



CITY OF ROANOKE
OFFICE OF THE CITY ATTORNEY
464 MUNICIPAL BUILDING
215 CHURCH AVENUE, SW
ROANOKE, VIRGINIA 24011-1595

Timothy R. Spencer
David L. Collins
Heather P. Ferguson
Laura M. Carini
Douglas L. Barber
Assistant City Attorneys

Daniel J. Callaghan
City Attorney

TELEPHONE 540-853-2431
FAX 540-853-1221

January 22, 2019

The Honorable Sherman M. Lea, Mayor
and Members of City Council
Roanoke, Virginia

Re: Special Meeting of Stockholder of Greater Roanoke Transit Company to Consider Sale of Campbell Court to the City of Roanoke, Virginia and Acquisition of Real Estate to Construct a New Transportation Center within the City

Dear Mayor Lea and Members of Council:

Background

Pursuant to the authority set forth in the Charter of the City of Roanoke and applicable provisions of the Code of Virginia, the City created Greater Roanoke Transit Company ("GRTC") and established GRTC to provide bus transportation services for the public. GRTC owns the City's transportation center, known as Campbell Court and more particularly described below, and GRTC desires to construct a new transportation center within the City. The City is the sole Stockholder of GRTC.

The City has negotiated an agreement under which the City will acquire four parcels of real estate to relocate the GRTC central transit transfer facility from Campbell Court (collectively, the "GRTC Relocation Parcels") and described as: (i) 0 Salem Avenue, S.W., Roanoke, Virginia, bearing Official Tax Map No. 1010113; and 325 Salem Avenue, S.W., Roanoke, Virginia, bearing Official Tax Map No. 1010115, owned by Brandon, Woody and Booker LLC; and (ii) 0 Salem Avenue, S.W., Roanoke Virginia, bearing Official Tax Map No. 1010121; and 0 Salem Avenue, S.W., Roanoke, Virginia, bearing Official Tax Map No. 1010122, owned by The Brandon Company, Incorporated for the sum of \$2,185,000 (the "GRTC Relocation Parcels Agreement"). The GRTC Relocation Parcels Agreement allows the City and GRTC to conduct inspections of the GRTC Relocation Parcels, including environmental, geotechnical, and title, to confirm the suitability of the GRTC Relocation Parcels for use and operation of a central transit transfer facility for GRTC. The GRTC Relocation Parcels Agreement is subject to approval by the Federal Transit Administration ("FTA"). The GRTC Relocation Parcels Agreement contemplates a closing by June 30, 2019. City Council adopted Ordinance No. 41345-010719, on January 7, 2019, to authorize the City to execute, deliver, and perform the GRTC Relocation Parcels Agreement.

Subsequent to the City acquiring the GRTC Relocation Parcels, the attached proposed agreement provides for the transfer of the GRTC Relocation Parcels from the City to GRTC in exchange for the transfer of Campbell Court, consisting of 13 parcels within the City, together with improvements thereon, situated at 29 Campbell Avenue, S.W. and 30 Salem Avenue, S.W., Roanoke, VA 24011,

and bearing Official Tax Map Nos. 1011105, 1011106, 1011107, 1011108, 1011109, 1011110, 1011116, 1011117, 1011118, 1011119, 1011120, 1011122, and 1011129, from GRTC to the City. Such exchange is more particularly described in a proposed Agreement for the Exchange of Real Estate between the City and GRTC (the “City and GRTC Exchange Agreement”). The proposed City and GRTC Exchange Agreement is contingent on (i) the City’s acquisition of the GRTC Relocation Parcels; and either (ii) construction of a temporary central transit transfer facility by GRTC on the GRTC Relocation Parcels if the City and Hist:Re Partners LLC (“Developer”) proceed with an agreement involving the redevelopment of Campbell Court by Developer and the acquisition and development of a passenger rail facility by the City (“City and Developer Exchange Agreement”); or (iii) construction of a permanent central transit transfer facility if the proposed City and Developer Exchange Agreement terminates during the inspection periods set forth in that agreement. The proposed City and GRTC Exchange Agreement is subject to (a) approval by City Council following a public hearing; (b) approval by the GRTC Board of Directors; (c) approval by the City as stockholder of GRTC; and (d) approval by FTA.

The closing of this transaction is dependent upon whether the proposed transaction between the City and Developer is finalized. If finalized, the closing could occur in 2019 or 2020. If that transaction does not occur, the closing would occur after construction of the permanent facility is completed; likely in 2020 or 2021.

The proposed City and GRTC Exchange Agreement was considered by the GRTC Board of Directors at its regular meeting on January 22, 2019 at 1:00 p.m. The Board recommended to the GRTC Stockholder that the GRTC Stockholder approve, ratify, and authorize the disposition of Campbell Court as set forth in the City and GRTC Exchange Agreement, the acquisition of the GRTC Relocation Parcels as set forth in the City and GRTC Exchange Agreement, and approve GRTC entering into the proposed City and GRTC Exchange Agreement for the sale of Campbell Court to the City and the acquisition of the GRTC Relocation Parcels by GRTC and to take all steps necessary to effectuate the transactions contemplated in the City and GRTC Exchange Agreement, including, without limitation, the sale and exchange of Campbell Court to the City by Special Warranty Deed and the acquisition of the GRTC Relocation Parcels by GRTC pursuant to a Special Warranty Deed from the City. Under applicable provisions of State Code, the City, as the sole Stockholder of GRTC, must approve the recommendation of the GRTC Board to dispose of Campbell Court as set forth in the City and GRTC Exchange Agreement.

The proposed City and GRTC Exchange Agreement is under consideration by City Council following a public hearing scheduled for January 22, 2019 at 7:00 p.m. or as soon thereafter as the matter may be heard.

Recommendation

Based on the foregoing, I recommend that Council authorize the City, as stockholder of GRTC, to:

Find and determine that the City and GRTC Exchange Agreement is in the best interests of GRTC and its stockholder in providing GRTC with a new transportation center and allows GRTC to dispose of Campbell Court for uses other than bus transportation services.

In accordance with the Articles of Incorporation and Bylaws of GRTC and applicable laws of the Commonwealth of Virginia, including without limitation, Section 13.1-724, Code of Virginia (1950), as amended, approve of the disposition of Campbell Court as set forth in the City and GRTC Exchange Agreement, as recommended by the GRTC Board.

Ratify, approve, and authorize the actions of the GRTC Board to:

(i) authorize the President and the General Manager to execute the proposed City and GRTC Exchange Agreement, which proposed agreement includes the transfer of Campbell Court from GRTC to the City. Such City and GRTC Exchange Agreement shall be approved as to form by GRTC's General Counsel.

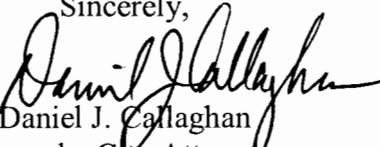
(ii) authorize the President and the General Manager to execute such further documents, including a Special Warranty Deed of Conveyance from GRTC transferring Campbell Court to the City in accordance with the terms of the City and GRTC Exchange Agreement, and take such further actions as may be necessary to implement, administer, and enforce the City and GRTC Exchange Agreement, and complete the sale and transfer of Campbell Court to the City.

(iii) authorize the President and the General Manager to execute such further documents, including the acceptance of a Special Warranty Deed of Conveyance from the City for the sale and transfer of the GRTC Relocation Parcels to GRTC in accordance with the terms of the City and GRTC Exchange Agreement and take such further actions as may be necessary to implement, administer, and enforce the City and GRTC Exchange Agreement, and complete the acquisition of the GRTC Relocation Parcels by GRTC.

Authorize the City Manager and/or the Mayor to execute a certification that the City, as Stockholder of GRTC, approves of the disposition of Campbell Court, as recommended by the Board of GRTC, and in accordance with the proposed City and GRTC Exchange Agreement.

Attached to this letter is a resolution that will authorize these actions. Please let me know if you have questions.

Sincerely,



Daniel J. Callaghan
Roanoke City Attorney

c: Robert S. Cowell, Jr., City Manager
Sherman M. Stovall, Assistant City Manager for Operations
R. Brian Townsend, Assistant City Manager for Community Development
Stephanie M. Moon Reynolds, City Clerk
Troy A. Harmon, Municipal Auditor
Amelia C. Merchant, Director of Finance
Laura M. Carini, Assistant City Attorney
Kevin L. Price, General Manager, GRTC

**CERTIFICATION OF STOCKHOLDER OF
GREATER ROANOKE TRANSIT COMPANY**

The City of Roanoke, Virginia, a municipal corporation organized and existing under the laws of the Commonwealth of Virginia, being the sole stockholder of Greater Roanoke Transit Company, a Virginia corporation (GRTC), pursuant to Resolution No. _____-012219, adopted by City Council on January 22, 2019, hereby:

- (i) Finds and determines that the Agreement for the Exchange of Real Estate between the City and GRTC (the “City and GRTC Exchange Agreement”) is in the best interests of GRTC and its stockholder in providing GRTC with a new transportation center and allows GRTC to dispose of Campbell Court for uses other than bus transportation services, and the Board approves the execution, delivery, and performance, by GRTC, of the City and GRTC Exchange Agreement all as more particularly described in the proposed City and GRTC Exchange Agreement and the Letter from the City Attorney to the City Council dated January 22, 2019.
- (ii) In accordance with the Articles of Incorporation and Bylaws of GRTC and applicable laws of the Commonwealth of Virginia, including without limitation, Section 13.1-724, Code of Virginia (1950), as amended, approves of the disposition of Campbell Court as set forth in the City and GRTC Exchange Agreement, as recommended by the GRTC Board.
- (iii) Ratifies, approves, and authorizes the actions of the GRTC Board to:

- a. authorize the President and the General Manager to execute the proposed City and GRTC Exchange Agreement, which proposed agreement includes the transfer of Campbell Court from GRTC to the City. Such City and GRTC Exchange Agreement shall be approved as to form by GRTC's General Counsel.
- b. authorize the President and the General Manager to execute such further documents, including a Special Warranty Deed of Conveyance from GRTC transferring Campbell Court to the City in accordance with the terms of the City and GRTC Exchange Agreement, and take such further actions as may be necessary to implement, administer, and enforce the City and GRTC Exchange Agreement, and complete the sale and transfer of Campbell Court to the City.
- c. authorize the President and the General Manager to execute such further documents, including the acceptance of a Special Warranty Deed of Conveyance from the City for the sale and transfer of the GRTC Relocation Parcels to GRTC in accordance with the terms of the City and GRTC Exchange Agreement and take such further actions as may be necessary to implement, administer, and enforce the City and GRTC Exchange Agreement, and complete the acquisition of the GRTC Relocation Parcels by GRTC.

Dated this 22nd day of January, 2019

CITY OF ROANOKE, VIRGINIA

By: _____
Robert S. Cowell, Jr., City Manager

And

By: _____
Sherman P. Lea, Sr., Mayor

Approved as to form:

Daniel J. Callaghan,
Roanoke City Attorney

**AGREEMENT FOR THE EXCHANGE OF REAL ESTATE
BETWEEN THE CITY OF ROANOKE, VIRGINIA AND
GREATER ROANOKE TRANSIT COMPANY**

THIS AGREEMENT FOR THE EXCHANGE OF REAL ESTATE BETWEEN THE CITY OF ROANOKE, VIRGINIA AND GREATER ROANOKE TRANSIT COMPANY (“Agreement”) is made this ____ day of January, 2019, by and between the CITY OF ROANOKE, VIRGINIA, a Virginia municipal corporation (“City”), and GREATER ROANOKE TRANSIT COMPANY, a Virginia corporation (“GRTC”).

RECITALS

A. GRTC is the owner of thirteen (13) parcels of real property, together with buildings and improvements thereon, situated in Roanoke, Virginia, known as Campbell Court, and being more particularly described in Exhibit A attached hereto and made a part hereof (“Campbell Court”).

B. GRTC, a corporation in which the City is the sole stockholder, provides bus transportation services to the public throughout the areas of the City of Roanoke, the City of Salem, and the Town of Vinton. Campbell Court serves as the central bus transit facility for all such bus transportation services.

C. GRTC is interested and desires in relocating its central bus transit facility from Campbell Court.

D. The City is interested in acquiring Campbell Court for future potential development as proposed in an agreement between the City and Hist:Re Partners, LLC, a Virginia limited liability company (“Developer”), as more particularly described in an Agreement dated January ____, 2019, (“City and Developer Exchange Agreement”), or other development opportunities if the transactions contemplated by the City and Developer Exchange Agreement are not consummated.

E. GRTC is willing to sell Campbell Court and relocate its central bus transit facility within the City of Roanoke provided the transaction does not disrupt the daily bus transit operations of GRTC.

F. The City has entered into an agreement with the GRTC Relocation Parcels Owners of four (4) parcels of real property, together with improvements thereon, situated in Roanoke, Virginia and more particularly described in Exhibit B attached hereto and made a part hereof, (“GRTC Relocation Parcels”), to acquire the GRTC Relocation Parcels for the purposes of relocating GRTC’s central bus transit facility from Campbell Court.

G. The City proposes to acquire the GRTC Relocation Parcels; and either (1) allow GRTC to construct a Temporary Transit Facility at the GRTC Relocation Parcels; and, upon completion of the Temporary Transit Facility, transfer and exchange all of the City’s rights, title,

and interest in the GRTC Relocation Parcels to GRTC in exchange for the transfer and exchange of all of GRTC's rights, title and interest in Campbell Court; or (2) allow GRTC to construct the Permanent Transit Facility at the GRTC Relocation Parcels and, upon completion of the Permanent Transit Facility, transfer and exchange all of the City's rights, title, and interest in the GRTC Relocation Parcels to GRTC in exchange of all of GRTC's rights, title, and interest in Campbell Court.

H. Subject to the terms and conditions of this Agreement, (i) the City is willing to sell, convey, and transfer all of the City's rights, title, and interest in the GRTC Relocation Parcels to GRTC, (ii) GRTC is willing to acquire the GRTC Relocation Parcels from the City, (iii) GRTC is willing to sell, convey, and transfer all of GRTC's rights, title, and interest in Campbell Court to the City, and (iv) the City is willing to acquire the Campbell Court from GRTC.

I. The City and GRTC agree to set forth their agreements and understandings in accordance with this Agreement.

THEREFORE, based upon the mutual covenants, agreements, and understandings set forth in this Agreement, including the Recitals set forth above and which Recitals are incorporated herein and constitute a material part of this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which the Parties acknowledge, the City and GRTC agree as follows:

ARTICLE I

DEFINITIONS

All capitalized terms, not otherwise defined in this Agreement, shall have the following meanings:

- 1.1 Agreement shall mean this Agreement for the Exchange of Real Estate between the City of Roanoke, Virginia and Greater Roanoke Transit Company.
- 1.2 Applicable Law shall mean all federal, state, and local laws, rules, regulations, or ordinances that affect or otherwise apply to the transactions contemplated by this Agreement.
- 1.3 Approvals shall mean all licenses, permits, and other approvals under Applicable Law required or deemed necessary to develop, construct, operate, and maintain the Temporary Transit Facility or the Permanent Transit Facility, as applicable under the terms of this Agreement.
- 1.4 Business Days shall mean a Day or Days other than a Saturday, Sunday, or a holiday established under the laws of the United States of America or the Commonwealth of Virginia.

- 1.5 Campbell Court shall mean those certain parcels of real estate together with buildings and improvements thereon, owned by GRTC, and more particularly described in Exhibit A attached hereto and made a part hereof.
- 1.6 Campbell Court Deed shall mean the special warranty deed from GRTC to the City conveying title of Campbell Court to the City.
- 1.7 Campbell Court Purchase Price shall mean the execution, delivery, acceptance and recording of the GRTC Relocation Parcels Deed to effectuate the transfer of the GRTC Relocation Parcels by the City to GRTC.
- 1.8 Certificate of Occupancy shall mean the permanent certificate issued by the City of Roanoke's Department of Planning, Building and Development which authorizes GRTC to use, occupy, and operate the Temporary Transit Facility or the Permanent Transit Facility, as applicable under the terms of this Agreement, at the GRTC Relocation Parcels.
- 1.9 City shall mean the City of Roanoke, Virginia, a Virginia municipal corporation.
- 1.10 City and Developer Exchange Agreement shall mean the agreement between the City and Developer dated January __, 2019, under which agreement the City would sell and transfer all of the City's rights, title, and interest in Campbell Court to Developer; and Developer would sell and transfer all of Developer's rights, title, and interest in the Future Rail Station Parcels to the City.
- 1.11 City's Approval Period shall mean the period of 90 Days beginning after the expiration of the City's Inspection Period.
- 1.12 City's Inspection Period shall mean the period of 180 Days after the Effective Date.
- 1.13 City Manager shall mean the person appointed by the Roanoke City Council as City Manager or the person designated by City Manager to act on behalf of the City Manager.
- 1.14 Closing shall mean the date on which the transactions contemplated by this Agreement for (i) the transfer of Campbell Court to the City, and (ii) the transfer of the GRTC Relocation Parcels to GRTC.
- 1.15 Days or Days shall mean a calendar day beginning and ending at the prevailing time in Roanoke, Virginia.
- 1.16 Developer shall mean Hist:Re Partners, LLC, a Virginia limited liability company.
- 1.17 Effective Date shall mean the date set forth at the beginning of this Agreement.

- 1.18 Future Rail Station Facility shall mean the facility to be improved by the City located on the Future Rail Station Parcels and at which facility services for passengers of rail transportation will be provided.
- 1.19 Future Rail Station Parcels shall mean those parcels of real property, together with improvements thereon, situated in Roanoke, Virginia, and more particularly described in Exhibit C attached hereto and made a part hereof.
- 1.20 Future Rail Station Parcels Owner shall mean T-W Properties, a Virginia partnership.
- 1.21 Government Entity shall mean any federal, state, or local governmental body, agency, board or commission.
- 1.22 GRTC shall mean Greater Roanoke Transit Company, a Virginia corporation.
- 1.23 GRTC Relocation Expenses Payment shall mean the sum of Five Hundred Thousand Dollars (\$500,000.00) to be paid by Developer to the City in accordance with Section 3.2 of the City and Developer Exchange Agreement.
- 1.24 GRTC Relocation Parcels shall mean those parcels of real property, together with improvements thereon, described in Exhibit B attached hereto and made a part hereof.
- 1.25 GRTC Relocation Parcels Agreement shall mean that agreement by and among the City and the GRTC Relocation Parcels Owners dated January ____, 2019, under which the City will purchase and acquire all rights, title, and interests of the GRTC Relocation Parcels Owners in the GRTC Relocation Parcels.
- 1.26 GRTC Relocation Parcels Closing Date shall mean the date on which the City acquires the GRTC Relocation Parcels pursuant to the terms of the GRTC Relocation Parcels Agreement which date shall be no later than June 30, 2019, unless otherwise extended under the terms of that agreement.
- 1.27 GRTC Relocation Parcels Deed shall mean the special warranty deed from the City to GRTC conveying title of the GRTC Relocation Parcels to GRTC.
- 1.28 GRTC Relocation Parcels Owners shall mean the owners of the GRTC Relocation Parcels identified in Exhibit B attached hereto and made a part hereof.
- 1.29 GRTC's Approval Period shall mean the period of 90 Days beginning after the expiration of GRTC's Inspection Period.
- 1.30 GRTC's Construction Right of Entry Agreement shall mean the agreement between the City and GRTC under which agreement the City grants to GRTC and its employees, contractors, and subcontractors, the rights to enter onto the GRTC Relocation Parcels and construct either (i) the Temporary Transit Facility, or (ii) the Permanent Transit Facility; as provided in Sections 4.2 and 4.3 of this Agreement.

- 1.31 GRTC's Inspection Period shall mean the period of 180 Days after the Effective Date.
- 1.32 Parties shall mean the City and GRTC.
- 1.33 Party shall mean either the City or GRTC.
- 1.34 Permanent Transit Facility shall mean the permanent central bus transit facility to be constructed by GRTC at the GRTC Relocation Parcels in accordance with this Agreement.
- 1.35 Temporary Transit Facility shall mean the temporary central bus transit facility to be constructed by GRTC at the GRTC Relocation Parcels in accordance with this Agreement.
- 1.36 Title Company shall mean Fidelity National Title Insurance Company or any nationally recognized title insurance company (i) acceptable to the City with respect to Campbell Court; or (ii) acceptable to GRTC with respect to GRTC Relocation Parcels.

ARTICLE II

PRELIMINARY STATEMENT

- 2.1 GRTC desires to relocate its central bus transit facility from Campbell Court. The City desires to establish a Future Rail Station Facility in the area of Downtown Roanoke, proximate to the existing platform for passenger rail service within Roanoke.

In furtherance of these desires, the City has entered into the following transactions:

- 2.1.1 GRTC Relocation Parcels Agreement.

Under the terms of the GRTC Relocation Parcels Agreement, the City proposes to acquire the GRTC Relocation Parcels by the GRTC Relocation Parcels Closing Date. The transactions contemplated in the GRTC Relocation Parcels Agreement are subject to certain conditions, including FTA Approval. Under the terms of the GRTC Relocation Parcels Agreement, the City may waive the requirement of FTA Approvals and acquire the GRTC Relocation Parcels for uses other than as a Temporary Transit Facility or a Permanent Transit Facility.

- 2.1.2 City and Developer Exchange Agreement.

Under the terms of the City and Developer Exchange Agreement, the City proposes to transfer all of its rights, title, and interests in Campbell Court acquired by the City under this Agreement with Developer in exchange for the transfer of all of Developer's rights, title, and interest in the Future

Rail Station Parcels. The transactions contemplated under the City and Developer Exchange Agreement are anticipated to close after the dates on which (i) the elections of the City and Developer to proceed with the transactions after completion of their respective inspections under the City and Developer Exchange Agreement are made; and (ii) closing of this Agreement under Section 12.1 hereof.

- 2.2 GRTC and the City intend to seek FTA Approvals for the relocation of the central bus transit operations from Campbell Court to the GRTC Relocation Parcels and, upon receipt of FTA Approvals, and satisfaction of all other applicable conditions and terms of this Agreement, the City and GRTC intend to execute GRTC's Construction Right of Entry Agreement to allow GRTC to construct the Permanent Transit Facility at the GRTC Relocation Parcels prior to Closing, in the event that the City and Developer Exchange Agreement is terminated for any reason
- 2.3 The City and GRTC agree to cooperate with each other in facilitating their mutual intents and objections as expressed and set forth in this Agreement.

ARTICLE III

PURCHASE AND SALE

- 3.1 Subject to the terms and conditions of this Agreement, GRTC agrees to sell, and the City agrees to purchase Campbell Court in its "as is" condition.
- 3.2 Subject to the terms and conditions of this Agreement, the City agrees to sell, and GRTC agrees to purchase the GRTC Relocation Parcels in their "as is" condition.

ARTICLE IV

RELOCATION OF GRTC OPERATIONS

- 4.1 Relocation of GRTC Operations. Under the terms of the City and Developer Exchange Agreement, Developer requires that the GRTC central bus transit operations be relocated from Campbell Court prior to the closing set forth in such agreement. As set forth in the Recitals and Article II of this Agreement, GRTC also desires to relocate its central bus transit facilities from Campbell Court. In either event, such relocation requires (i) the approval of the United States Department of Transportation, Federal Transit Administration (FTA); (ii) the acquisition of the GRTC Relocation Parcels by the City; and (iii) either the construction of the Temporary Transit Facility or the Permanent Transit Facility, as applicable under the terms of this Agreement. GRTC and the City shall diligently pursue approval of FTA and acquisition of GRTC Relocation Parcels from the GRTC Relocation Parcels Owners. In the event that (i) FTA fails to provide the FTA Approvals as described and defined in Article VI, or (ii) the City

is unable to acquire the GRTC Relocation Parcels by the GRTC Relocations Parcels Closing Date, this Agreement will automatically terminate and be of no further force or effect.

- 4.2 In the event that (i) Developer and the City elect to proceed with the City and Developer Exchange Agreement following completion of their respective inspections and due diligence; (ii) the Parties receive the FTA Approvals; (iii) Developer pays the GRTC Relocation Expenses Payment to the City; and (iv) the City acquires the GRTC Relocation Parcels, the City shall make available to GRTC the GRTC Relocation Expense Payment for use in the construction of the Temporary Transit Facility and the relocation of GRTC's central bus transit operations from Campbell Court to the Temporary Transit Facility. The City and GRTC shall enter into GRTC's Construction Right of Entry Agreement for the purpose of constructing the Temporary Transit Facility. GRTC shall procure construction services in accordance with Applicable Law and commence construction of the Temporary Transit Facility.
- 4.3 In the event that (i) Developer or the City elects to terminate the City and Developer Exchange Agreement as a result of their respective inspections, and pursuant to such agreement, Developer is not obligated to provide the GRTC Relocation Expense Payment to the City; (ii) the FTA Approvals are received; and (iii) the City acquires the GRTC Relocation Parcels, the City and GRTC shall enter into GRTC's Construction Right of Entry Agreement for the purpose of constructing the Permanent Transit Facility. GRTC shall procure construction services in accordance with Applicable Law and commence construction of the Permanent Transit Facility.

ARTICLE V

RIGHT OF ENTRY AND INSPECTION PERIODS PRIOR TO CLOSING

- 5.1 City's Right of Inspection
- 5.1.1 The City shall complete the City's due diligence review of Campbell Court during the City Inspection Period. Should the City determine during the City Inspection Period that it is not satisfied with Campbell Court or any characteristics thereof for any reason whatsoever, in the City's sole and absolute discretion, the City may terminate this Agreement by notifying GRTC in writing as soon as possible, but no later than five (5) Days after the end of the City's Inspection Period, of the City's decision to terminate this Agreement. In such case, this Agreement shall thereupon be terminated and of no further force and effect, unless the Parties mutually agree to modify this Agreement to address any such issue(s). The City shall provide GRTC with its objections to the title of

Campbell Court, including without limitation, any easement, encumbrances, or restrictions of record (including all matters shown on the plat that depicts Campbell Court), within five (5) Days after the end of the City's Inspection Period.

5.1.2 In connection with the City's due diligence review referenced above, GRTC hereby grants to the City, its officers, agents, employees, contractors, subcontractors, licensees, designees, representatives, and consultants, a revocable right to enter Campbell Court, at any time during the City's Inspection Period, on not less than two (2) working days prior written notice to GRTC, in order to survey, make test borings, and carry out such other examinations, exploratory work, or settings as may be necessary to complete Phase I and Phase II Environmental Assessments, or geotechnical assessments, or nondestructive engineering evaluations of Campbell Court, to otherwise perform the City's due diligence with respect to Campbell Court, and to store the City's property and equipment, on the following terms and conditions:

5.1.2.1 If the City exceeds its rights granted under Section 5.1 or fails to obtain and maintain the insurance required by Section 5.1, GRTC may immediately revoke its right of entry.

5.1.2.2 The City, to the extent permitted by law, agrees to be responsible for any and all damages resulting from the activity or activities of the City, its officers, agents, employees, contractors, subcontractors, licensees, designees, representatives and consultants, on Campbell Court in the exercise of the rights granted under this Section 5.1. The City shall, at its sole cost, promptly and fully restore any land disturbed by the exercise of the rights under this Section 5.1 to a condition equal to that existing immediately prior to entry on Campbell Court if the City does not purchase Campbell Court.

5.1.2.3 The City shall require each of its contractors ("City Contractors") to indemnify and defend GRTC and the City from any loss, damage, or claim arising out of the City's access to Campbell Court pursuant to this Section 5.1 for the purpose of making tests, inspections, studies, and other investigations. The indemnity obligations of the City Contractors hereunder are conditioned on GRTC (i) promptly notifying the City and the City Contractors in writing of any claim; (ii) cooperating with the City and the City Contractors in the defense of the claim; and (iii) granting the City and the City Contractors sole control of defense or settlement of the claim at the sole cost and expense of the City Contractors. Under no circumstance shall the City Contractors be obligated to

indemnify or defend GRTC for or from such party's own negligence or willful misconduct (which includes, without limitation, any breach by GRTC of this Agreement), or unlawful act or omission, or any claim resulting from any of the foregoing.

5.1.2.4 The City shall, at its sole expense, obtain and maintain, or have the City Contractors obtain and maintain, the insurance set forth below. Any required insurance shall be effective prior to the beginning of any work or other performance by the City under this Section 5.1. The following policies and coverages are required:

- (i) Commercial General Liability. Commercial General Liability insurance, written on an occurrence basis, shall insure against all claims, loss, cost, damage, expense or liability from loss of life or damage or injury to persons or property arising out of the City's and/or City Contractors' acts or omissions. The minimum limits of liability for this coverage shall be \$1,000,000 per occurrence and \$2,000,000 general aggregate.
- (ii) Contractual Liability. Broad form Contractual Liability insurance shall include the indemnification obligation set forth above.
- (iii) Workers' Compensation. Workers' Compensation insurance covering the City's and/or City Contractors' statutory obligation under the laws of the Commonwealth of Virginia and Employer's Liability insurance shall be maintained for all its employees engaged in work under this Section 5.1. Minimum limits of liability for Employer's Liability shall be \$100,000 bodily injury by accident each occurrence; \$500,000 bodily injury by disease (policy limit); and \$100,000 bodily injury by disease (each employee). With respect to the Workers' Compensation coverage, the City agrees to use reasonable efforts to obtain a waiver by the insurance company of rights of subrogation against GRTC if the policy does not expressly permit a waiver of subrogation.
- (iv) Automobile Liability. The minimum limit of liability for Automobile Liability Insurance shall be \$1,000,000 combined single limit applicable to owned or non-owned vehicles used in the performance of any work under this Section 5.1 and shall be written on an occurrence basis.

- 5.1.3 The insurance coverages and amounts set forth above may be met by an umbrella liability policy following the form of the underlying primary coverage in a minimum amount of \$1,000,000. Should an umbrella liability insurance coverage policy be used, such coverage shall be accompanied by a certificate of endorsement stating that it applies to the specific policy numbers indicated for the insurance providing the coverages required by this Section 5.1, and it is further agreed that such statement shall be made a part of the certificates of insurance furnished by the City or the City Contractors to GRTC.
- 5.1.4 All insurance shall also meet the following requirements: The City and/or the City Contractors shall furnish to GRTC appropriate documentation showing the type, amount, effective dates, and date of expiration of policies; that GRTC, its officers, employees, agents, volunteers, and representatives are named as additional insureds; where waiver of subrogation is specified with respect to any policy or insurance required, any such waiver that the City Contractors are able to obtain shall be specified; insurance coverage shall be in a form and with an insurance company approved by GRTC, which approval shall not be unreasonably withheld; and any insurance company providing coverage shall be authorized to do business in the Commonwealth of Virginia. The City and/or the City Contractors shall provide GRTC's General Manager with not less than thirty (30) Days advance notice of cancellation or material alteration of any of the above-required insurance coverage.
- 5.1.5 The City, in performing its inspections on Campbell Court pursuant to this Section 5.1, shall at all times comply with all Applicable Law.
- 5.1.6 On the request of GRTC, the City shall, within a reasonable period of time after receipt of any preliminary or final survey, test results or conclusory reports and opinion statements, deliver copies of same to GRTC. If GRTC so requests, the City shall also turn over copies of raw data obtained and any laboratory and observation reports or analyses. Such copies of all the above shall be provided to GRTC without charge. All such deliverables shall be without any warranties whatsoever, and neither the City nor the provider of any report or opinion shall be deemed to make or have made any representations or warranties to GRTC regarding such report or opinion, or any information contained therein, and GRTC may not rely on any such report or opinion, or any information contained therein.

5.2 GRTC's Right of Inspection.

- 5.2.1 GRTC shall complete GRTC's due diligence review of the GRTC Relocation Parcels during GRTC's Inspection Period. Should GRTC determine during GRTC's Inspection Period that it is not satisfied with the GRTC Relocation Parcels or any characteristics thereof for any reason whatsoever, in GRTC's sole and absolute discretion, GRTC may terminate this Agreement by notifying the City in writing as soon as possible, but no later than five (5) Days after the end of

GRTC's Inspection Period, of GRTC's decision to terminate this Agreement. In such case, this Agreement shall thereupon be terminated and of no further force and effect, unless Parties, mutually agree to modify this Agreement to address any such issue(s). GRTC shall provide the City with its objections to the title of GRTC Relocation Parcels, including without limitation, any easements, encumbrances, or restrictions of record (including all matters shown on the plat that depicts the GRTC Relocation Parcels), within five (5) Days after the end of GRTC's Inspection Period.

5.2.2 In connection with GRTC's due diligence review referenced above, and pursuant to the authorization provided by the GRTC Relocation Parcels Owners pursuant to the GRTC Relocation Parcels Agreement, the City hereby grants to GRTC, its officers, agents, employees, contractors, subcontractors, licensees, designees, representatives, and consultants, a revocable right to enter on the GRTC Relocation Parcels at any time during GRTC's Inspection Period, on not less than two (2) working days prior written notice to the City and the GRTC Relocation Parcels Owners, in order to survey, make test borings, and carry out such other examinations, exploratory work, or settings as may be necessary to complete a Phase I Environment Site Assessment and, if required by the Phase I Environmental Site Assessment, Phase II Environmental Site Assessments; or geotechnical assessments, or nondestructive engineering evaluations of the GRTC Relocation Parcels, to otherwise perform GRTC's due diligence with respect to the GRTC Relocation Parcels, and to store GRTC's property and equipment, on the following terms and conditions:

5.2.2.1 If GRTC exceeds its rights granted under Section 5.2, or fails to require GRTC's contractors to maintain and provide the insurance coverages provided herein, the City or the GRTC Relocation Parcels Owners may immediately revoke this right of entry.

5.2.2.2 GRTC, to the extent permitted by Applicable Law, agrees to be responsible for any and all damages resulting from the activity or activities of GRTC, its officers, agents, employees, contractors, subcontractors, licensees, designees, representatives and consultants, on GRTC Relocation Parcels in the exercise of the rights granted under this Section 5.2. GRTC shall, at its sole cost, promptly and fully restore any land disturbed by the exercise of the rights under this Section 5.2 to a condition equal to that existing immediately prior to entry on any of the GRTC Relocation Parcels if GRTC does not purchase the GRTC Relocation Parcels.

5.2.2.3 GRTC shall require its contractors ("GRTC Contractors") to indemnify and defend the City and the GRTC Relocation Parcels Owners from any loss, damage, or claim arising out of GRTC's

access to any of the GRTC Relocation Parcels pursuant to this Section 5.2 for the purpose of making tests, inspections, studies, and other investigations. The indemnity obligations of GRTC Contractors hereunder are conditioned on the City or the GRTC Relocation Parcels Owners promptly notifying GRTC and the GRTC Contractors in writing of any claim; cooperating with GRTC Contractors in the defense of the claim; and granting GRTC Contractors sole control of defense or settlement of the claim at the sole cost and expense of GRTC Contractors. Under no circumstance shall GRTC Contractors be obligated to indemnify or defend the City or the GRTC Relocation Parcels Owners for or from the City or the GRTC Relocation Parcels Owner's own negligence or willful misconduct (which includes, without limitation, any breach by the City of this Agreement), or unlawful act or omission, or any claim resulting from any of the foregoing.

5.2.2.4

GRTC shall require each of the GRTC Contractors who enter the GRTC Relocation Parcels under this Section 5.2, at the sole expense of such GRTC Contractors, to obtain and maintain, or have its contractors or representatives obtain and maintain, the insurance set forth below. Any required insurance shall be effective prior to the beginning of any work or other performance by GRTC under this Section 5.2. The following policies and coverages are required:

- (i) Commercial General Liability. Commercial General Liability insurance, written on an occurrence basis, shall insure against all claims, loss, cost, damage, expense or liability from loss of life or damage or injury to persons or property arising out of such contractor's acts or omissions. The minimum limits of liability for this coverage shall be \$1,000,000 per occurrence and \$2,000,000 general aggregate.
- (ii) Contractual Liability. Broad form Contractual Liability insurance shall include the indemnification obligation set forth above.
- (iii) Workers' Compensation. Workers' Compensation insurance covering such contractor's statutory obligation under the laws of the Commonwealth of Virginia and Employer's Liability insurance shall be maintained for all its employees engaged in work under this Section 5.2. Minimum limits of liability for Employer's Liability shall be \$100,000 bodily injury by accident each occurrence; \$500,000 bodily injury by disease (policy limit); and \$100,000 bodily injury by

disease (each employee). With respect to the Workers' Compensation coverage, GRTC agrees to require GRTC Contractors to use reasonable efforts to obtain a waiver by the insurance company of rights of subrogation against the City if the policy does not expressly permit a waiver of subrogation.

- (iv) Automobile Liability. The minimum limit of liability for Automobile Liability Insurance shall be \$1,000,000 combined single limit applicable to owned or non-owned vehicles used in the performance of any work under this Section 5.2, and shall be written on an occurrence basis.

- 5.2.3 The insurance coverages and amounts set forth above may be met by an umbrella liability policy following the form of the underlying primary coverage in a minimum amount of \$1,000,000. Should an umbrella liability insurance coverage policy be used, such coverage shall be accompanied by a certificate of endorsement stating that it applies to the specific policy numbers indicated for the insurance providing the coverages required by this Section 5.2, and it is further agreed that such statement shall be made a part of the certificates of insurance furnished to the City.
- 5.2.4 All insurance shall also meet the following requirements: GRTC or the GRTC Contractors shall furnish to the City and GRTC Parcel Owners appropriate documentation showing the type, amount, effective dates, and date of expiration of policies; that the City, GRTC Relocation Parcels Owners, and their respective officers, employees, agents, volunteers, and representatives are named as additional insureds; where waiver of subrogation is specified with respect to any policy or insurance required, any such waiver that GRTC Contractors are able to obtain shall be specified; insurance coverage shall be in a form and with an insurance company approved by the City's Risk Manager, which approval shall not be unreasonably withheld; and any insurance company providing coverage shall be authorized to do business in the Commonwealth of Virginia. GRTC Contractors shall provide the City with not less than thirty (30) Days advance notice of cancellation or material alteration of any of the above-required insurance coverage.
- 5.2.5 GRTC, in performing its inspections on GRTC Relocation Parcels pursuant to this Section 5.2, shall at all times comply with all Applicable Law.
- 5.2.6 On the request of the City, GRTC shall, within a reasonable period of time after receipt of any preliminary or final survey, test results or conclusory reports and opinion statements, deliver copies of same to the City and GRTC Relocation Parcels Owners. If the City or GRTC Relocation Parcels Owner so requests, GRTC shall also turn over copies of raw data obtained and any laboratory and observation reports or analyses. Such copies of all the above shall be provided to

the City and GRTC Relocation Parcels Owners without charge. All such deliverables shall be without any warranties whatsoever, and neither GRTC nor the provider of any report or opinion shall be deemed to make or have made any representations or warranties to the City and GRTC Relocation Parcel Owner regarding such report or opinion, or any information contained therein, and the City and GRTC Relocation Parcels Owners may not rely on any such report or opinion, or any information contained therein.

ARTICLE VI

FTA APPROVAL

- 6.1 The Parties acknowledge and confirm that the transactions contemplated by this Agreement and the GRTC Relocation Parcels Agreement are subject to the prior review, consent and approval by FTA, on terms and conditions acceptable to the City and GRTC (“FTA Approvals”). In the event that FTA does not provide its consent and approval on terms and conditions acceptable to the City and GRTC by the expiration of GRTC’s Inspection Period this Agreement shall terminate and neither Party shall have any further rights herein.
- 6.2 GRTC shall diligently pursue the FTA Approvals with FTA following the Effective Date. The City agrees to cooperate with GRTC in seeking the FTA Approvals.
- 6.3 The Parties acknowledge and agree that the FTA Approvals are an essential condition precedent under this Agreement for the benefit of GRTC and cannot, under any circumstance be waived by the Parties.

ARTICLE VII

GRTC APPROVALS

- 7.1 Upon (a) completion of GRTC’s Inspection Period, (b) notification from GRTC that GRTC elects to proceed with the acquisition of the GRTC Relocation Parcels, (c) notification that the City desires to proceed with the acquisition of Campbell Court, and (d) the City has acquired the GRTC Relocation Parcels, GRTC shall, within GRTC’s Approval Period seek and obtain all Approvals needed or deemed necessary for GRTC to construct, operate, and maintain (i) the Temporary Transit Facility at the GRTC Relocation Parcels; or (ii) the Permanent Transit Facility at the GRTC Relocation Parcels.
- 7.2 GRTC may extend the term of GRTC’s Approval Period for an additional 90 Days provided that (i) GRTC is diligently pursuing all Approvals in good faith; and (ii) GRTC provides the City with notice of GRTC’s election to extend the term of GRTC’s Approval Period and such notice is provided to the City prior to the expiration of GRTC’s Approval Period.
- 7.3 Upon the happening of the events set forth in Section 7.1 the Parties will execute GRTC’s Construction Right of Entry Agreement with respect to construction of the Temporary

Facility or the Permanent Transit Facility, as applicable under the terms of this Agreement.

ARTICLE VIII

CITY'S ACQUISITION OF GRTC RELOCATION PARCELS

- 8.1 By the GRTC Relocation Parcels Closing Date and prior to the Closing Date set forth in this Agreement, the City shall acquire good and marketable title, fee simple interest in each of the GRTC Relocation Parcels in accordance with the terms of the GRTC Relocation Agreement, a fully executed copy of which agreement has been reviewed and approved by GRTC. The City shall, at the City's cost and expense, obtain owner's title insurance policies for each of the GRTC Relocation Parcels, each policy insuring title of each of the GRTC Relocation Parcels without special exceptions and without standard conditions for (i) parties in possession; (ii) mechanics' liens; and (iii) matters that would be revealed by an accurate ground survey. The City shall provide to GRTC certified copies of the deeds transferring title to the GRTC Relocation Parcels to the City, as recorded in the Clerk's Office of the Circuit Court of the City of Roanoke, Virginia, together with fully executed copies of the title insurance policies.
- 8.2 The City shall hold title to the GRTC Relocation Parcels, free and clear of all liens, claims and encumbrances, and shall not voluntarily place, or involuntarily suffer, any deed of trust, lien, claim, or restriction from the date on which the City acquires title to the respective GRTC Relocation Parcels through and including the Closing.

ARTICLE IX

TITLE

9.1 Title to Campbell Court.

The City's obligation to purchase Campbell Court at the Closing is conditioned on Campbell Court being conveyed by GRTC to the City by the Campbell Court Deed, free and clear of all restrictions, encumbrances, and liens except for such restrictions, encumbrances, and liens that constitute City Permitted Encumbrances. City Permitted Encumbrances with respect to Campbell Court means and includes the following:

- 9.1.1 Ad valorem real property taxes (including the downtown district special assessments), stormwater utility fees, and solid waste collection fees for the current year, not yet due and payable.
- 9.1.2 The conditions set forth on the plats prepared by the City and which are acceptable to the City.
- 9.1.3 Easements, restrictions and encumbrances designated by the City in writing as being acceptable to the City following the City's review of the preliminary title report for Campbell Court and such other diligence as the City elects to perform.

The City acknowledges and agrees that GRTC has no obligation to remove, amend or alter any easement, restriction, or encumbrance of record, other than to pay in full, the amount secured by a lien, deed of trust, or other encumbrance. GRTC shall satisfy, at its sole expense, such deed of trust, lien or encumbrance that may be removed and discharged as a matter of record and record evidence that lien, deed of trust or other encumbrance has been satisfied in full and discharged. The City's sole remedy is to accept title subject to such easement, restriction, or encumbrance as a City Permitted Encumbrance or terminate the Agreement. In the event that the City elects to terminate this Agreement, the City shall provide GRTC with written notice of such termination, and no Party shall have any further rights or obligations under this Agreement. Notwithstanding the foregoing, GRTC shall be obligated to terminate all leases, licenses, and permits to possess and use any portion of Campbell Court, including all leases identified in Exhibit D attached hereto and made a part hereof, and all permits, licenses and permission to park vehicles at Campbell Court.

9.2 Title to the GRTC Relocation Parcels.

GRTC's obligation to purchase the GRTC Relocation Parcels at the Closing is conditioned upon all of the GRTC Relocation Parcels being conveyed by the City to GRTC by the GRTC Relocation Parcels Deed, free and clear of all restrictions, encumbrances, and liens, except for such restrictions, encumbrances, and liens that constitute the GRTC Permitted Encumbrances. GRTC Permitted Encumbrances with respect to the GRTC Relocation Parcels means and includes the following:

- 9.2.1 Ad valorem real property taxes (including the downtown district special assessments), stormwater utility fees, and solid waste collection fees for the current year, not yet due and payable.
- 9.2.2 The conditions set forth on the plats prepared by GRTC, and acceptable to GRTC.
- 9.2.3 Easements, restrictions and encumbrances designated by GRTC in writing as being acceptable to GRTC following GRTC's review of the preliminary title report for GRTC Relocation Parcels and such other diligence as GRTC elects to perform.

GRTC acknowledges and agrees that the City has no obligation to remove, amend or alter any easement, restriction, or encumbrance of record, other than to pay in full, the amount secured by a lien, deed of trust, or other encumbrance. The City shall satisfy, at its sole expense, such deed of trust, lien or encumbrance that may be removed and discharged as a matter of record and record evidence that lien, deed of trust or other encumbrance has been satisfied in full and discharged. GRTC's sole remedy is to accept title subject to such easement, restriction, or encumbrance as a GRTC Permitted Encumbrance or terminate the Agreement. In

the event that GRTC elects to terminate this Agreement, GRTC shall provide the City with written notice of such termination, and no Party shall have any further rights or obligations under this Agreement.

ARTICLE X

CONDITIONS TO CLOSE THE SALE OF CAMPBELL COURT

10.1 Conditions to the City's Obligations to Close.

The following are conditions precedent to the City's obligation to purchase Campbell Court:

- 10.1.1 The fulfillment to the City's reasonable satisfaction of GRTC's obligation to convey title to Campbell Court on the Closing Date to the City pursuant to the terms and conditions of this Agreement.
- 10.1.2 The City must be satisfied in its sole discretion with the results of its due diligence and inspection of Campbell Court.
- 10.1.3 GRTC must not be in default of GRTC's obligations under this Agreement, and GRTC's representations and warranties in this Agreement must remain true and correct as of the Closing.
- 10.1.4 The Title Company's commitment to issue, on payment of its normal premium, to the City, its A.L.T.A. (Form B) Owner's Policy of Title Insurance insuring the City in the amount of the Campbell Court Purchase Price in respect of Campbell Court and that title is vested in the City subject only to the City Permitted Encumbrances.

All of the foregoing conditions are for the benefit of the City, and the City may choose, in the City's sole discretion, to proceed with the Closing, despite having knowledge that one or more of the above conditions have not been satisfied.

10.2 Conditions to GRTC's Obligation to Close.

The following are conditions precedent to GRTC's obligation to sell Campbell Court to the City:

- 10.2.1 The City acquires all rights, title, and interest of the GRTC Relocation Parcel Owners in the GRTC Relocation Parcels in accordance with the terms and conditions of the GRTC Relocation Parcels Agreement.
- 10.2.2 Either (i) in the event that the City and Developer Exchange Agreement remains in force and effect and Developer has paid the GRTC Relocation Expenses Payment to the City, GRTC completes construction of the Temporary Transit Facility and GRTC receives Approvals, including the Certificate of Occupancy needed to occupy and operate its central bus transit operations at the Temporary Transit Facility; or (ii) in the event that the City and Developer Exchange Agreement has been terminated, GRTC completes construction of the Permanent

Transit Facility and GRTC receives Approvals, including the Certificate of Occupancy needed to occupy and operate its central bus transit operations at the Permanent Transit Facility.

- 10.2.3 GRTC must be satisfied in its sole discretion with the results of its due diligence and inspections of the GRTC Relocation Parcels.
- 10.2.4 The City must not be in default of the City's obligations under this Agreement, and the City's representations and warranties in this Agreement must remain true and correct as of the Closing.

All of the foregoing conditions are for the benefit of GRTC, and GRTC may choose, in its sole discretion, to proceed with the Closing, despite having knowledge that one or more of the above conditions have not been satisfied.

10.3 Conditions to Close on Campbell Court to which the City and GRTC are Subject

Notwithstanding the conditions precedent to the City's obligation to close on the acquisition of Campbell Court by the City and the conditions precedent to GRTC's obligation to close on the transfer of Campbell Court to the City, the obligation of the Parties to close on the sale of Campbell Court are expressly subject to:

- 10.3.1 Receipt of the FTA Approvals, without conditions or restrictions unacceptable to the City or GRTC. Under no circumstances may either Party waive this condition.
- 10.3.2 The Temporary Transit Facility or the Permanent Transit Facility, as applicable under the terms of this Agreement, for use by GRTC has been substantially completed, available for use by GRTC in accordance with Applicable Law, including issuance of a Certificate of Occupancy to GRTC.
- 10.3.3 The Parties are prepared to close on the sale of the GRTC Relocation Parcels at Closing, subject only to the consummation of the transfer of Campbell Court to the City in accordance with this Agreement.

ARTICLE XI

**CONDITIONS TO CLOSE THE SALE OF
THE GRTC RELOCATION PARCELS**

11.1 Conditions to GRTC's Obligation to Close.

The following are conditions precedent to GRTC's obligation to purchase the GRTC Relocation Parcels:

- 11.1.1 The fulfillment to GRTC's reasonable satisfaction of the City's obligation to convey title to the GRTC Relocation Parcels on the Closing Date to GRTC pursuant to the terms and conditions of this Agreement.

DRAFT DATE: January 14, 2019

- 11.1.2 GRTC shall have obtained, at GRTC's expense, all Approvals as applicable under Section 10.2.2 hereof.
- 11.1.3 GRTC must be satisfied in its sole discretion with the results of its due diligence and inspections of the GRTC Relocation Parcels conducted during GRTC's Inspection Period.
- 11.1.4 The City must not be in default of the City's obligations under this Agreement and the City's representations and warranties in the Agreement must remain true and correct as of the Closing.
- 11.1.5 The Title Company's commitment to issue, on payment of its normal premium, to GRTC its A.L.T.A. (Form B) Owner's Policy of Title Insurance insuring GRTC in the amount of the GRTC Relocation Parcels Purchase Price in respect to the GRTC Relocation Parcels that title to the GRTC Relocation Parcels is vested in GRTC subject only to GRTC Permitted Encumbrances.

All of the forgoing conditions are for the benefit of GRTC, and GRTC may choose, in its sole discretion, to proceed with the Closing despite having knowledge that one or more of the above conditions have not been satisfied.

11.2 Conditions to the City's Obligation to Close.

The following are conditions precedent to the City's obligation to sell the GRTC Relocation Parcels to GRTC:

- 11.2.1 GRTC must not be in material default of GRTC's obligation under this Agreement.
- 11.2.2 GRTC's representations and warranties in this Agreement remain true and correct as of the Closing.

All of the forgoing conditions are for the benefit of the City and the City may choose, in its sole discretion, to proceed with the Closing despite having knowledge that one or more of the above conditions have not been satisfied.

11.3 Conditions to Close on GRTC Relocation Parcels to which the City and GRTC are Subject.

Notwithstanding the conditions precedent on GRTC's obligation to close on the acquisition of the GRTC Relocation Parcels by GRTC, and the conditions precedent to the City's obligations to close on the transfer of the GRTC Relocation Parcels to GRTC, the obligation of the Parties to close on the GRTC Relocation Parcels is expressly subject to consummation of the transfer of Campbell Court to the City at the Closing in accordance with the terms and conditions of this Agreement. Under no circumstance may either Party waive this condition.

ARTICLE XII
CLOSING DATE

- 12.1 Closing Date. The Closing date shall occur prior to June 30, 2021 on a date selected by the City (“Closing Date”) that is on the date which is the later to occur of (i) within thirty (30) Days to one hundred twenty (120) Days after satisfaction of all conditions set forth in Article X and XI of this Agreement; or (ii) Thirty (30) Days after GRTC (x) completes construction of the Temporary Transit Facility or the Permanent Transit Facility, as applicable under the terms of this Agreement, (y) receives a Certificate of Occupancy for the use and operation of the Temporary Transit Facility, or the Permanent Transit Facility, as applicable under the terms of this Agreement, and (z) vacates Campbell Court and commences its central bus transit operations at the GRTC Relocation Parcels. The City shall provide GRTC with not less than thirty (30) Days advance written notice of the Closing Date. The Closing shall occur at a mutually acceptable time (anticipated to be approximately 10:00 a.m. prevailing Roanoke, Virginia time) on the Closing Date in the Office of the City Attorney, or at such other location and time as the Parties shall approve.

ARTICLE XIII
CLOSING DELIVERABLES AND MECHANICS

- 13.1 GRTC’s Obligations at Closing.

On the Closing Date, GRTC shall (i) sell and convey Campbell Court to the City, and (ii) purchase and acquire the GRTC Relocation Parcels from the City, by delivering or causing to be delivered to the City the following:

- 13.1.1 The duly executed and acknowledged Campbell Court Deed conveying to the City Campbell Court in accordance with the provisions of this Agreement, in its “as is” condition without any representations or warranties with respect to the presence of hazardous materials. At the request of the City, GRTC shall convey Campbell Court to the City by using the survey of Campbell Court obtained by the City during the City’s Inspection Period as the description in the Campbell Court Deed.
- 13.1.2 A mechanic’s lien affidavit executed by GRTC, satisfactory to the Title Company, and to the effect that no work has been performed on Campbell Court by GRTC in the 125 Days immediately preceding the Closing Date that could result in a mechanic’s lien claim or, if such work has been performed, it has been paid in full.
- 13.1.3 Such documents as may be reasonably required by the Title Company to evidence that authority of the person(s) executing the various documents on behalf of GRTC in connection with the sale of Campbell Court.

- 13.1.4 A written certification that GRTC's warranties and representations in Section 17.1 of this Agreement remain true and correct as of the Closing Date.
- 13.1.5 A duly executed counterpart of a closing statement for the Closing.
- 13.1.6 Any other documents or items to be delivered pursuant to this Agreement or other documents reasonably required by the Title Company and that do not include the payment of money, indemnity, or the assumption of any liability or obligation.
- 13.1.7 The title commitment from the Title Company agreeing to insure title to the GRTC Relocation Parcels, without standard exclusions or special exemptions, is vested, in fee simple in GRTC.

13.2 The City's Obligations at Closing.

On the Closing Date, the City shall (i) purchase and acquire Campbell Court from GRTC, and (ii) sell and transfer the GRTC Relocation Parcels to GRTC, by delivering or causing to be delivered to GRTC the following:

- 13.2.1 The duly executed GRTC Relocation Parcels Deed, conveying to GRTC the GRTC Relocation Parcels in accordance with the provisions of this Agreement in their "as is" condition without any warranties or representations with respect to the presence of hazardous materials. At the request of GRTC, the City shall convey the GRTC Relocation Parcels to GRTC by using the survey of the GRTC Relocation Parcels obtained by GRTC during GRTC's Inspection Period as the description in the GRTC Relocation Parcels Deed.
- 13.2.2 A copy of the owner's title insurance policy, without standard exclusions or special exceptions, issued and effective, insuring fee simple title to the GRTC Relocation Parcels is vested in the City.
- 13.2.3 A mechanics' lien affidavit executed by the City, satisfactory to the Title Company, and to the effect that no work has been performed at the GRTC Relocation Parcels by the City in the 125 Days immediately preceding the Closing Date that could result in a mechanic's lien claim, or, if such work has been performed, it has been paid in full.
- 13.2.4 Such documents as may be reasonably required by GRTC to evidence the authority of the person(s) executing the various documents on behalf of the City in connection with this Agreement.
- 13.2.5 A written certification that the City's representations and warranties set forth in Section 17.2 of this Agreement remain true and correct as of the Closing Date.

- 13.2.6 A duly executed counterpart of the closing statement for the Closing.
- 13.2.7 Any other documents required to be delivered pursuant to this Agreement or reasonably required by GRTC and that do not require (except as set forth in this Agreement) the payment of money, indemnity or the assumption of any liability or obligation.
- 13.2.8 The title commitment from the Title Company agreeing to insure title to Campbell Court, without standard exclusions or special exceptions, is vested in fee simple in the City.

13.3 Prorated Expenses.

At the Closing, real property taxes, stormwater utility fees, and solid waste collection fees, if any, shall be prorated as follows, with respect to Campbell Court, GRTC shall be responsible for all amounts due prior to the Closing Date and the City being responsible for all periods thereafter; and with respect to the GRTC Relocation Parcels, the City shall be responsible for all amounts due prior to the Closing Date and GRTC being responsible for all periods thereafter. The settlement of such prorated expenses shall occur at the Closing or as soon thereafter as reasonably possible.

13.4 The City's Expenses.

The City shall pay for (i) all costs of the City's investigations of Campbell Court, including but not limited to the City's examination of title; (ii) all attorneys' fees and expenses incurred by legal counsel for the City; (iii) any Grantee's tax and the recording charges required in connection with the Campbell Court Deed; (iv) the title insurance premium for issuance of the Title Policy for Campbell Court; and (v) Grantor's Tax, if any, for the transfer of the GRTC Relocation Parcels. The City shall also be responsible for all tenant relocation expenses for tenants at Campbell Court in the event that Developer fails to pay such expenses as required under the terms of the City and Developer Exchange Agreement.

13.5 GRTC's Expenses.

GRTC shall pay for (i) all costs of GRTC's investigations of the GRTC Relocation Parcels; (ii) all attorneys' fees and expenses incurred by legal counsel for GRTC; (iii) any Grantee's tax and the recording charges required in connection with the GRTC Relocation Parcels Deed; (iv) the title insurance premium for issuance of the Title Policy for GRTC Relocation Parcels; and (v) Grantor's Tax, if any, for the transfer of Campbell Court.

13.6 Possession.

13.6.1 GRTC shall deliver exclusive possession of Campbell Court free and clear of all tenants, licensees, or permittees to the City on the Closing Date, subject to the provisions of this Agreement.

13.6.2 The City shall deliver exclusive possession of the GRTC Relocation Parcels free and clear of all tenants, licensees, or permittees to GRTC on the Closing Date, subject to the provisions of this Agreement.

ARTICLE XIV

CONDEMNATION

- 14.1 The City has no actual knowledge of any pending or threatened condemnation of GRTC Relocation Parcels. However, if, after the Effective Date and prior to the Closing Date, all or any part of GRTC Relocation Parcels is subject to a bona fide threat of condemnation or condemned or taken by a Government Entity having the power of eminent domain or a transfer in lieu of condemnation, the City shall promptly notify GRTC in writing and within thirty (30) Days after receipt of written notice, either Party may, by written notice to the other party elect to cancel this Agreement prior to the Closing Date, in which event all Parties shall be relieved and released of and from any further duties, obligations, rights, or liabilities hereunder, and this Agreement shall be deemed terminated and of no further force and effect. If no such election is made by either Party to cancel this Agreement, this Agreement shall remain in full force and effect and the purchase contemplated herein, less any interest taken by condemnation or eminent domain, shall be effected with no further adjustments, and on the Closing Date the City shall assign, transfer, and set over to GRTC all of the right, title, and interest of the City in and to any awards that have been or that may thereafter be made for any such taking or takings with respect to GRTC Relocation Parcels.
- 14.2 GRTC has no actual knowledge of any pending or threatened condemnation of the Campbell Court. However, if, after the Effective Date, and prior to the Closing Date, all or any part of the Campbell Court are subject to a bona fide threat of condemnation or condemned or taken by a Government Entity having a power of eminent domain or a transfer in lieu of condemnation, GRTC shall promptly notify the City in writing and within thirty (30) Days after receipt of written notice, either Party may, by written notice to the other, elect to cancel this Agreement prior to the Closing Date, in which event all Parties shall be relieved and released of any further duties, obligations, rights, or liabilities hereunder and this Agreement shall be deemed terminated and of no further force or effect. If no such election is made by either Party to cancel this Agreement, this Agreement shall remain in full force and effect and the purchase contemplated herein, less any interest taken in condemnation or eminent domain, shall be effected without further adjustment and on the Closing Date, GRTC shall assign, transfer, and set over to the City all of the right, title, and interest of GRTC in and to any awards that have been made or may thereafter be made for any such taking or takings with respect to Campbell Court.

ARTICLE XV

RISK OF LOSS

- 15.1 Risk of loss by fire or other casualty for Campbell Court shall be on GRTC until the Closing is completed, subject only to the obligations of the Parties under this Agreement. If Campbell Court is substantially damaged or destroyed before the Closing by such casualty, then either of the Parties may cancel this Agreement by giving written notice of such cancellation to the other Party and neither Party will have any further obligations to the other (except as otherwise specifically provided in this Agreement). In the event that neither Party cancels this Agreement, the City shall acquire Campbell Court in accordance with this Agreement and shall receive all proceeds of insurance. GRTC shall maintain fire and extended coverage insurance on Campbell Court in amounts and conditions currently in place, pending consummation of the Closing.
- 15.2 Risk of loss by fire or other casualty for the GRTC Relocation Parcels shall be on the City until the Closing is completed, subject only to the obligations of the Parties under this Agreement. If the GRTC Relocation Parcels are substantially damaged or destroyed before the Closing by such casualty, then GRTC may elect to (i) acquire the GRTC Relocation Parcels and receive all proceeds of insurance received by the City; or (ii) cancel the Closing, in which event, neither Party will have any further obligations to the other (except as otherwise specifically provided in this Agreement). The City shall maintain fire and extended coverage insurance on the GRTC Relocation Parcels, after acquisition of the acquisition of the GRTC Relocation Parcels by the City, at the full replacement value, pending consummation of the Closing.

ARTICLE XVI

BROKER'S COMMISSIONS

- 16.1 The Parties represent, and warrant that they have not incurred any liability or obligation, whether contingent or otherwise, for a brokerage commission, a finder's fee, or any other similar payment in connection with this Agreement or the transaction contemplated herein.

ARTICLE XVII

REPRESENTATIONS AND WARRANTIES

- 17.1 GRTC's Representations and Warranties.

GRTC represents and warrants, as of the Effective Date and as of the Closing, to the City, with respect to Campbell Court that:

- 17.1.1 Title. GRTC is the legal and beneficial fee simple title holder of Campbell Court, and will have good, marketable title to Campbell Court, free and clear of all liens, encumbrances, claims, covenants, conditions, restrictions, easements, right-of-way, options, judgments, or other matters, subject only to the City Permitted

Encumbrances. GRTC will convey Campbell Court to the City by Campbell Court Deed.

- 17.1.2 Special Taxes. Campbell Court is subject to the Downtown Service District special assessment set forth in Sections 32-102 through 32-102.4, Code of GRTC of Roanoke (1979), as amended. GRTC has no knowledge of, nor has it received notice of, any other special assessments or special taxes relating to Campbell Court or any part thereof.
- 17.1.3 Condemnation. GRTC has no knowledge of any pending or threatened proceedings for condemnation or the exercise of the right of eminent domain as to any part of Campbell Court or the limiting or denying of any right of access thereto.
- 17.1.4 Hazardous Materials. GRTC makes no representations with respect to Campbell Court.
- 17.1.5 Leases. Campbell Court is subject to the Leases identified in Exhibit D attached hereto and made a part hereof. Such leases shall not be modified, amended, or extended without the prior written approval of the City.
- 17.1.6 Access. Access to Campbell Court is provided at Campbell Avenue, S.W., and Salem Avenue, S.W., public streets.
- 17.1.7 No Conflicts. GRTC's execution and performance of this Agreement does not (i) breach any other agreement to which GRTC is a party; or (ii) violate any law, judgment, or order to which GRTC is subject.
- 17.1.8 No Notice of Violation. GRTC has received no notice of any violation of the zoning requirements or other Applicable Law with respect to Campbell Court.
- 17.1.9 No Litigation. No litigation, claim, or arbitration is pending or, to the knowledge of GRTC, threatened, with regard to Campbell Court.
- 17.1.10 Corporate Status. GRTC is a Virginia corporation, qualified to conduct business and in good standing in Virginia, and has the right to own its assets and operate its business in the ordinary course.

The stockholder of GRTC is the City of Roanoke, Virginia.

The officers and directors of GRTC are:
Robert S. Cowell, Jr., Vice-President of Operations
Sherman M. Stovall, Assistant Vice-President of Operations
Stephanie M. Moon Reynolds, Secretary
Cecelia F. McCoy, Assistant Secretary
Daniel J. Callaghan, General Counsel
Amelia C. Merchant, Treasurer

The proper officers of GRTC have been authorized to execute and perform this Agreement, the documents and agreements referred to in this Agreement, and take all actions necessary to effectuate this Agreement on behalf of GRTC.

17.2 City's Representation and Warranties.

The City represents and warrants, as of the Effective Date and as of the Closing, with respect to GRTC Relocation Parcels, that:

17.2.1 Title. The City has legal, binding agreements to acquire the GRTC Relocation Parcels and, as of the GRTC Relocation Parcels Closing will be the legal and beneficial fee simple titleholder of GRTC Relocation Parcels and has good, marketable title to GRTC Relocation Parcels, free and clear of all liens, encumbrances, claims, covenants, conditions, restrictions, easements, rights of way, options, judgments, or other matters, created by the City, subject to the GRTC Permitted Encumbrances. The City will convey title to the GRTC Relocation Parcels to GRTC by the GRTC Relocation Parcels Deed.

17.2.2 Condemnation. The City has no knowledge of any pending or threatened proceedings for condemnation or the exercise of the right of eminent domain as to any part of GRTC Relocation Parcels or the limiting or denying of any right of access thereto.

17.2.3 Special Taxes. The GRTC Relocation Parcels are subject to the Downtown Service District special assessment as set forth in Sections 32-102 through 32-102.4, Code of City of Roanoke (1979), as amended. The City has no knowledge of, nor has it received any notice of, any other special taxes or assessments relating to the GRTC Relocation Parcels or any part thereof.

17.2.4 Hazardous Materials. The City makes no warranties, covenants, or representations of any type regarding hazardous materials of any type.

17.2.5 Access. Ingress to and egress from the GRTC Relocation Parcels is available and provided through Salem Avenue, S.W., and Norfolk Avenue, S.W., public streets.

17.2.6 No Conflicts. The City's execution and performance of this Agreement does not: (i) breach any other agreement to which the City is a party; or (ii) violate any law, judgment, or order to which the City is subject.

17.2.7 No Notice of Violations. The City has received no notice of any violation of zoning requirements or other ordinances, rules or regulations with respect to GRTC Relocation Parcels.

17.2.8 No Litigation. There is no litigation, claim, or arbitration, pending or, to the knowledge of the City, threatened, with regard to GRTC Relocation Parcels.

ARTICLE XVIII

DEFAULT IN CLOSING OBLIGATIONS

18.1 City Default. In the event that the Closing does not occur solely by reason of default by the City, and GRTC has fully performed its obligations and is prepared to consummate the Closing, GRTC shall have all of its remedies at law or in equity, including the remedy of specific performance. GRTC may also terminate this Agreement and neither Party shall have any further rights or obligations hereunder.

18.2 GRTC Default. In the event that the Closing does not occur solely by reason of default by GRTC, and the City has fully performed its obligations and is prepared to consummate the Closing, the City shall have all of its remedies at law or in equity, including the remedy of specific performance. The City may also terminate this Agreement, in which event neither Party shall have any further rights or obligations hereunder.

ARTICLE XIX

LIMITATIONS ON ASSIGNMENTS

Each Party agrees not to assign or transfer any part of the Party's rights or obligations under this Agreement without the prior written consent of the other Party, which consent shall not be unreasonably withheld, and any such assignment shall not relieve the assigning Party from any of its obligations under this Agreement.

ARTICLE XX

NOTICES

All notices hereunder must be in writing and shall be deemed validly given, by personal service, if sent by certified mail, return receipt requested, or by a nationally recognized overnight courier, addressed as follows (or any other address the party to be notified may have designated to the sender by like notice):

DRAFT DATE: January 14, 2019

If to City: City of Roanoke,
ATTN: City Manager
364 Noel C. Taylor Municipal Building
215 Church Avenue, S.W.
Roanoke, Virginia 24011
Fax No. 540-853-1138

With a Copy to: City of Roanoke Department of Economic Development
ATTN: Economic Development Director
117 Church Avenue, S.W.
Roanoke, Virginia 24011
Fax No. 540-853-1213

If to GRTC: Kevin L. Price, General Manager
Greater Roanoke Transit Company
1108 Campbell Avenue, S.E.
Roanoke, VA 24013
Fax No. 540-982-2703

With a Copy to: Attn: Vice President of Operations, GRTC
364 Noel C. Taylor Municipal Building
215 Church Avenue, SW
Roanoke, VA 24011
Fax No. (540) 853-1138

Notice shall be deemed delivered on the date of personal service, five days after deposit in the United States mail, or the day after delivery to a nationally recognized overnight courier.

ARTICLE XXI

APPROVAL BY CITY COUNCIL

This Agreement is subject to approval by the City Council of the City of Roanoke after public hearing. GRTC shall be responsible for all advertising costs and other expenses incurred by the City and paid to third party vendors in connection with public hearings.

ARTICLE XXII

GENERAL PROVISIONS

- 22.1 Time. Time is of the essence in the performance of the Parties' respective obligations in this Agreement.
- 22.2 Successors and Assigns. This Agreement shall inure to the benefit of, and be binding on, the Parties hereto and their respective successors and permitted assigns.

- 22.3 Counterpart Copies. This Agreement may be executed in one or more counterparts, and all such counterparts so executed shall constitute one Agreement binding on all of the Parties hereto, notwithstanding that all of the Parties are not signatories to the same counterpart.
- 22.4 Construction. The Parties acknowledge that each Party and its counsel have reviewed and revised this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any amendments or exhibits hereto.
- 22.5 Severability. If a provision of this Agreement is determined to be unenforceable in any respect, the enforceability of the provision in any other respect and of the remaining provisions of this Agreement shall not be impaired.
- 22.6 Cooperation. Each Party agrees to cooperate with the other in a reasonable manner to carry out the intent and purpose of this Agreement.
- 22.7 Authority To Sign. The persons who have executed this Agreement on behalf of the Parties represent and warrant they are duly authorized to execute this Agreement on behalf of their respective entity.
- 22.8 Non-waiver. Each Party agrees that any Party's waiver or failure to enforce or require performance of any term or condition of this Agreement or any Party's waiver of any particular breach of this Agreement by any other Party extends to that instance only. Such waiver or failure is not and shall not be a waiver of any of the terms or conditions of this Agreement or a waiver of any other breaches of the Agreement by any Party and does not bar the non-defaulting Party from requiring the defaulting Party to comply with all the terms and conditions of this Agreement and does not bar the non-defaulting Party from asserting any and all rights and/or remedies it has or might have against the defaulting Party under this Agreement or by law.
- 22.9 Faith Based Organizations. Pursuant to Virginia Code Section 2.2.-4343.1, be advised that the City and GRTC do not discriminate against faith-based organizations.

ARTICLE XXIII

NONDISCRIMINATION

- 23.1 GRTC will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to normal operation of GRTC. GRTC agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
- 23.2 GRTC in all solicitations or advertisements for employees placed by or on behalf of GRTC will state that GRTC is an equal opportunity employer.

DRAFT DATE: January 14, 2019

23.3 Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this Section.

ARTICLE XXIV

COMPLIANCE WITH LAWS, REGULATIONS, AND IMMIGRATION

GRTC agrees to comply with all Applicable Law, including all licensing requirements. GRTC further agrees that GRTC does not, and shall not, during the performance of this Agreement, knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986.

ARTICLE XXV

COMPLIANCE WITH STATE LAW; FOREIGN AND DOMESTIC BUSINESSES AUTHORIZED TO TRANSACT BUSINESS IN THE COMMONWEALTH OF VIRGINIA

GRTC shall comply with the provisions of Virginia Code Section 2.2-4311.2, as amended, which provides that a contractor organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth of Virginia as a domestic or foreign business entity if so required by Title 13.1 or Title 50 or as otherwise required by law. GRTC agrees not to allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth of Virginia, if so required under Title 13.1 or Title 50, to be revoked or cancelled at any time before Closing, and to promptly cure any such lapse, revocation or cancellation following notice from the City. It shall be a condition of the City's closing obligations under Articles X and XI above that GRTC not be in breach of this Article XXV.

ARTICLE XXVI

APPROPRIATION OF FUNDS

All obligations or funding to be undertaken by the City in connection with this Agreement are subject to the availability of funds and the appropriation of such funds by City Council as may be necessary for such obligations or funding. The City Manager shall include funding for the City's obligations under this Agreement in appropriation for the project contemplated herein for the relocation of the central bus transit operations of GRTC. If any such funding is not approved, withdrawn, or otherwise not made available for this Agreement, with the result that City is unable to perform its obligations under this Agreement, City shall provide GRTC with written notice of such unavailability of funding.

ARTICLE XXVII

FORCE MAJEURE

None of the Parties shall be in default or otherwise liable for any delay in or failure of its performance under this Agreement if such delay or failure arises by any reason beyond its reasonable control, including any act of God, any acts of common enemy, the elements, earthquakes, floods, fires, epidemics, riots, strikes, failures or delay in transportation or communication, shortages of material, approval delays or any act or failure to act by the other party or such other party's employees, agents or contractors; provided, however, that GRTC's lack of funds shall not be deemed to be a reason beyond GRTC's reasonable control. The Parties shall promptly inform and consult with each other as to any of the above causes which in their judgment may or could be the cause of a delay in the performance of this Agreement.

For purposes of this Agreement, any one (1) delay caused by any such occurrence shall not be deemed to last longer than six (6) months and the Party claiming delay caused by any and all such occurrences shall give the other Party written notice of the same within 30 Days after the date such claiming party learns of such occurrence. Notwithstanding anything else set forth above, after a total of twelve (12) months of delays of any type have been claimed by a Party as being subject to force majeure, no further delays or claims of any type shall be claimed by such Party as being subject to force majeure and/or being an excusable delay.

ARTICLE XXVIII

ENTIRE AGREEMENT

This Agreement, including, without limitation, its exhibits and other attachments, contains the entire understanding of the Parties regarding its subject matter and supersedes all prior and contemporaneous negotiations and agreements, whether written or oral, between the Parties with respect to its subject matter. Without limitation, and for avoidance of any doubt, the preceding sentence shall not operate to invalidate or supersede any separate agreements between the Parties regarding the Incentives. No amendment to this Agreement shall be valid unless made in writing and signed by the Parties.

ARTICLE XXIX

FORUM SELECTION AND CHOICE OF LAW

By virtue of entering into this Agreement, the Parties agree and submit themselves to a court of competent jurisdiction, which shall be the Circuit Court or General District Court for City of Roanoke, Virginia, and further agree that this Agreement is controlled by the laws of the Commonwealth of Virginia, with the exception of Virginia's conflict of law provisions which shall not apply, and that all claims, disputes and other matters shall be decided only by such court according to the laws of the Commonwealth of Virginia as aforesaid. Each Party further waives and agrees not to assert in any such action, suit or proceeding, that the Party is not personally subject to the jurisdiction of such courts, that the action, suit or proceeding, is brought in an inconvenient forum or that the venue of the action, suit or proceeding, is improper.

DRAFT DATE: January 14, 2019

IN WITNESS WHEREOF, the Parties have executed this Agreement by their authorized representatives as of the date of this Agreement.

WITNESS:

CITY OF ROANOKE, VIRGINIA

By: _____

Print name and title

Robert S. Cowell, Jr.
City Manager

COMMONWEALTH OF VIRGINIA
CITY OF ROANOKE

The foregoing Agreement was acknowledged before me this ____ day of _____, 2019, by Robert S. Cowell, Jr., the duly authorized City Manager of the City of Roanoke, Virginia, a Virginia municipal corporation, on behalf of the City of Roanoke, Virginia.

My Commission expires:

Notary Public

SEAL

Approved as to form:

Approved as to execution:

DRAFT DATE: January 14, 2019

WITNESS:

GREATER ROANOKE TRANSIT COMPANY

Print name and title

By: _____
William D. Bestpitch, President

WITNESS:

Print name and title

By: _____
Kevin Price, General Manager

STATE OF _____
CITY/COUNTY of _____

The foregoing Agreement was acknowledged before me this ____ day of _____, 2019, by William D. Bestpitch, the duly authorized President of Greater Roanoke Transit Company, a Virginia corporation, on behalf of Greater Roanoke Transit Company.

My Commission expires: _____
Notary Public

SEAL

STATE OF _____
CITY/COUNTY of _____

The foregoing Agreement was acknowledged before me this ____ day of _____, 2018, by Kevin Price, the duly authorized General Manager of Greater Roanoke Transit Company, a Virginia corporation, on behalf of Greater Roanoke Transit Company.

My Commission expires: _____
Notary Public

SEAL

Approved as to form:

Approved as to execution:

DRAFT DATE: January 14, 2019

EXHIBIT A

Description of Campbell Court

Those parcels of real property, together with improvements thereon, situated at 29 Campbell Avenue SW and 30 Salem Avenue SW, Roanoke, VA 24011, and bearing Official Tax Parcel Nos. 1011105, 1011106, 1011107, 1011108, 1011109, 1011110, 1011116, 1011117, 1011118, 1011119, 1011120, 1011122, and 1011129, containing, in the aggregate, approximately 1.0674 acres.

EXHIBIT B

GRTC Relocation Parcels Owners and GRTC Relocation Parcels

| GRTC Relocation Parcels Owners | GRTC Relocation Parcels |
|---------------------------------------|--|
| Brandon, Woody and Booker LLC | Two (2) certain parcels of real property, together with improvements thereon, situated at 0 Salem Avenue, S.W. and 325 Salem Avenue, S. W., Roanoke, Virginia, and bearing Official Tax Map Nos. 1010113 and 1010115, respectively, more particularly described as Two (2) parcels of real property, together with improvements thereon, described as follows: (i) a parcel of real property, together with improvements thereon, containing approximately 13,258 sq. feet of land, more or less, situated at 0 Salem Avenue, S.W., Roanoke Virginia, and bearing Official Tax Map No. 1010113; and (ii) a parcel of real property, together with improvements thereon, containing approximately 23,307 sq. feet of land, more or less, situated at 325 Salem Avenue, S.W., Roanoke, Virginia, and bearing Official Tax Map No. 1010115. |
| The Brandon Company, Incorporated | A certain parcel of real property, together with improvements thereon, situated at 0 Salem Avenue, S.W., Roanoke, Virginia, and bearing Official Tax Map No. 1010121, and more particularly described as a parcel of real property, together with improvements thereon, containing approximately 16,074 sq. feet of land, more or less. |
| The Brandon Company, Incorporated | A certain parcel of real property, together with improvements thereon, situated at 0 Salem Avenue, S.W., Roanoke, Virginia, and bearing Official Tax Map No. 1010122, a parcel of real property, together with improvements thereon, containing approximately 20,275 sq. feet of land, more or less. |

EXHIBIT C

Description of Future Rail Station Parcels

Two (2) parcels of real property, together with improvement thereon, owned by T-W Properties, a Virginia partnership, situated at (i) 1 Jefferson Street, S.W. Roanoke Virginia, bearing Official Tax Map No. 1010507, and containing 0.1670 acres, more or less, and (ii) 7 Jefferson Street, S.W., Roanoke, Virginia, bearing Official Tax Map No. 1010508, containing 0.1158 acres, more or less.

DRAFT DATE: January 14, 2019

EXHIBIT D

Leases at Campbell Court

| Tenant | Location | Term |
|-----------------------|--|--|
| 727 Mart, Inc. | 2,200 square feet located on the ground floor at 31-B Campbell Avenue S.W. | Expires February 28, 2019 (3 Optional one year renewals: 3/1/2019 to 02/29/2020, 3/1/2020 to 02/29/2021, 3/1/2021 to 02/28/2022) |
| Greyhound Lines, Inc. | 3,000 square feet located on the ground floor at 26 Salem Avenue S.W. | Expires June 30, 2019 (1 additional one year renewal July 1, 2019-June 30, 2020) |
| Pyxis, Inc. | 787 square feet located on the third floor at 31-J Campbell Avenue S.W. | Expires June 30, 2019 (1 additional one year renewal July 1, 2019-June 30, 2020) |

Agreements for monthly parking permits, which are terminable.

2C

IN THE COUNCIL OF THE CITY OF ROANOKE, VIRGINIA

A RESOLUTION approving of the disposition of Campbell Court as set forth in the Agreement for the Exchange of Real Estate Between the City of Roanoke, Virginia (“City”) and Greater Roanoke Transit Company (“GRTC”) (“City and GRTC Exchange Agreement”), as recommended by the GRTC Board; ratifying, approving, and authorizing the actions of the GRTC Board to (i) authorize the President and General Manager of GRTC to execute the City and GRTC Exchange Agreement; and (ii) authorize the President and/or General Manager to execute such further documents and take such further actions as may be necessary to accomplish the sale of real property and the acquisition of real property; and authorizing the City Manager or the Mayor to execute a certification that the City, as Stockholder of GRTC, approves of the disposition of Campbell Court, as recommended by the Board of GRTC, and in accordance with the proposed City and GRTC Exchange Agreement.

WHEREAS, the Board of GRTC recommended to the GRTC Stockholder that the GRTC Stockholder approve, ratify, and authorize the disposition of Campbell Court as set forth in the City and GRTC Exchange Agreement, the acquisition of the GRTC Relocation Parcels as set forth in the City and GRTC Exchange Agreement, and approve GRTC entering into the proposed City and GRTC Exchange Agreement for the sale of Campbell Court to the City and the acquisition of the GRTC Relocation Parcels by GRTC and to take all steps necessary to effectuate the transactions contemplated in the City and GRTC Exchange Agreement, including, without limitation, the sale and exchange of Campbell Court to the City by Special Warranty Deed and the acquisition of the GRTC Relocation Parcels by GRTC pursuant to a Special

Warranty Deed from the City, all as further set forth in the Letter from the City Attorney dated January 22, 2019, to the City Council;

WHEREAS, under applicable provisions of State Code, the City, as the sole Stockholder of GRTC, must approve the recommendation of the GRTC Board to dispose of Campbell Court as set forth in the City and GRTC Exchange Agreement;

WHEREAS, the City has negotiated an agreement under which the City will acquire four parcels of real property to relocate the GRTC central transit transfer facility from Campbell Court (collectively, the “GRTC Relocation Parcels”) described as (i) 0 Salem Avenue, S.W., Roanoke, known as Official Tax Map No. 1010113, and 325 Salem Avenue, S.W., Roanoke, Virginia, known as Official Tax Map No. 1010115, owned by Brandon, Woody and Booker LLC; and (ii) 0 Salem Avenue, S.W., Roanoke, known as Official Tax Map No. 1010121, and 0 Salem Avenue, S.W., Roanoke, Virginia, known as Official Tax Map No. 1010122, owned by The Brandon Company, Incorporated, for the sum of \$2,185,000 (the “GRTC Relocation Parcels Agreement”) and City Council adopted Ordinance No. 41345-010719, on January 7, 2019, to authorize the City to execute, deliver, and perform the GRTC Relocation Parcels Agreement;

WHEREAS, GRTC staff and City staff have negotiated a proposed City and GRTC Exchange Agreement that provides, subsequent to the acquisition of the GRTC Relocation Parcels by the City under the GRTC Relocation Parcels Agreement, for the transfer of the GRTC Relocation Parcels from the City to GRTC in exchange for the transfer of Campbell Court, consisting of 13 parcels within the City, together with improvements thereon, situated at 29 Campbell Avenue, S.W., Roanoke, Virginia and 30 Salem Avenue, S.W., Roanoke, Virginia, and bearing Official Tax Map Nos. 1011105, 1011106, 1011107, 1011108, 1011109, 1011110, 1011116, 1011117, 1011118, 1011119, 1011120, 1011122, and 1011129 (collectively, “Campbell Court”), from GRTC to the City; all as more particularly described in the proposed

City and GRTC Exchange Agreement and the Letter from the City Attorney dated January 22, 2019; and

WHEREAS, pursuant to applicable laws of the Commonwealth of Virginia, the disposition of Campbell Court by GRTC pursuant to the City and GRTC Exchange Agreement, must be approved by the GRTC Stockholder.

THEREFORE, BE IT RESOLVED by the City Council of the City of Roanoke as follows:

1. The City Council, on behalf of the City as stockholder of GRTC, finds and determines that the City and GRTC Exchange Agreement is in the best interests of GRTC and its stockholder in providing GRTC with a new transportation center and allows GRTC to dispose of Campbell Court for uses other than bus transportation services; and approves the execution, delivery, and performance, by GRTC, of the City and GRTC Exchange Agreement.

2. In accordance with the Articles of Incorporation and Bylaws of GRTC and applicable laws of the Commonwealth of Virginia, including without limitation, Section 13.1-724, Code of Virginia (1950), as amended, the City Council, on behalf of the City as stockholder of GRTC, approves of the disposition of Campbell Court as set forth in the City and GRTC Exchange Agreement, as recommended by the GRTC Board.

3. The City Council, on behalf of the City as stockholder of GRTC, ratifies, approves, and authorizes the actions of the GRTC Board to:

(i) authorize the President and the General Manager to execute the proposed City and GRTC Exchange Agreement, which proposed agreement includes the transfer of Campbell Court from GRTC to the City. Such City and GRTC Exchange Agreement shall be approved as to form by GRTC's General Counsel.

(ii) authorize the President and the General Manager to execute such further documents, including a Special Warranty Deed of Conveyance from GRTC transferring Campbell Court to the City in accordance with the terms of the City and GRTC Exchange Agreement, and take such further actions as may be necessary to implement, administer, and enforce the City and GRTC Exchange Agreement, and complete the sale and transfer of Campbell Court to the City.

(iii) authorize the President and the General Manager to execute such further documents, including the acceptance of a Special Warranty Deed of Conveyance from the City for the sale and transfer of the GRTC Relocation Parcels to GRTC in accordance with the terms of the City and GRTC Exchange Agreement and take such further actions as may be necessary to implement, administer, and enforce the City and GRTC Exchange Agreement, and complete the acquisition of the GRTC Relocation Parcels by GRTC.

4. The City Council authorizes the City Manager and/or the Mayor to execute a certification that the City, as Stockholder of GRTC, approves of the disposition of Campbell Court, as recommended by the Board of GRTC, and in accordance with the proposed City and GRTC Exchange Agreement.

ATTEST:

Date: _____

Stephanie M. Moon Reynolds, Secretary