

RESOLUTION 2004- 128

AUTHORIZING CONTRACT NOs. 2004-075 A-G WITH APPROXIMATELY 7 PRIVATE AND PUBLIC UTILITIES ("UTILITIES") IN A TOTAL SUM NOT TO EXCEED \$303,737.38 FOR PAYMENT BY THE GREATER CLEVELAND REGIONAL TRANSIT AUTHORITY OF COSTS ASSOCIATED WITH THE ADJUSTMENT AND/OR RELOCATION OF CERTAIN FACILITIES OWNED AND OPERATED IN THE PUBLIC RIGHT-OF-WAY BY THE UTILITIES, AS NECESSARY FOR THE CONSTRUCTION OF THE EUCLID CORRIDOR TRANSPORTATION PROJECT – CONTRACT 38-CO1 (RTA DEVELOPMENT FUND-EUCLID CORRIDOR TRANSPORTATION PROJECT DEPARTMENT BUDGET).

WHEREAS, the Greater Cleveland Regional Transit Authority (GCRTA) proposes to construct the Euclid Corridor Transportation Project – Contract 38C01 (hereinafter "ECTP") in the public right-of-way of Cleveland and East Cleveland; and

WHEREAS, UTILITIES own, operate and maintain facilities both within the existing public right-of-way and within areas that may be utilized by the ECTP; and

WHEREAS, the construction of the ECTP and the performance of the construction contracts therefore may require certain facilities owned and operated in the public right-of-way by the UTILITIES to be adjusted and/or relocated; and

WHEREAS, both UTILITIES and the GCRTA desire to enter into agreements to set forth their mutual understanding and agreement concerning costs and expenses of the adjustments, relocation, replacement, or betterment of UTILITIES' affected facilities, including design and engineering costs for Contract 38-C01; and

WHEREAS, the negotiated cost estimates for all of the costs and expenses of and related to the utility adjustments and relocations, including design and engineering and inspection is in an amount not to exceed three hundred three thousand seven hundred thirty-seven & 38/100 dollars (\$303,737.38); and

WHEREAS, the Federal Transit Administration (FTA) requires that agreements regarding GCRTA's payment of these costs be entered into between GCRTA and the UTILITIES by October 15, 2004.

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

Section 1. That the General Manager/Secretary-Treasurer of the Authority be and he is hereby authorized to negotiate and enter into approximately seven contracts with Utilities including Abovenet Communications, Inc, Adelphia Communications Corp., The Cleveland Electric Illuminating Co., Dominion Cleveland Thermal, East Ohio Gas Co. dba Dominion East Ohio, MCI Worldcom Network Services, Inc. and The Ohio Bell Telephone Co. dba SBCOhio for GCRTA to pay costs and expenses of the adjustments and relocations of the facilities the UTILITIES own, operate and maintain, including design and engineering costs and inspecting, where the facilities are within the existing public right-of-way and within areas that may be utilized by the ECTP Contract 38-CO1, contingent upon receipt of a Letter of No. Prejudice or a Full funding Grant Agreement from the Federal Transit Administration.

ATTACHMENT A

Euclid Corridor Transportation Project
Contract Unit 02
Construction Contract Unit C-01
Transit Zone Construction - North of Euclid Avenue

Schedule of Utility Agreements

| Utility | Amount |
|--|---------------------|
| Abovenet | \$2,500.00 |
| Adelphia | \$9,625.00 |
| Dominion Cleveland Thermal | \$177,258.50 |
| Dominion East Ohio | \$11,355.00 |
| First Energy | \$71,600.00 |
| SBC Ameritech | \$24,398.88 |
| MCI | \$7,000.00 |
| Total Cost of C-01 Utility Agreements | \$303,737.38 |

Section 2. That said contracts shall be payable from the RTA Development Fund, Euclid Corridor Transportation Project Department Budget, including but not limited to Capital Grant OH-90-X484 for a total contract amount not to exceed three hundred three thousand seven hundred thirty seven and 38/100 dollars \$303,737.38 (\$242,989.91 in Federal funds which represents 80% of the total). Federal funding of this project is provided by NOACA, the metropolitan planning organization for Greater Cleveland, and the Ohio Department of Transportation. The awarding of this contract and use of the grant dollars is dependent upon a Letter of No Prejudice or a Full Funding Grant Agreement by the Federal Transit Administration.

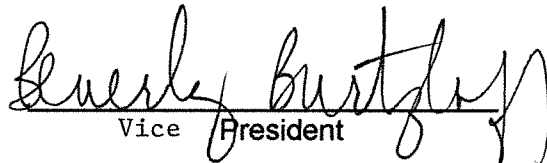
Section 3. That the General Manager/Secretary-Treasurer shall report to the GCRTA Board of Trustees monthly regarding contracts entered into that month, and the reports shall include each utility's name, scope of adjustments and relocations, and total amount GCRTA agreed to pay for costs and expenses of the adjustments and relocations of the facilities of that utility, including design and engineering and inspection costs.

Section 4. That each contract shall be binding upon and an obligation of the Authority contingent upon appropriation of funds for the current and future contract years and upon compliance by the Utility or contractor to the Specifications and Addenda, if any, the Affirmative Action Plan adopted by the Board of Trustees in Resolution 2004-112, bonding and insurance requirements and all applicable laws relating to contractual obligations of the Authority.

Section 5. That this resolution shall become effective immediately upon its adoption.

Attachment A – Summary of Utility Agreements

Adopted: September 21, 2004


Vice President

Attest: 
CEO, General Manager/Secretary-Treasurer

Form
100-326
07-03-97



Greater Cleveland Regional Transit Authority
STAFF SUMMARY AND COMMENTS

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| TITLE/DESCRIPTION: AUTHORIZING CONTRACT NOS. 2004-075 A-G WITH APPROXIMATELY 7 PRIVATE AND PUBLIC UTILITIES ("UTILITIES") IN A TOTAL SUM NOT TO EXCEED \$303,737.38 FOR PAYMENT BY THE GREATER CLEVELAND REGIONAL TRANSIT AUTHORITY OF COSTS ASSOCIATED WITH THE ADJUSTMENT AND/OR RELOCATION OF CERTAIN FACILITIES OWNED AND OPERATED IN THE PUBLIC RIGHT-OF-WAY BY THE UTILITIES, AS NECESSARY FOR THE CONSTRUCTION OF THE EUCLID CORRIDOR TRANSPORTATION PROJECT- CONTRACT 38-CO1 (RTA DEVELOPMENT FUND, EUCLID CORRIDOR TRANSPORTATION PROJECT DEPARTMENT BUDGET). | Resolution No.: 2004- 128 |
| | Date: September 16, 2004 |
| | Initiator: Euclid Corridor Transportation Project Department Budget |

ACTION REQUEST:
 Approval Review/Comment Information Only Other _____

- 1.0 **PURPOSE/SCOPE:** This action will allow the Authority to enter into contracts with the seven private and public utilities outlined in Attachment A of the resolution to facilitate ECTP.
- 2.0 **DESCRIPTION/JUSTIFICATION:** This contract will allow for payment for UTILITIES to adjust, relocate and replace utility facilities affected by the construction of the Euclid Corridor Transportation Project - Contract 38-CO1. This resolution will allow for funding of the Transit Zone portion of the Euclid Corridor Transportation Project, which includes a 2.3 mile portion of St. Clair Avenue, Superior Avenue. East 12th, East 13th and East 17th Streets.
- 3.0 **PROCUREMENT BACKGROUND:** Ohio Revised Code 306.43(H)(8) excludes competitive bidding when "The purchase consists of the product or services of a public utility."

 Based upon the above referenced section of the Ohio Revised Code, negotiations were undertaken with the various UTILITIES affected by the Euclid Corridor Transportation Project - Contract 38-CO1, Transit Zone portion.

 Other utility contracts will be brought to the Board of Trustees as the remaining ECTP construction projects are bid.

 A cost analysis was performed and the negotiated price schedule was determined to be fair and reasonable to the Authority.
- 4.0 **DBE/AFFIRMATIVE ACTION BACKGROUND:** All Affirmative Action requirements have been met. A 0% DBE goal was established for this procurement due to the lack of subcontracting opportunities.
- 5.0 **POLICY IMPACT:** Does not apply.

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- 6.0 **ECONOMIC IMPACT:** This contract will be funded through the RTA Development Fund, Euclid Corridor Transportation Project Department budget, including but not limited to Capital Grant OH-90-X484, line item 13.23.01 in the amount of \$303,737.38 (\$242,989.91 in Federal funds which represents 80% of the total). Federal funding for this project is provided by NOACA, the metropolitan planning organization for Greater Cleveland, and the Ohio Department of Transportation. The awarding of this contract and use of the grant dollars is dependent upon approval of a Letter of No Prejudice or a Full Funding Grant Agreement from the Federal Transit Administration.

- 7.0 **ALTERNATIVES:** Reject all offers. Reject the offers of the utilities to adjust and/or relocate the facilities needed to complete the ECTP project. Rejection of these offers would cause a delay in the Federal Transit Administration execution of the Full Funding Grant Agreement.

- 8.0 **RECOMMENDATION:** It is recommended that the offers of the Utilities outlined in Attachment A of the resolution be accepted and the resolution passed.

- 9.0 **ATTACHMENTS:** None.

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



CEO, General Manager/Secretary-Treasurer