michael Cox, Director, Department of Public Works
Calvin Williams, Chief of Police, Cleveland Division of Police
James Muhic, Commissioner, Bureau of Traffic, Cleveland Division of Police
Robert Mavec, Commissioner, Traffic and Engineering, City of Cleveland
Grace Gallucci, Executive Director, Northeast Ohio Areawide Coordinating Agency (NOACA)
Myron Pakush, District Director, Ohio Department of Transportation, District 12



City of Cleveland Memorandum
Frank G. Jackson, Mayor

To: Darnell Brown, Chief Operating Officer

Date: October 3rd, 2016

From: Mike McGrath, Director of Public Safety

Subject: Superior Ave safety concerns through Public Square

Sir,

The following are the major safety concerns of the Bureau of Traffic regarding the opening of Public Square to bus and bicycle traffic:

1. The pavement design of Superior Avenue across Public Square resembles the design of the pedestrian walkways on the square, creating the illusion of a unified park, rather than a park bisected by the roadway. Pedestrians, especially children enjoying the new splash park, are not likely to appreciate that they have left the parkland and entered a roadway traversed by vehicles.
2. The City of Cleveland, and especially the Downtown Neighborhood, as an entertainment venue has become a travel destination for many people. Many of those people come from other cities in Ohio, and throughout the nation. Most will have no familiarity with the unique restrictions, of buses and bicycles only, that is placed suddenly on a straight-line roadway causing a detour on Superior Avenue (RT #6). It will be unlikely that these travelers will all be able to grasp the restrictions on this short, approximately 500', detour, and many of these confused motorists will follow the permitted vehicles, buses and bicycles, into the middle of the park area. Confused drivers are dangerous drivers and they will be placed in proximity to the pedestrians utilizing the park, including young children.
3. The fact there have been numerous events on Public Square already, with a full closure of Superior Avenue, will further confuse routine drivers and pedestrians in the Cleveland area. As we would now have some events with the roadway closed and some without.
4. Consistent with increased traffic to entertainment venues that serve adult alcoholic beverages, there will be occasions of impaired drivers on the roadway. There is the possibility of events occurring on either half of Public Square at any given time, and those pedestrian attendees crossing north and south on Superior Avenue within Public Square. These pedestrians may encounter the possibly confused and impaired drivers entering the roadway following buses or bicycles, creating an even more threatening situation.
5. There are security concerns created by the recent usage of motor vehicles by terrorists in attacking citizens attending public events. The most recent being Nice, France. Opening Public Square to cross traffic would allow a determined person to gain speed traveling on Superior Avenue and divert directly into a crowded area, most conspicuously the newly created water park with children. Granted there are other areas around the roadway that a determined driver could enter into the park area; however, the design of the park, whether intentional or not, would cause a driver to slow in order to negotiate around obstacles, thus lessening the impact.

Continued on Page 2

6. Our Public Square is unique in that it has what would be considered a desirable target for terrorist which is the Soldiers and Sailors Monument. This monument routinely has visitors and on occasions has events. As stated above there are other points to attack this target from; however, the opening of Superior Avenue only increases points to attack and provides one of the more tactically advantageous approaches for a terrorist.
7. The opening of Superior Avenue through Public Square will create a substantial personnel demand upon the Bureau of Traffic to ensure the safety of pedestrians and drivers due to the design of the park area and roadway. Regardless of the level of staffing and precautions enacted, the commingling of pedestrians and vehicles will increase the level of danger to both, as opposed to leaving the closure in place with only pedestrian traffic.

Cc: Calvin Williams, Chief of Police
Dornat Drummond, Deputy Chief, Field Operations
James P. Muhic, Commissioner, Bureau of Traffic



U.S. Department
of Transportation
Federal Transit
Administration

Region V

200 West Adams, Suite 320
Chicago, Illinois 60606

October 12, 2016

Mr. Darnell Brown
Chief Operating Officer
Cleveland City Hall
601 Lakeside Avenue, Room 202
Cleveland, OH 44114

Dear Mr. Brown:

This letter serves as the Federal Transit Administration's (FTA) reply to the City of Cleveland's (the City) letter dated October 3, 2016, regarding the use of Public Square for the Euclid Corridor Transportation Project (the Project). Although the FTA is replying to the City's letter, let me emphasize, the FTA's contractual relationship is with the Greater Cleveland Regional Transit Authority (GCRTA). The remedies available to the FTA will be invoked, as necessary, against the GCRTA, for purposes of protecting the Federal financial interest in the capital assets constructed or acquired under the Project.

The FTA and GCRTA entered into a Full Funding Grant Agreement (FFGA) for the Project in October 2004. Under the FFGA, the GCRTA received approximately \$142.8 million in federal funding for the Project – the great majority of the Project costs. As a prerequisite of the FFGA, there was an interagency agreement between the GCRTA and the City for the use of Public Square executed in 2003; use of Superior Avenue through Public Square for the Project was a term and condition of the FFGA. I note, parenthetically, the "HealthLine" has proven itself a very successful bus rapid transit system, and the City's citizens and businesses in the Euclid corridor have reaped significant commercial and mobility benefits from the Project.

On August 10, 2016, the FTA sent a letter to the GCRTA expressing its concern that Public Square was not reopened for public transit following the temporary closure due to construction. In its letter, the FTA stated that the permanent closure of Superior Avenue at Public Square is a potential breach of the FFGA. To date, the GCRTA has failed to respond to the FTA's letter.

The City's October 3rd letter was meant as a follow-up to the meeting held on September 21st regarding the re-opening of Public Square. At the meeting, the City and the GCRTA indicated that they would collect and evaluate additional data in order for the City to make a final decision on the use of Superior Avenue across Public Square in downtown Cleveland.

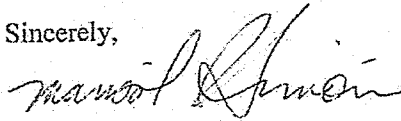
While the City and the GCRTA discuss the future use of Public Square for the Project, I write to reiterate that the FTA fully expects the GCRTA to honor the terms of the FFGA, which includes as part of the contract, an interagency agreement between the City and the GCRTA guaranteeing

Mr. Darnell Brown
Page 2

transit access along Superior Avenue from West 3rd Street and East 18th Street with a curbside 24-hour exclusive transit lane. If the portion of Superior Avenue in Public Square is permanently closed, the GCRTA would be in breach of its FFGA with the FTA. Based on the conditions of the Project, which are listed in Contract Unit C02 of the FFGA, this would constitute a debt owed to the FTA of approximately \$12,000,000.

The FTA expects that the GCRTA will formally communicate the outcome of its discussions with the City for the use of Public Square as soon as possible so the FTA can take appropriate action as necessary.

Sincerely,



Marisol R. Simón
Regional Administrator

cc: Mr. Joseph Calabrese, Greater Cleveland Regional Transit Authority



The Greater Cleveland
Regional Transit Authority

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

October 21, 2016

The Honorable Frank G. Jackson
Mayor
City of Cleveland
601 Lakeside Avenue
Cleveland, Ohio 44114

Re: Opening Superior Avenue at Public Square for RTA Buses

Dear Mayor Jackson:

The City of Cleveland and Greater Cleveland Regional Transit Authority have a long history of working together to improve public transportation to our citizens. The City and GCRTA worked very hard as partners to get the Federal Transit Administration (FTA) funding for the Euclid Corridor Transportation Project (ECTP). Our joint efforts were successful and we appreciate your support in bringing the nationally lauded "HealthLine" to Euclid Avenue and our region.


In a letter dated October 12, 2016, from the FTA to the City of Cleveland, the FTA reaffirmed its position that the continued closing of Superior Avenue through Public Square was a breach of the Full Funding Grant Agreement (FFGA). Per FTA, this potential breach would constitute a debt owed to the FTA of approximately \$12 million. As of the date of this letter, October 21, 2016, Superior Avenue through Public Square has remained closed to GCRTA. It is now more than 80 days past the projected August 1, 2016 date when public transit service was scheduled to resume on Superior Avenue, which is the date that the FTA feels that the breach began.

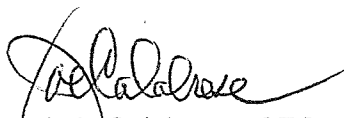
Attached is the Separate Agreement between the City and GCRTA under Section 11.09 of the Interagency Agreement. This agreement obligates the City to the same terms as GCRTA in the FFGA.

We are additionally very concerned that this non-compliance with and perceived breach of the FFGA will threaten both the City's and GCRTA's ability to compete for and receive future FTA funding.

By this letter, GCRTA requests that the City of Cleveland honor the FFGA, the interagency and successive agreements, and allow GCRTA to operate on the Transit Zone on Superior Avenue through Public Square. GCRTA additionally requests that the official opening be on Monday, October 31 which will give the parties time to communicate the opening to the public, and to establish the proper safety protocols.

Sincerely,


George F. Dixon, III, President
RTA Board of Trustees


Joseph A. Calabrese, CEO
General Manager/Secretary-Treasurer

Cc: Valarie J. McCall

**Separate Agreement Between the City of Cleveland
and the Greater Cleveland Regional Transit Authority
Under Section 11.09 of Interagency Agreement**

RECITALS

The City of Cleveland ("City") and The Greater Cleveland Regional Transit Authority ("GCRTA") entered into an Interagency Agreement for the Euclid Corridor Transportation Project (ECTP) on October 7, 2003; and

The Interagency Agreement between the City and the GCRTA anticipates that the GCRTA will enter into a Full Funding Grant Agreement (FFGA) with the Federal Transit Authority (FTA) for the ECTP; and

The InterAgency Agreement between the City and the GCRTA provides in Section 11.09 that the City and the GCRTA, prior to execution of the FFGA, will enter into a separate agreement "to the extent required by law, regulations, or the terms of federal or state grants" to assure compliance with applicable FTA laws, regulations, circulars, and agreements that apply to the ECTP and the GCRTA.

The City of Cleveland and the GCRTA further agree as follows:

AGREEMENT

1. Federal Certifications and Assurances Defined. Before FTA may award a federal grant, the GCRTA must submit all required certifications and assurances pertaining to itself and to its project as required by Federal laws and regulations. These certifications and assurances must be submitted to FTA irrespective of whether the project is financed under the authority of 49 USC chapter 53, or Title 23, United States Code, or another Federal statute. The GCRTA is required to annually submit certifications and assurances for all projects for which the GCRTA seeks funding during the Federal fiscal year. The GCRTA's Annual Certifications and Assurances applicable to a specific grant or project remain in effect for the life of the project or for the project property when a useful life or industry standard life is in effect. The Certifications and Assurances for Federal Fiscal year 2003 are found in the Federal Register October 23, 2002 (Volume 67, Number 205).
2. Full Funding Grant Agreement Defined. Full Funding Grant Agreements (FFGA's) are authorized under Federal Transit law and are the designated means for providing New Starts funds to the ECTP. The FFGA establishes

the terms and conditions for Federal financial participation; defines the project; sets the maximum amount of Federal New Starts funding for the project; covers the period of time for completion of the project; and facilitates efficient management of the project in accordance with applicable Federal Statutes, regulations and policy. FTA requirements for FFGA's are found in FTA Circular 5200.1A.

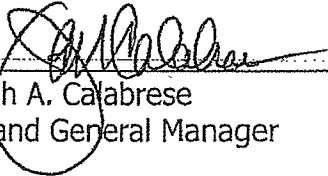
3. Master Grant Agreement Defined. The standard terms and conditions of an FTA grant agreement governing the administration of a Project such as the ECTP are contained in the FTA Master Agreement. The Master Agreement applies to Federal Assistance authorized by Federal Transit laws codified at 49 USC §§ 5301 *et seq.*; Title 23, United States Code (Highways); or the Transportation Equity Act for the 21st Century, Pub. L. 105-178, June 9, 1998, 23 USC §101 note, amended by the TEA-21 Restoration Act, Pub. L. 105-206, July 22, 1998, 23 USC §101 note, other amendments to TEA-21, or other Federal enabling legislation administered by FTA. Not every provision of the Master Agreement will apply to every recipient or subrecipient or every project; every recipient or subrecipient must comply, however, with applicable requirements of the Master Agreement.
4. Compliance with Requirements. City and GCRTA agree that they shall each, to the extent necessary and required by law, comply with the terms and requirements of the FTA Master Grant Agreement, any Full Funding Grant Agreement for the ECTP, and the GCRTA Certifications and Assurances for the ECTP. Neither party shall take, or fail to take, any action in contravention of law or the requirements, if applicable, of the FFGA, the Master Agreement, the Interagency Agreement, and the Certifications & Assurances. Both parties understand that if the City is a subrecipient of federal funds under federal law it will:
 - a. Cooperate with and assist GCRTA in meeting its lawful obligations to the federal government regarding compliance by subrecipients.
 - b. Not require or command GCRTA to take any action that would either preclude GCRTA from meeting its lawful obligations to the federal government regarding compliance by subrecipients or penalize the GCRTA for meeting its federal obligations.
 - c. Meet all its obligations as a subrecipient of federal funds or state funds associated with the ECTP.
 - d. Require its subrecipients and third-party contractors at all tiers to cooperate with and assist the City and GCRTA in meeting their obligations as well as meeting the subrecipient's and third-party contractor's obligations.

5. Environmental & Historic Preservation Agreements. As part of its compliance with the National Environmental Policy Act (NEPA) and with the National Historic Preservation Act (NHPA), the GCRTA, the State Historic Preservation Officer (SHPO) and the FTA have conducted environmental and historic reviews of the ECTP. As a result of these reviews, the FTA has issued a Finding of No Significant Impact (FONSI) that requires the GCRTA to mitigate any impacts and to perform certain acts in furtherance of its compliance with the NEPA. Also as a result of these reviews, the GCRTA, the SHPO and the FTA have entered into a Programmatic Agreement to preserve and protect historic properties. City agrees that it will cooperate with GCRTA in meeting its obligations under NEPA and NHPA.
6. Ohio Law – Dispute Resolution. To the extent applicable, the ECTP and City Projects shall be governed by the laws of the State of Ohio. In accordance with the InterAgency Agreement, both City and GCRTA agree that before seeking redress against each other in any court of law, each shall seek to resolve differences by means of the alternative dispute resolution process.
7. Authority of City. Nothing in this Agreement alters or affects the provisions of the Interagency Agreement or Ordinance No. 893-03, passed July 16, 2003. that ordinance

The parties have caused this Agreement to be executed by their proper officials as of the 19th day of October, 2004.

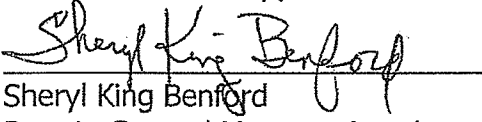
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**GREATER CLEVELAND REGIONAL
TRANSIT AUTHORITY**



Joseph A. Calabrese
CEO and General Manager

The legal form and correctness of
this instrument is approved.



Sheryl King Benford
Deputy General Manager-Legal

CITY OF CLEVELAND



Mark Ricchiuto
Director of Public Service

The legal form and correctness of
this instrument is approved.

Subodh Chandra, Director of Law

By: 

Assistant Director of Law



City of Cleveland

Frank G. Jackson, Mayor

Office of the Mayor
Cleveland City Hall
601 Lakeside Avenue, Room 202
Cleveland, Ohio 44114
216/664-3990 Fax 216/420-8766
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October 25, 2016

Mr. George F. Dixon III
President, Board of Trustees
Mr. Joseph A. Calabrese
Chief Executive Officer
Greater Cleveland Regional Transit Authority
1240 West 6th Street
Cleveland, Ohio 44113-1302

Dear GCRTA Board President Dixon and GCRTA CEO Calabrese:

I am in receipt of a letter from the Greater Cleveland Regional Transit Authority ("GCRTA"), dated October 21, 2016, regarding re-opening Superior Avenue at Public Square for GCRTA. In order to be clear as to the position of the City of Cleveland, let me state the events that brought us to this point.

In July, 2016, I met with GCRTA officials. The City and GCRTA mutually agreed to the continued closure of Superior Avenue while the parties studied the impact upon GCRTA's operations and financial condition. As part of our discovery the Department of Public Safety stated that the street's closure was safest for the public for multiple reasons as delineated in a Public Safety memo attached as Exhibit A.

On September 21, 2016, a meeting to further discuss whether Superior Avenue across Public Square should be open to GCRTA buses was held at City Hall. In addition to yourself and City staff, representatives of FTA, ODOT and NOACA attended the meeting. At the end of this meeting we collectively agreed to schedule a follow up meeting, which occurred October 13, 2016 at City Hall.

The purpose of that meeting was to analyze operational impact and cost resulting from the closure of Superior Avenue through Public Square. I committed that the City would make a final decision on the use of Superior Avenue at Public Square once a complete assessment of safety risk and mitigation were completed along with the information from GCRTA that demonstrated adverse financial and operational impact by keeping it closed.

During the October 13th meeting, my staff advised you that the City had actually recorded the amount of time it takes your buses to travel around the north and south sectors of Public Square. That time was compared against the amount of time a bus could travel through Superior if opened based on the current traffic signal cycles. The times were comparable in many respects. The remaining concerns that required vetting were the mitigation recommendations required to address our Public Safety concerns and concerns the GCRTA raised around factors outside of Public Square that might impact route efficiency. We were jointly still in this process.

I have now received a letter from GCRTA, dated October 21, 2016, that demands the City to open Public Square to bus traffic by Monday, October 31st citing a potential breach of the Full Funding Grant Agreement (FFGA) between the City and GCRTA, with the result being FTA being owed \$12 million from GCRTA. The letter ignores our agreement to validate GCRTA's assertions that there are financial and operational impacts caused by the continued closure, none of which in the opinion of the City has been demonstrated. In fact, it is not clear that the opening of Superior Avenue will mitigate the route efficiency concerns outside of Public Square as stated by GCRTA.

In addition to these issues, the principal concern is the safety of the public.

FTA's own mandate, as outlined in Map-21/FAST ACT, regarding the Safety Management System (SMS), specifically includes:

- 49 U.S.C. Section 5392 (d)(1)(c), which deals with *Safety Risk Management* and states, "Public transportation agencies must specify methods for identifying and evaluating safety risks throughout all elements of the public transportation system."
- 49 U.S.C 5329 (d)(1)(c), which deals with *Safety Assurance* and states, "Public transportation agencies must implement strategies to minimize the exposure of the public, personnel, and property to hazards and unsafe conditions."

Further, the FTA's Safety Management Systems Framework, published August, 2015 states, the following regarding Safety Risk Management and Safety Assurance on pages 8, 9, 10 and:

- "Safety Risk Management promotes the identification of hazards before they escalate into accidents or incidents."
- "Safety Risk Management evaluates safety risk and establishes necessary mitigations."
- "Safety Risk represents the likelihood that people could be harmed, or equipment could be damaged, by the potential consequences of a hazard and

the extent of the harm or damage. Therefore, safety risk is expressed and measured by the predicted probability and severity of a hazards potential consequences.”

- “It allows a transit agency to carefully examine what could cause harm and determine whether the agency has taken sufficient precautions to minimize the harm, or if further mitigations are necessary.”
- “Safety Assurance... helps a transit agency evaluate whether an anticipated change may affect the safety of operations. If an anticipated change is determined to introduce safety risk, a transit agency would conduct Safety Risk Management activities to minimize the safety risk associated with the change.”

Both FTA’s Chicago Regional Office and GCRTA are both advocating to open a portion of Superior Avenue (approximately 500 feet), based on a fully funded agreement, penalties associated with that agreement and GCRTA’s alleged operation cost, yet neither FTA, nor GCRTA has even taken the Safety concerns raised by the City seriously as mandated via Map-21 and the FAST Act’s SMS. Those sections on Safety Risk Management and Safety Assurance stated above are clear and consistent with the safety concerns identified by the City.

Based on the above and the due diligence of the City of Cleveland’s Safety Department (Police, Bureau of Traffic, Fire and EMS); Department of Public Works, Division of Traffic and Engineering; Mayor’s Office of Capital Improvements; and the City Planning Commission, the City of Cleveland has legitimate concerns about Safety as it pertains to FTA’s SMS program.

Therefore, given the concerns raised by GCRTA, which as of yet, remain unsubstantiated and the position FTA has taken as it relates to a potential breach of contract and subsequent \$12 million penalty, the following represents conditions the City seeks from FTA and GCRTA to provide in order to reopen Superior Avenue:

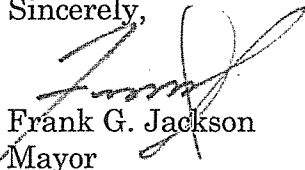
- Written confirmation from both FTA and GCRTA, affirmed by GCRTA’s Board, the Acting FTA Administrator and the Acting Director of the FTA’s Office of Safety and Oversight, with the concurrence of the Secretary of DOT, that the re-opening of Superior Avenue through Public Square is fully compliant with the mandates of FTA’s Map-21/FAST ACT and the provisions of the FTA’s Safety Management Systems Framework.

In addition, the written confirmation should include a Safety Risk Management plan for Public Square that articulates GCRTA’s specific steps that it will take to address all of the safety hazards and risks identified, based on FTA’s SMS and it should include a sound plan for mitigating any risk that may result from the demand from FTA and GCRTA that the City re-open this portion of Superior

Avenue. The written confirmation should hold harmless the City of Cleveland from any liabilities.

Until such time as you can satisfy the above, again, based on FTA's SMS, this 500 feet of Superior Avenue will remain closed; however, the City will remain open to working with GCRTA as we have always done to ensure, safe, reliable and convenient public transportation.

Sincerely,



Frank G. Jackson
Mayor

CC: Marisol R. Simon, U.S. Department of Transportation
Anthony Foxx, Secretary, US Department of Transportation
Ms. Carolyn Flowers, Acting Administrator, FTA
All Members of the Greater Cleveland Regional Transit Authority Board of Trustee
Ken Silliman, Chief of Staff, Office of the Mayor
Michael McGrath, Director, Department of Public Safety
Michael Cox, Director, Department of Public Works
Calvin Williams, Chief of Police, Cleveland Division of Police
James Muhic, Commissioner, Bureau of Traffic, Cleveland Division of Police
Robert Mavec, Commissioner, Traffic and Engineering, City of Cleveland
Grace Gallucci, Executive Director, Northeast Ohio Areawide Coordinating Agency (NOACA)
Myron Pakush, District Director, Ohio Department of Transportation, District 12



The Greater Cleveland
Regional Transit Authority

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October 25, 2016

Marisol R. Simon
Regional Administrator
U.S. Department of Transportation
Federal Transit Administration - Region V
200 West Adams Street, Suite 320
Chicago, IL 60606-5253

Re: Federal Financial Assistance for the Euclid Corridor Transportation Project

Dear Ms. Simon:


Please accept this formal reply to your letter dated August 10, 2016 regarding the City of Cleveland's decision to close Superior Avenue through Public Square.

First, thank you for your attendance on September 21, 2016 at Cleveland City Hall when you communicated FTA's position on the closure of Superior Avenue through Public Square. GCRTA views the future configuration of Superior Avenue and the roadway network around Public Square as a whole, as being critical to our ability to provide reliable, efficient, and cost-effective public transportation service. We also recognize the federal interest in the Euclid Corridor Transportation Project which includes the "Transit Zone".

As you know, GCRTA and the City of Cleveland are still reviewing the situation and are openly discussing concerns. On October 21, 2016, GCRTA sent a letter to Mayor Frank G. Jackson requesting that the City re-open Superior Avenue no later than October 31, 2016. A copy of that letter is attached. We are awaiting a response. We will continue to keep FTA informed as to our progress.

Thank you for your patience as we work diligently on this issue.

Sincerely,



Joseph A. Calabrese
CEO, General Manager/
Secretary-Treasurer

JAC/AH/rm

cc: Kathryn Loster, FTA Regional Counsel, Region 5



The Greater Cleveland
Regional Transit Authority

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

November 1, 2016

The Honorable Frank G. Jackson
Mayor
City of Cleveland
601 Lakeside Avenue
Cleveland, Ohio 44114

Mayor Jackson:

In response to your letter dated October 25, 2016, please be assured that the intent was not to demand anything, but to suggest a course of action. It is my goal; that as agreed, we continue to work in concert to address this issue.

I appreciate the efforts the City has made working with the GCRTA to resolve this matter and hope we continue to work together to see its resolution.

As always, thank you for your efforts.

Sincerely,

A handwritten signature in cursive script that reads "George F. Dixon, III".

George F. Dixon, III
President
Board of Trustees

GFD:msl

cc: Valarie J. McCall, Chief of Government and International Affairs



The Greater Cleveland
Regional Transit Authority

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

November 7, 2016

The Honorable Frank G. Jackson
Mayor
City of Cleveland
601 Lakeside Avenue
Cleveland, Ohio 44114

Dear Mayor Jackson:

This letter is designed to provide information and to answer questions posed in your letter of October 25th and to advance continued cooperation between the City of Cleveland and GCRTA.

We do know that the Federal Transit Administration (FTA) considers the lack of access by GCRTA buses on Superior Avenue in the Transit Zone, beyond August 1st, a breach of the FFGA. As I am sure that you agree, we should work collectively to address this issue as soon as possible.

My goal is to meet with you, or your designee, in an attempt to develop a set of acceptable options that can be jointly presented to FTA to remedy the current situation.

Additionally, we need to continue working collectively on the answers to the important questions you asked at the September 21st meeting, which were:

- Will the closing of Superior Avenue through Public Square cause financial and service related harm to GCRTA and its customers? And;
- Can Superior Avenue through Public Square be opened in a way that has an acceptable level of safety risk for pedestrians?

With respect to the financial and service related impacts to GCRTA, we do know that a study was done by (Nelson Nyygard) to assist the parties in the re-design and to impartially address the question. We also know that conditions have changed during the construction period which must now be taken into consideration.

I suggest for consideration that ODOT and NOACA be asked to assist in modeling various travel time impacts in the Transit Zone to provide us with needed information. A proper analysis should compare the time for a bus to travel, at a minimum from Superior Avenue and West 3rd, to a point on Superior Avenue East of Public Square, such as to East 3rd Street, to best reflect the Transit Zone. GCRTA does know the number of buses, by time of day and day of week that will be impacted, that can be factored into the modeling. In total, there are approximately 310,700 annual trips impacted.

With respect to service for our customers, on-time performance is a key factor in customer satisfaction. While the closing of Public Square has significantly impacted GCRTA's on-time performance, with the number of late buses increasing by 43%, I am confident that with GCRTA and the City of Cleveland working creatively together, many of these delays can be mitigated.



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With respect to safety, you asked if Superior Avenue through Public Square could be opened in a way that has an acceptable level of safety risk for pedestrians? We believe so. On a daily basis hundreds of GCRTA buses safely traverse streets passing hundreds of schools and playgrounds across Cuyahoga County.

Please know that GCRTA takes the safety of its customers and pedestrians very seriously, and is a recognized industry leader in safety and risk management initiatives.

We have consulted at length with the Headquarter and regional office leadership of the Federal Transit Administration (FTA) on all of these safety matters. The Acting FTA Administrator, Carolyn Flowers, has personally assured us that GCRTA's proposals for re-opening Superior Avenue through Public Square, as required by the Full Funding Grant Agreement between FTA and GCRTA, are entirely consistent with the Federal safety law for public transportation, codified at 49 U.S.C. § 5329, and the principles and methods of *Safety Management Systems* promoted by both FTA and the United States Department of Transportation. She and Secretary Foxx are well satisfied with GCRTA's safety risk management and safety assurance protocols, as required by law. Also know that GCRTA is prepared to work with the City of Cleveland to take extra steps and precautions to ensure the safety of the public.

As to several items raised in the October 3, 2016 memo from Mike McGrath to Darnell Brown, GCRTA recommends that an outside agency, such as ODOT, assist both GCRTA and City of Cleveland staff to review and develop a plan based upon best practices with respect to lower speed limits, signage, roadway and pedestrian markings, and signalization to maximize safety. Universally-recognizable signage and traffic signals for stops, lanes, and crossings should help direct out of town visitors.

GCRTA certainly agrees that the continued events being held weekly on the Transit Zone portion of Public Square will continue to cause confusion among the public. GCRTA suggests the programming by the Group Plan Commission be consistent with the original intent which was to hold these events on either the North or South quadrants of Public Square. Examples being that events such as the Food Truck Tuesdays and Farmers Market Thursdays were anticipated programming for Public Square, but not to be programmed for the roadway that was designed for public transit.

We do have a concern that the continued closure of Superior Avenue through Public Square may actually have the unintended consequence of increasing the risk of a pedestrian accident. Buses traveling around Public Square, as opposed to going through Public Square, are currently being forced to make four additional turns in each direction, in a high pedestrian congested area. It is widely accepted that such turns by large vehicles, such as buses and trucks, establish a safety risk. Successful safety-oriented companies, such as Fed Ex and UPS, actually route their vehicles to minimize turns, especially left hand turns, in order to minimize risks associated with pedestrian accidents. (see TCRP Report 125)



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In total, based upon GCRTA's existing schedule, GCRTA buses are currently making an additional 1,188,556 turns annually to travel around Public Square as opposed to through Public Square.

Furthermore, an open Superior Avenue through Public Square could enhance safety response times by Police, Fire and EMS, which could save lives.

We hope that this response to your letter will provide benefit as we move forward on the best plan possible. GCRTA stands ready to work with the City to answer any questions that have not been adequately addressed.

We look forward to continuing to work cooperatively on this matter to the satisfaction of the City of Cleveland, the FTA, and the GCRTA.

Sincerely,

A handwritten signature in cursive script that reads "Joe Calabrese". The signature is written in black ink and is positioned above the printed name and titles.

Joseph A. Calabrese, CEO

General Manager

Secretary-Treasurer

JAC:msl

Cc: GCRTA Board of Trustees



City of Cleveland
Frank G. Jackson, Mayor

Office of the Mayor
Cleveland City Hall
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November 14, 2016

Mr. George F. Dixon
President, Board of Trustees
Mr. Joseph A. Calabrese
Chief Executive Officer
Greater Cleveland Regional Transit Authority
1240 West 6th Street
Cleveland, Ohio 44113-1302

Dear GCRTA Board President Dixon and CEO Calabrese:

Thank you for your letter of response dated November 7, 2016. Your letter attempts to reset this matter yet again while we are in the middle of a collaborative approach to address the alleged breach of FFGA contract which is yet undefined by the Federal Transit Administration (FTA). As you know ODOT and NOACA are engaged in this process as well.

Please know, the primary concerns raised in my letter to you and GCRTA Board President George Dixon dated October 25, 2016 were specific to your assertion that failure to open Superior Avenue through Public Square has created severe operational and financial impact to GCRTA. Also stated was your responsibility to first identify all safety risk and then to recommend appropriate strategies to mitigate them. To be clear, I restate the following:

To the extent that modeling is required, there has already been much time devoted to this issue with no real predictable demonstrated negative impact. During the October 13, 2016 meeting my staff advised you that the City had actually recorded the amount of time it takes your buses to travel around the north and south sectors of Public Square. That time was compared against the amount of time required for a bus to pass through Superior if opened based on traffic signal cycles. Those times were comparable.

FTA's own mandate, as outlined in Map-21/FAST ACT, regarding the Safety Management System (SMS), specifically includes:

- 49 U.S.C. Section 5392 (d)(1)(c), which deals with *Safety Risk Management* and states, "Public transportation agencies must specify methods for identifying and evaluating safety risks throughout all elements of the public transportation system."
- 49 U.S.C. 5329 (d) (1) (c), which deals with *Safety Assurance* and states, "Public transportation agencies must implement strategies to minimize the exposure of the public, personnel, and property to hazards and unsafe conditions."

Further, the FTA's Safety Management Systems Framework, published August, 2015 states, the following regarding Safety Risk Management and Safety Assurance on pages 8, 9 and 10:

- "Safety Risk Management promotes the identification of hazards before they escalate into accidents or incidents."
- "Safety Risk Management evaluates safety risk and establishes necessary mitigations."
- "It allows a transit agency to carefully examine what could cause harm and determine whether the agency has taken sufficient precautions to minimize the harm, or if further mitigations are necessary."
- Safety Assurance... helps a transit agency evaluate whether an anticipated change may affect the safety of operations. If an anticipated change is determined to introduce safety risk, a transit agency would conduct Safety Risk Management activities to minimize the safety risk associated with the change."

That said, my expectations remain the same on this matter. You state that you have consulted with FTA and they have *verbally* assured you that your plan meets all Federal Safety Law; however the City is not aware of any plan.

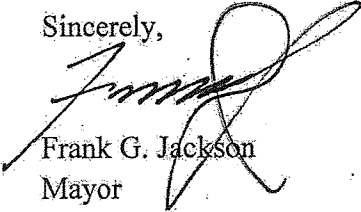
The City restates the following conditions from FTA and GCRTA are required in order to reopen Superior Avenue:

Written confirmation from both FTA and GCRTA, affirmed by GCRTA's Board, the Acting FTA Administrator and the Acting Director of the FTA's Office of Safety and Oversight, with the concurrence of the Secretary of DOT, that the re-opening of Superior Avenue through Public Square is fully compliant with the mandates of FTA's Map-21/FAST ACT and the provisions of the FTA's Safety Management Systems Framework.

In addition, the written confirmation should include a Safety Risk Management plan for Public Square that articulates GCRTA's specific steps that it will take to address all of the safety hazards and risks identified, based on FTA's SMS and it should include a sound plan for mitigating any risk that may result from the demand from FTA and GCRTA that the City re-open this portion of Superior Avenue. The written confirmation should hold harmless the City of Cleveland from any liabilities.

Finally, I look forward to receiving the information requested and will reiterate that the city will continue to work cooperatively with all parties to achieve the safest and best outcome for all of the citizens we serve.

Sincerely,



Frank G. Jackson
Mayor

CC: Marisol R. Simon, U.S. Department of Transportation
Anthony Foxx, Secretary, US Department of Transportation
Ms. Carolyn Flowers, Acting Administrator, FTA
All Members of the Greater Cleveland Regional Transit Authority Board of Trustees
Ken Silliman, Chief of Staff, Office of the Mayor
Michael McGrath, Director, Department of Public Safety
Michael Cox, Director, Department of Public Works
Calvin Williams, Chief of Police, Cleveland Division of Police
James Muhic, Commissioner, Bureau of Traffic, Cleveland Division of Police
Robert Mavec, Commissioner, Traffic and Engineering, City of Cleveland
Grace Gallucci, Executive Director, Northeast Ohio Areawide Coordinating Agency (NOACA)
Myron Pakush, District Director, Ohio Department of Transportation, District 12