

RESOLUTION NO. 2009-72

AUTHORIZING AN INCREASE TO CONTRACT NO. 2001-118 WITH WILBUR SMITH & ASSOCIATES FOR THE FINAL DESIGN OF THE EUCLID CORRIDOR TRANSPORTATION PROJECT ("ECTP") IN AN AMOUNT NOT TO EXCEED \$604,107.00 FOR A TOTAL CONTRACT AMOUNT OF \$13,897,394.11 AND REINSTATING THE GENERAL MANAGER'S CHANGE ORDER AUTHORITY TO ITS ENTIRETY (RTA DEVELOPMENT FUND, EUCLID CORRIDOR TRANSPORTATION DEPARTMENT BUDGET)

WHEREAS, the Board of Trustees of the Greater Cleveland Regional Transit Authority ("Authority") by Resolution No. 2002-024 authorized a contract with Wilbur Smith & Associates ("WSA") for final design services for the ECTP including authorized change orders for a total current contract amount of thirteen million two hundred ninety-three thousand two hundred eighty-seven & 11/100 dollars (\$13,293,287.11); and

WHEREAS, the Authority reached a settlement of the lawsuit filed by WSA for completion of contract deliverables, including third-party design changes, overhead, and as-built drawings ("Settlement"); and

WHEREAS, an amount not to exceed six hundred four thousand one hundred seven & 00/100 dollars (\$604,107.00) for payment on contract deliverables was agreed upon subject to concurrence by the Federal Transit Administration ("FTA") and Authority Board of Trustees; and

WHEREAS, the Authority received concurrence by the FTA of the Settlement on August 12, 2009; and

WHEREAS, payment for completion of Contract No. 2001-118 will cause the authorized price for the Contract to exceed the General Manager/Secretary-Treasurer's delegated authority; and

WHEREAS, the General Manager/Secretary-Treasurer deems the expenditure of the additional design services and restoring his change order authority amount to five hundred thousand & 00/100 dollars (\$500,000.00) 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 General Manager/Secretary-Treasurer be and he is hereby authorized to amend said contract in an amount not to exceed six hundred four thousand one hundred seven & 00/100 dollars (\$604,107.00) for a new total contract amount not to exceed thirteen million eight hundred ninety-seven three hundred ninety-four & 11/100 dollars (\$13,897,394.11).

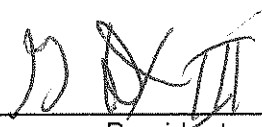
Section 2. That said increase shall be payable from the GCRTA Development Fund, Euclid Corridor Transportation Department Budget, including but not limited to Capital Grants OH-03-195, OH-03-0228, and OH-03-0247 in the amount of \$483,285.60 and Local Funds in the amount of \$120,821.40 for a total amount of \$604,107.00 (\$483,285.60 in Federal funds which represents 80% of the total) for a new contract amount not to exceed thirteen million eight hundred ninety-seven three hundred ninety-four & 11/100 dollars (\$13,897,394.11).


Section 3. That the General Manager/Secretary-Treasurer's change order authority be reinstated to its entirety.

Section 4. That this action shall be binding upon and an obligation of the Authority contingent upon compliance by the contractor to all other terms and conditions of the original contract, including any change orders.

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

Adopted: August 18, 2009

  
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President

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



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

<b>TITLE/DESCRIPTION:</b> <b>CONTRACT:</b> FINAL DESIGN OF THE EUCLID CORRIDOR TRANSPORTATION PROJECT ("ECTP")  <b>VENDOR:</b> WILBUR SMITH & ASSOCIATES  <b>AMOUNT:</b> \$604,107.00	<b>Resolution No.:</b> 2009-72
	<b>Date:</b> August 13, 2009
	<b>Initiator:</b> Engineering & Project Management
<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 settle all claims and litigation ("Settlement") by Wilbur Smith & Associates ("WSA") for completion of contract deliverables contained in Contract No. 2000-118 and subsequent change orders, as well as reinstate the General Manager's change order authority on the contract. The current contract amount, with change orders, is \$13,293,287.11 (see Exhibit A attached hereto). This action will raise the contract amount to \$13,897,394.11.
- 2.0 **DESCRIPTION/JUSTIFICATION:** The Authority is responsible for payment for contract deliverables, including changes requested by third parties, overhead, and as-built drawings per the Settlement reached between the Authority and WSA. GCRTA received concurrence by the FTA on the Settlement on August 12, 2009.
- 3.0 **PROCUREMENT BACKGROUND:** None
- 4.0 **DBE/AFFIRMATIVE ACTION BACKGROUND:** All affirmative action requirements have been met.
- 5.0 **POLICY IMPACT:** Does not apply.
- 6.0 **ECONOMIC IMPACT:** This action will be funded from the GCRTA Development Fund, Euclid Corridor Transportation Department Budget, including but not limited to Capital Grant OH-03-0247, line item 13.71.02 in the amount of \$148,291.70 (pending FTA approval of grant revision), Capital Grant OH-03-0228, line item 13.71.02 in the amount of \$372,092.31, Capital Grant OH-03-0195, line item 13.71.02 in the amount of \$5,913.05 and 100% Local Funding in the amount of \$77,809.94 for a total amount of \$604,107.00 (\$421,037.65 in Federal funds which represents 70% of the total) for a new contract amount not to exceed thirteen million eight hundred ninety-seven three hundred ninety-four & 11/100 dollars (\$13,897,394.11).
- 7.0 **ALTERNATIVES:** Reject the Settlement. Rejection of the Settlement will cause GCRTA to litigate the claims brought by WSA.

- 8.0 RECOMMENDATION: It is recommended that the Board approve an increase to Contract No. 2001-118 and reinstate the General Manager's change order authority.
- 9.0 ATTACHMENTS: Exhibit A - Approved Change Order

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

Exhibit A

**APPROVED CHANGE ORDER**

**FINAL DESIGN OF EUCLID CORRIDOR TRANSPORTATION PROJECT**

Contract # 2001-118

Contractor: Wilbur Smith

Original Contract Amount \$9,072,202

Total G.M. C.O. Authority remaining \$156,319.58

Total Change Order Amount To Date \$4,221,085.11

Change to Date:

ITEM NO.	NOTE No.	APPROVAL DATE	CHANGE ORDER AMOUNT	APPROVAL AUTHORITY	NEW CONTRACT AMOUNT
1	1	12/27/02	\$ 39,188.00	\$460,812.00	\$9,111,390.00
2	2	05/20/03	\$454,278.00	\$500,000.00	\$ 9,565,668.00
2-A	3	06/17/03	\$229,970.00	\$500,000.00	\$ 9,795,638.00
3	3	01/29/04	N/A	\$500,000.00	\$ 9,795,638.00
4	4	02/25/04	\$ 3,610.00	\$496,390.00	\$ 9,799,248.00
5	5	04/20/04	\$127,132.00	\$500,000.00	\$ 9,926,380.00
6	6	07/23/04	(-\$3,201.00)	\$500,000.00	\$ 9,923,179.00
7	7	09/01/04	\$ 49,871.00	\$450,129.00	\$ 9,973,050.00
8	8	09/27/04	N/A	\$450,129.00	\$ 9,973,050.00
9	9	10/19/04	\$134,696.00	\$500,000.00	\$10,107,746.00
10	10	12/21/04	\$1,604,399.47	\$500,000.00	\$11,712,145.47
11	11	02/17/05	\$0	\$500,000.00	\$11,712,145.47
12	12	04/11/05	\$5,190.00	\$494,810.00	\$11,717,335.47
13	13	05/06/05	\$281,000.00	\$213,810.00	\$11,998,335.47
14	14	05/17/06	\$49,972.00	\$163,838.00	\$12,048,307.47
15	15	05/22/07	\$165,867.22	\$500,000.00	\$12,214,174.69
15-A		05-29-07	\$660,371.00	\$500,000.00	\$12,874,545.69
15-B		06-04-07	\$75,061.00	\$500,000.00	\$12,949,606.69
16		07-22-08	\$138,667.42	\$361,332.58	\$13,088,274.11
17		01-27-09	\$205,013.00	\$156,319.58	\$13,293,287.11

**NOTES/CHANGE ORDER DESCRIPTION:**

