

OHIO TURNPIKE COMMISSION

Resolution to Increase Expenditures under the Site Work Contract with Miller Brothers Construction, Inc. under Contract No. 53-11-01 and 53-11-02

WHEREAS, via Resolution No. 1-2011, the Commission awarded a Contract to perform the Site Work under **Contract No. 53-11-01 and 53-11-02** to **Miller Brothers Construction Company (“Miller Brothers”)**, of **Archbold, Ohio**, in the amount of **\$12,686,701.39**; and

WHEREAS, the work included demolition of existing buildings, site preparation, building excavation, utilities, exterior pavement, final grading and seeding and other miscellaneous site improvements; and

WHEREAS, the Commission’s Chief Engineer has advised that the Commission has incurred expenses under the Contract with Miller Brothers that are now in excess of the previously authorized Contract amount due to unforeseen costs attributable to removal of petroleum contaminated soil beyond the quantities originally estimated, postponement of Miller Brothers’ work due to delays with certain right-of-way acquisition, and extra work performed by Miller Brothers due to the default of the former General Trades Contractor, Reginella Construction Company (“Reginella”) (which costs have been back-charged to Reginella’s surety); and

WHEREAS, at **\$14,086,739.27**, these expenditures now exceed the Executive Director’s contracting authority by more than ten percent and, in accordance with Article V, Section 1.00 of the Commission’s Bylaws, Commission action is necessary to authorize payment of the additional expenditures to Miller Brothers via Change Order to Contract No. 53-11-01 and 53-11-02; and

WHEREAS, the Chief Engineer has also advised that a delay claim is pending from Miller Brothers for delays caused by the default of Reginella, as well as delays attributable to the Electrical Trades Contractor, Penn-Ohio, Inc., and he is requesting that the Commission authorize reasonable expenditures that may be incurred by the Commission to settle said delay claim, which the Commission’s Legal Department will seek to recoup from the responsible Contractors and/or their respective sureties; and

WHEREAS, the Chief Engineer has, therefore, recommended that the Commission authorize the expenditure of the additional funds as outlined herein, as well as any additional expenditures that may become necessary to pay Miller Brothers for pending claims resulting from delay of completion of the Site Work portion of the Mahoning Valley and Glacier Hills Service Plaza construction project; and

WHEREAS, the Executive Director concurs with the recommendation of the Chief Engineer; and

WHEREAS, the Commission has duly considered said recommendations.

NOW, THEREFORE, BE IT

RESOLVED that the Executive Director and Chief Engineer are authorized, via Contract Change Order, to incur the additional expenditures attributable to removal of petroleum contaminated soil beyond the quantities originally estimated, postponement of Miller Brothers’ work due to delays with certain right-of-way acquisition, and extra work associated with the default of the former General Trades Contractor, Reginella Construction Company, which expenditures for Site Work exceed ten percent of the originally authorized expenditures under Contract No. 53-11-01 and 53-11-02 with **Miller Brothers Construction, Inc.**, of **Archbold, Ohio**; and

FURTHER RESOLVED, that the Executive Director and General Counsel are authorized to resolve claims asserted by Miller Brothers Construction, Inc. for delays attributable to the default of the General Trades Contractor, Reginella Construction Company, and the Electrical Trades Contractor, Penn-Ohio, Inc., which the General Counsel shall seek to recoup from said Contractors and/or their respective sureties; and

FURTHER RESOLVED, that the Chief Engineer and the General Counsel shall report back to the Commission when the aforementioned Miller Brothers delay claim has been resolved.

(Resolution No. 19- 2013 adopted April 8, 2013)