

RESOLUTION NO. 2007-34

AMENDING CONTRACTS WITH AT&T fka SBC, A PRIVATE UTILITY ("UTILITY"), IN A TOTAL SUM NOT TO EXCEED \$317,435.00 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 – CONSTRUCTION CONTRACTS 38-C02, C03, AND C04 (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 – Construction Contracts 38-C02, C03, and C04 (hereinafter "ECTP") in the public right-of-way of Cleveland; and

WHEREAS, UTILITY owns, operates and maintains 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 UTILITY to be adjusted and/or relocated; and

WHEREAS, both the AT&T and the GCRTA have entered into agreements to set forth their mutual understanding and agreement concerning costs and expenses of the adjustments, relocation and replacement of AT&T's affected facilities, including design and engineering costs associated with Construction Contracts 38-C02, C03, and C04; and

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

WHEREAS, the Board has previously authorized the sum of all AT&T costs and expenses of and related to construction of the utility adjustments and relocations, and inspection at a price not to exceed \$ 564,049.30 for AT&T's utility work within construction contracts C02, C03, and C04; and

WHEREAS, AT&T found additional utility relocations and adjustments at a total negotiated amount not to exceed three hundred seventeen thousand four hundred thirty five and 00/100 dollars (\$317,435.00); and

WHEREAS, the General Manager/Secretary-Treasurer deems acceptance of the offer of AT&T, as negotiated, 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 AT&T to provide additional utility relocations is hereby accepted as being in the best interest of the Authority.

Section 2. That the General Manager/Secretary-Treasurer of the Authority be and he is hereby authorized to amend Contract Nos. 2006-110K (C02), 2005-112E (C03), and 2006-134A (C04) with AT&T for GCRTA to pay costs and expenses of the adjustments and relocations of the facilities the UTILITY owns, operates and maintains, 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 construction contracts 38-C02, C03, and C04.

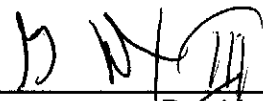
Section 3. That said contracts shall be payable from the RTA Development Fund, Euclid Corridor Transportation Project Department Budget, including but not limited to Capital Grant OH-03-0247-03 in an amount not to exceed \$130,245.00 and Capital Grant OH-90-X530-03 in an amount not to exceed \$187,190.00 for a total amount not to exceed \$317,435.00 (\$291,386.00 in Federal funds which represents 92% of the total).

Section 4. 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 5. That this contract shall be binding upon and an obligation of the Authority contingent upon compliance by the utility to all other terms and conditions of the original contracts.

Section 6. That this resolution shall become effective immediately upon its adoption.

Adopted: February 20, 2007

  
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President

Attest:   
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CEO, General Manager/Secretary-Treasurer



<b>TITLE/DESCRIPTION:</b> <b>AMENDING CONTRACTS WITH AT&amp;T fka SBC, A PRIVATE UTILITY ("UTILITY"), IN A TOTAL SUM NOT TO EXCEED \$317,435.00 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 – CONSTRUCTION CONTRACTS 38-C02, C03, AND C04 (RTA DEVELOPMENT FUND, EUCLID CORRIDOR TRANSPORTATION PROJECT DEPARTMENT BUDGET)</b>	<b>Resolution No.:</b> 2007-34
	<b>Date:</b> February 15, 2007
	<b>Initiator:</b> Euclid Corridor Transportation Project
<b>ACTION REQUEST:</b> <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 amend contracts C02, C03 and C04 with AT&T, a private utility, to facilitate construction of the ECTP.
- 2.0 **DESCRIPTION/JUSTIFICATION:** This authorization will allow for payment for the UTILITY to adjust, relocate and replace utility facilities affected by the construction of the Euclid Corridor Transportation Project – Construction Contracts 38-C02, C03, and C04.
- 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 UTILITY affected by the Euclid Corridor Transportation Project –Construction Contracts 38-C02, C03, and C04.

These contract amendments for AT&T totaling \$317,435.00 are within the remaining project budget.

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:** A DBE goal has not been established on this procurement because GCRTA entered into a master agreement with the UTILITY. The nature of this contract is to reimburse the UTILITY 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-03-0247, line item 13.23.01 in an amount not to exceed \$130,245.00 and Capital Grant OH-90-X530-03, line item 13.23.01 in an amount not to exceed \$187,190.00 for a total amount not to exceed \$317,435.00 (\$291,386.00 in Federal funds which represents 92% of the total).
- 7.0
- 8.0 ALTERNATIVES: Reject all offers. Rejecting the offers of the utilities to adjust and/or relocate the facilities needed to complete the ECTP project would cause delays and additional design costs.
- 9.0 RECOMMENDATION: This utility work authorization related to the ECTP Construction Contracts C02, C03, and C04 was reviewed by the Board of Trustees Planning and Development Committee at their February 20, 2007 meeting. Staff recommends that the Board of Trustees approve the resolution to authorize work authorizations to AT&T for its ECTP Contracts C02, C03, and C04.
- 10.0 ATTACHMENTS: Summary of AT&T work authorizations to date, attached hereto as Exhibit A.

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

## ATTACHMENT A

### Summary of AT&T Work Authorizations

<b>Contract Unit</b>	<b>Contract No.</b>	<b>Work Authorizations To Date</b>	<b>Work Authorizations 2/20/2007</b>	<b>Total</b>
C02	2006-110K	\$165,730.00	\$130,245.00	\$295,975.00
C03	2005-112E	\$177,650.00	\$67,927.00	\$245,577.00
C04	2006-134A	\$220,669.30	\$119,263.00	\$339,932.30
	<b>TOTAL</b>	<b>\$564,049.30</b>	<b>\$317,435.00</b>	<b>\$881,484.30</b>