

RESOLUTION NO. 2004- 43

AMENDING THE FEE SCHEDULE FOR THE RETENTION  
OF OUTSIDE LEGAL COUNSEL BY THE GREATER  
CLEVELAND REGIONAL TRANSIT AUTHORITY

WHEREAS, the Authority must periodically retain the services of outside counsel to handle various legal matters; and

WHEREAS, pursuant to Resolution No. 1991-129, the Board of Trustees adopted policies and a fee schedule for the retention of outside legal counsel by the Authority; and

WHEREAS, the fee schedule adopted by Resolution No. 1991-129 has not been amended since June 18, 1991; and

WHEREAS, the Authority has determined that the fee schedule for outside counsel should be amended to reflect current competitive rates; and

WHEREAS, the Board has determined that such amendment to the fee schedule is in the best interest of the Authority.

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

Section 1. That the fee schedule for outside legal counsel as set forth in Section 2 of Resolution No. 1991-129 is hereby repealed.

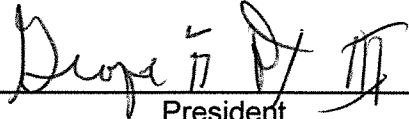
Section 2. That the fee schedule for outside legal counsel as set forth in Attachment A, attached hereto and fully incorporated as if written herein, is hereby adopted.

Section 3. That this resolution shall apply only to the fee schedule adopted by the Board pursuant to Resolution No. 1991-129 and all other policies established pursuant to 1991-129 shall remain in full force and effect.

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

Attachment: A - Outside Counsel Legal Fee Schedule

Adopted: March 16, 2004

  
\_\_\_\_\_  
Deputy President

Attest:   
\_\_\_\_\_  
CEO, General Manager/Secretary Treasurer

## ATTACHMENT A

### Greater Cleveland Regional Transit Authority Outside Counsel Legal Fee Schedule

1. Maximum rate paid to outside counsel will be Two Hundred Fifty Dollars (\$250.00), per hour (i.e., for partners).
2. Less senior members of the outside legal firm will be paid appropriate hourly rates below that of a partner of the firm.

[NOTE: This schedule will be reviewed and updated every three (3) years]



Greater Cleveland Regional Transit Authority  
**STAFF SUMMARY AND COMMENTS**

R-3

TITLE/DESCRIPTION:  AMENDING THE FEE SCHEDULE FOR THE RETENTION OF OUTSIDE LEGAL COUNSEL BY THE GREATER CLEVELAND REGIONAL TRANSIT AUTHORITY	Resolution No.: 2004- 43
	Date: March 11, 2004
	Initiator: Legal Affairs
ACTION REQUEST: <input checked="" type="checkbox"/> Approval <input type="checkbox"/> Review/Comment <input type="checkbox"/> Information Only <input type="checkbox"/> Other _____	


- 1.0 PURPOSE/SCOPE: This action will amend the rate schedule for outside legal counsel retained by the Board. All other provisions regarding the Board Policy on outside counsel employed by the Authority, pursuant to the policies adopted by the Board in Resolution No. 1991-129 will remain in full force and effect.
- 2.0 DESCRIPTION/JUSTIFICATION: The Authority is periodically required to employ outside legal counsel when a required level of expertise may not exist on the Authority's legal staff or there may be conflicts. Pursuant to Resolution 1991-129, the Board determined that it would be in the best interest of the Authority to adopt a policy and fee schedule for the retention of outside counsel. That policy has resulted in the selection and employment of outside counsel in accordance with the competitive procedures established by that policy. The legal fee schedule adopted in 1991 has not been amended since that time and is out of date. This resolution will amend the fee schedule for outside counsel to current competitive rates within the legal community.
- 3.0 PROCUREMENT BACKGROUND: Since this resolution will only amend the fee schedule to the policies on the employment of outside counsel, there is no procurement background for the action. RTA will continue the competitive procedures established in the policy for the selection of outside counsel.
- 4.0 DBE/AFFIRMATIVE ACTION BACKGROUND: Does not apply
- 5.0 POLICY IMPACT: This resolution will only amend the fee schedule established by the Board when the original policy on the selection of outside counsel was adopted. All other aspects of the policy on the retention of outside counsel established pursuant to Resolution No. 1999-129 will remain in effect.
- 6.0 ECONOMIC IMPACT: The cost of outside legal counsel is generally determined by the frequency, scope, and nature of the legal matters for which outside counsel is employed. This amendment will fix the rates for outside counsel employed by the Authority. If, after a competitive process, it is recommended the Authority employ counsel whose rates exceed those established by the Board, that employment would need to be approved by the Board. The increased schedule of fees proposed by this resolution will result in higher rates paid to outside counsel employed by the Authority; however, these rates are more competitive and will allow the Authority to secure the services of the most competent outside legal counsel, when it becomes necessary to do so.
- 7.0 ALTERNATIVES: (1) Amend the fee schedule for outside counsel as proposed herein; (2) adopt an alternative fee schedule; (3) retain the current fee schedule adopted in 1991.

**Staff Summary And Comments**  
**Amending Fee Schedule for the Retention**  
**of Outside Legal Counsel by the Greater**  
**Cleveland Regional Transit Authority**  
**Page 2**

R-4

- 8.0 RECOMMENDATION: The proposed fee schedule was discussed with the Executive Management Committee on March 2, 2004 and recommended to the full Board for approval. It is recommended that the Board of Trustees adopt the amended fee schedule as proposed. This action will allow the Authority to implement the current policy for the employment of outside counsel that is more consistent with today's standards while insuring proper Board oversight and good internal controls.
- 9.0 ATTACHMENTS: A. Resolution No. 1991-121, Staff Summary and background on the policy adopted by the Board pertaining to the employment of outside counsel.

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



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CEO, General Manager/Secretary-Treasurer

RESOLUTION NO. 1991 - 129

ADOPTING POLICIES AND A FEE SCHEDULE FOR THE RETENTION OF OUTSIDE LEGAL COUNSEL BY THE AUTHORITY

WHEREAS, it is not cost effective for the Authority to maintain an internal legal staff that could handle all legal matters facing the Authority; and

WHEREAS, the Authority must periodically retain the services of outside legal counsel to handle various legal matters; and

WHEREAS, the Authority's Internal Audit Department conducted a review of the Authority's use of outside legal counsel during calendar year 1990; and

WHEREAS, said review identified improvements needed in the policies and procedures employed by the Authority in the retention and administration of outside legal counsel; and

WHEREAS, it is in the best interests of the Authority to have a set of policies governing the use of outside legal counsel to insure compliance with applicable state and federal laws and to insure that good business practices are being followed to obtain the best quality legal services practicable.

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

Section 1. The Policies for Retaining Outside Legal Counsel delineated in Attachment A hereto are hereby adopted.


Section 2. The Fee Schedule for Outside Legal Counsel delineated in Attachment B hereto is hereby adopted.


Section 3. Past payments to outside legal counsel approved by the General Manager/Secretary-Treasurer and/or the Assistant General Manager-Legal previously hereto at fee charges consistent with the Fee Schedule delineated in Attachment B are hereby ratified.

Section 4. Resolutions 1975-23, 1982-79, 1987-60 and 1987-199 are hereby repealed.

Section 5. This resolution shall become effective upon its adoption.

Adopted: June 18, 1991

  
\_\_\_\_\_  
President

Attest:   
\_\_\_\_\_  
General Manager/Secretary-Treasurer

Attachment A: Policies for Retaining Outside Legal Counsel  
Attachment B: Outside Legal Counsel Fee Schedule

ATTACHMENT A  
GREATER CLEVELAND REGIONAL TRANSIT AUTHORITY  
POLICIES FOR RETAINING  
OUTSIDE LEGAL COUNSEL

1. The Authority maintains an in-house legal staff to provide advice and conduct legal services on customary and recurring matters of a legal nature.
2. On occasion, outside legal services will be retained by the Authority to handle specific legal matters when one or more of the following conditions exist:
  - a. The legal expertise required does not exist or is not available within the Authority's legal staff;
  - b. The size, scope and/or complexity of legal matter or case is beyond the collective capability of the Authority's legal staff to undertake in a timely and effective manner; or
  - c. The best interests of the Authority would be served by having outside legal counsel handle the matter or case.
3. Retention of outside legal counsel will be accomplished using a competitive selection process consistent with federal and State of Ohio procurement requirements. The General Manager/Secretary-Treasurer shall select the outside legal counsel best qualified to meet the Authority's needs consistent with the schedule of fee charges for outside legal counsel approved by the Board of Trustees.
4. Outside legal counsel will be paid fees in accordance with a schedule of fee charges approved by the Board of Trustees. Said schedule of fee charges will be reviewed and updated at least once every three (3) years. The schedule of fee charges will establish caps or maximums that the Authority will pay for outside legal counsel. When, in the judgment of the General Manager/Secretary-Treasurer, the Authority should retain outside legal counsel at rates above those established in the schedule of fee charges, then the General Manager/Secretary-Treasurer shall first obtain the prior approval of the Board of Trustees before retaining said counsel.
5. In an emergency situation requiring outside legal counsel to serve the best interests of the Authority, the General Manager/Secretary-Treasurer may waive the requirements of the schedule of fee charges, if necessary, provided he/she obtains the prior concurrence of the President of the Board of Trustees. Any such action by the General Manager/Secretary-Treasurer shall be presented to the Board of Trustees for ratification at its next regularly scheduled meeting. Emergency situations in this context are defined as a legal situation demanding immediate retention of outside legal counsel within 48 hours.

6. Any outside law firm or legal counsel retained by the Authority shall agree that all work done for the Authority shall be handled by the most junior member of the firm qualified and available to handle the specific task and that accurate records concerning personnel, assigned tasks and amount of time spent shall be kept and made available to the Authority at all times.
7. The Assistant General Manager-Legal shall coordinate the services provided by outside legal counsel and review and approve their billings in accordance with the approved schedule of fee charges and established administrative policies and procedures. Should an apparent conflict of interest develop in the review of billings for an outside legal counsel, then the General Manager/Secretary-Treasurer shall seek a qualified, impartial resource to perform this function for the Authority and shall so advise the President of the Board of Trustees and the Legal Committee Chair of his/her actions in this regard.
8. The General Manager/Secretary-Treasurer shall report quarterly to the Board of Trustees on the use of outside legal counsel by the Authority. Said report shall list each outside counsel being used; the case or legal matter each counsel is handling; and the fees being paid to said counsel.

6/13/91

R8

ATTACHMENT B  
GREATER CLEVELAND REGIONAL TRANSIT AUTHORITY  
OUTSIDE LEGAL COUNSEL  
FEE SCHEDULE

1. Maximum rate paid will be \$185 per hour (i.e. for partners):
2. Less senior members of the outside legal firm will be paid at appropriate hourly rates below that of a partner of the firm.

[Note: This schedule will be reviewed and updated at least once every (3) years.]

6/13/91



# Regional Transit Authority

Inter-Office Correspondence

To: Earl Martin, President and  
Members, Board of Trustees

Date: June 13, 1991

From: Ronald J. Tober  
General Manager/Secretary-Treasurer

Subject: Policies on Outside  
Legal Counsel

*John*  
*Ron*

At the request of the Chair and Vice Chair of the Legal Committee and with the concurrence of the President of the Board of Trustees, I have prepared the revised policies on outside legal counsel shown in the attached resolution and staff summary for consideration at the Board meeting on June 18.

The revised set of policies and the accompanying fee schedule reflect changes requested by the Chair and Vice Chair of the Legal Committee and the Board President. Characteristics of the revised policies and the changes made versus the original (6/4/91) draft are as follows:

1. Retains the originally proposed conditions for retaining outside legal counsel.
2. Retains the past practice of having the General Manager retain outside legal counsel without Board approval provided the Board approved fee schedule is adhered to.
3. Requires prior Board approval whenever the fee schedule would be exceeded except in "emergency" situations wherein the General Manager can act but must obtain Board ratification of his/her action. An emergency situation is defined.
4. Embellishes the section on review of outside legal counsel billings and adds a provision concerning possible conflicts of interest.
5. Adds a section requiring quarterly reports from management on the use of outside legal counsel.
6. Lowers the maximum cap on fees for outside legal counsel to \$185 per hour (vs. the \$195 per hour originally proposed).

It should be noted that what is being proposed herein (as revised) basically puts in writing the practice we have been following for the past several years.

It also should be noted that the Board must be careful not to involve itself inappropriately in the procurement of outside legal counsel. The Board should not be involved in the interviewing and selection of outside legal counsel to be retained. The Board can either delegate this responsibility to the General Manager/Secretary-Treasurer as proposed herein (and done in the past) or can chose to approve the General Manager/Secretary-Treasurer's recommendation. To do otherwise would risk a return of purchasing sanctions by UMTA.

RJT/md