

RESOLUTION 2006-147

AUTHORIZING CONTRACT NO. 2006-134-E WITH THE ILLUMINATING COMPANY, A PRIVATE UTILITY, IN A TOTAL SUM NOT TO EXCEED \$652,687.00 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-CO4 (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 38-C04 (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 associated with Contract 38-C04 for the 2006 work scope on Euclid Avenue from East 79th to East 89th Street on both sides of the street; and

WHEREAS, the costs GCRTA will be required to pay for the adjustments and relocations of UTILITIES' affected facilities have been determined and negotiated; and

WHEREAS, the sum of all the costs and expenses of and related to construction of the utility adjustments and relocations, and inspection at a price not to exceed six hundred fifty-two thousand six hundred eighty-seven and 00/100 dollars (\$652,687.00); and

WHEREAS, the General Manager/Secretary-Treasurer deems the negotiated offer of the Illuminating Company to be in the best interest of the Authority and recommends acceptance thereof by the Board of Trustees;

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

Section 1. That the offer of The Illuminating Company, as negotiated, for GCRTA, to pay construction costs and expenses for the adjustments and relocations of the facilities owned, operated and maintained on Euclid Avenue from East 79th to East 89th Street, 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-CO4.

Section 2. That said contract shall be payable from the RTA Development Fund, Euclid Corridor Transportation Project Department Budget, including but not limited to Capital Grant OH-90-X530 as amended for a total contract amount not to exceed \$652,687.00 (for a maximum amount of \$652,687.00 in Federal funds which represents 100%of the total). This contract is contingent upon FTA approval and release of Federal funds.

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 2006-077, 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.

Adopted: August 15, 2006

President

Attest: _____
CEO, General Manager/Secretary-Treasurer



TITLE/DESCRIPTION: AUTHORIZING CONTRACT NO. 2006-134-E WITH THE ILLUMINATING COMPANY, A PRIVATE UTILITY, IN A TOTAL SUM NOT TO EXCEED \$652,687.00 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 UTILITY, AS NECESSARY FOR THE CONSTRUCTION OF THE EUCLID CORRIDOR TRANSPORTATION PROJECT – CONTRACT 38-CO4 (RTA DEVELOPMENT FUND; EUCLID CORRIDOR TRANSPORTATION PROJECT DEPARTMENT BUDGET)	Resolution No.: 2006-147
	Date: August 10, 2006
	Initiator: Euclid Corridor Transportation Project
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 allow the Authority to enter into contracts with The Illuminating Company, a private utility, to facilitate construction of the ECTP.
- 2.0 DESCRIPTION/JUSTIFICATION: This contract will allow for payment for the UTILITY to adjust, relocate and replace its facilities affected by the construction of the Euclid Corridor Transportation Project - Contract 38-CO4 Euclid Avenue – E. 79th to Windermere. The Illuminating Company work authorized by this resolution is for the Illuminating Company's 2006 work scope that includes both sides of the street from East 79th to East 89th Street.
- 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-CO4 (Public Square to the Innerbelt) portion of the Euclid Corridor Transportation Project.

 The Illuminating Company work included in the resolution is only for work to be completed in 2006. A cost analysis was performed and the negotiated price schedule was determined to be fair and reasonable to the Authority.

 Another resolution for The Illuminating Company's 2007 work will be brought to the Board of Trustees at a later date. That work is estimated at approximately \$950,000 and is included in the project budget.
- 4.0 DBE/AFFIRMATIVE ACTION BACKGROUND: A DBE goal has not been established on this procurement because GCRTA entered into a master agreement with the UTILITIES whereas the nature of this contract is to reimburse the UTILITIES for work and costs incurred to support and facilitate construction of the ECTP.
- 5.0 POLICY IMPACT: Does not apply.

STAFF SUMMARY & COMMENTS

ECTP – Private Utilities

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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-X530, as amended line item 13.23.01 for a total contract amount not to exceed \$652,687.00 (for a maximum amount of \$652,687.00 in Federal Funds which represents 100% of the total). This contract is contingent upon FTA approval and release of Federal funds.
- 7.0 ALTERNATIVES: Reject all offers. Reject the offer of the utility to adjust and/or relocate the facilities needed to complete the ECTP project would cause delays and additional design costs.
- 8.0 RECOMMENDATION: The utility work authorization related to the ECTP Contract C-04 was reviewed by the Board of Trustees Planning and Development Committee at their August 1, 2006 meeting and recommended to the Board for approval. Staff recommends that the Board of Trustees approve the resolution to authorize work authorization to The Illuminating Company, a private utility, for its 2006 work scope within ECTP Contract C-04.
- 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