

**MINUTES OF THE 591<sup>st</sup> MEETING OF THE OHIO TURNPIKE COMMISSION**

**February 20, 2013**

**Chairman Hruby:** (10:14 a.m.) Pledge of Allegiance is recited by all in attendance. The meeting will come to order. We ask that all of the guests sign in if you have not done so when you exit. We like to keep an accurate record of attendance. This is the 591<sup>st</sup> Meeting of the Ohio Turnpike Commission. Would the Executive Director please call the roll?

**Director Hodges:** Chairman Hruby.

**Chairman Hruby:** Here.

**Director Hodges:** Vice Chairman Balog. (arrived at 10:15 a.m.)

**Director Hodges:** Secretary-Treasurer Barber.

**Secretary Barber:** Present.

**Director Hodges:** Mr. Dixon.

**Mr. Dixon:** Here.

**Director Hodges:** Mr. Pakush.

**Mr. Pakush:** Here.

**Director Hodges:** Mr. Cole.

**Mr. Cole:** Present.

**Director Hodges:** Mr. Smith.

**Mr. Smith:** Here.

**Director Hodges:** Senator Patton and Representative Dovilla have both expressed their regrets. They have legislative meetings and are unable to attend.

**Director Hodges:** We have a quorum.

**Chairman Hruby:** Thank you. This is the 591<sup>st</sup> Meeting of the Ohio Turnpike Commission. We are meeting here at the Commission's headquarters as provided for in the Commission's Code of Bylaws for a Commission Meeting. Various reports will be received, and we will act on several resolutions, draft copies of which have previously been sent to the Members and updated drafts are also in the Members' folders. The Resolutions will be explained during the appropriate reports.

Can I have a motion to adopt the Minutes of the January 22, 2013, Commission Meeting?

**Vice Chairman Balog:** So moved.

**Chairman Hruby:** I'll second. Are there any corrections or additions?

Hearing none, please call the roll.

**Director Hodges:** Vice Chairman Balog.

**Vice Chairman Balog:** Yes.

**Director Hodges:** Chairman Hruby.

**Chairman Hruby:** Yes.

**Director Hodges:** Secretary-Treasurer Barber.

**Secretary Barber:** Yes.

**Director Hodges:** Mr. Dixon.

**Mr. Dixon:** Yes.

**Director Hodges:** Mr. Pakush.

**Mr. Pakush:** Yes.

**Director Hodges:** Five to nothing.

**Chairman Hruby:** The Minutes are adopted. If there are no questions, we will then proceed with the report of our Secretary-Treasurer, Mrs. Barber.

**Secretary Barber:** Yes, Mr. Chairman. I would like to begin my report with the following items that have been sent to the Members since the last scheduled Meeting of the Commission on January 22, 2012:

1. Five Resolutions;
2. Minutes of the January 22, 2013 Commission Meeting;

We have included in their folders for today's Meeting, the following additional documents:

3. Traffic Crash Summary Report, January, 2013;
4. Traffic and Revenue, January, 2013;
5. Investment Report, January, 2013;
6. Total Revenue by Month and Year, January, 2013;
7. Financial Statement, January, 2013;
8. Budget Report, January, 2013; and
9. Various News Articles.

That concludes my report, Mr. Chairman.

**Chairman Hruby:** Thank you. Are there any questions for the Secretary-Treasurer? Hearing none, we'll move on then to the report of our Executive Director, Mr. Hodges.

**Director Hodges:** Thank you. Mr. Chairman and Members of the Commission, last month I said that we were going to have a report from Jacobs Engineering on the Toll Study that they did that I thought was quite enlightening, and would contribute a lot to questions this Commission has had in the past. However, Jacobs is submitting a proposal to be our Traffic and Revenue Consultant, and we are in the blackout period where we cannot talk to them so, instead of having them stand up there and do hand signals, I thought we would save them for next

month. I did want to take this opportunity to report to you some of the exciting things that are going on at the Commission. First and foremost, I know that this Commission, in particular, the Chair and Vice Chair, have expressed a strong desire in the past to expand *E-ZPass*<sup>®</sup> access. That ended up being a tough nut to crack and we have been working on that for a long period of time, however, I am pleased to announce today that we are going to begin rolling out *E-ZPass*<sup>®</sup> in retail outlets at all of our Service Plazas as we partner with our concessionaires at the Plazas. By April 1, 2013, we are going to release them starting with four Service Plazas. Assuming everything works out right, we will roll them out to the rest of the Service Plazas quickly thereafter. Hopefully, that will also sets the stage for distributing them to retail outlets off the road and, perhaps, I know Senator Patton has been interested in these other government agencies. We did test one of our *E-ZPass*<sup>®</sup> machines at one of the Service Plazas, and found out that the demand for transportation was very high so, we are moving forward with that. I know that has been a priority with this Commission for quite some time.

I will let our CFO talk about this a little more directly in his report, one of our ongoing commitments over the last sixty years, certainly in light of current economic and budgetary realities, is to manage the Turnpike as efficiently as we possibly can. I am very pleased to report that we aggregated our energy purchases, and bid them out as one unit. We will save approximately \$1 million per year for the next two years going forward on our energy costs, and that's a little less than 1% of our Operating Expenses so, that's a pretty big deal for us. You can ask Marty about how we did that because he knows much more about the process than I do, but it's very exciting.

The third item I would like to report on is that Mr. Cole has drawn our attention to the possibilities of shared services. We have been actively pursuing that, and all of our senior staff

personnel are looking for ways that we can make Mr. Cole proud, and really take advantage of this opportunity. I appreciate our Deputy Executive Director for her efforts in coordinating all of this. It is bearing fruit. We are working with our partners at ODOT to participate with them in their Geographical Information System ("GIS"), the Go OHIO Program, and working with our partners at DAS to scan our thousands of boxes of historical documents that we have in storage. We are also working with DAS through their Lean Ohio Program to bring lean management principles to the Turnpike, and are excited that we are starting that process on Monday with our first staff retreat under the auspices of Lean Ohio. So, all of these efforts are ongoing, and are going to be implemented here in a very short period of time. I will let you know when those are completed. We are also reaching out to our partner communities along the Turnpike, which I think is very important, to try to see where we can help them, and they can help us solve problems that we have. We are working with three communities along the Turnpike right now, and I will brief you on those prior to making a recommendation, hopefully at the next meeting, on ways that we can work with them to solve some significant local problems they have that typically, in the past, might not have been considered to be part of the pervuew of the Turnpike. We are looking at how we can share resources with them as well so, it is a very exciting time.

I also want to give you an update on the status of the Governor's Proposal. It is in the legislature right now – H.B. 51. We've been providing testimony for the last several weeks, and we've had some spirited discussions, and I know our legal counsel has sent you out a summary. The legislation itself is pretty brief. Most of the responsibility for implementing the Program will be the responsibility of the Turnpike Commission through its Rules for which the process will begin here fairly shortly. In the end, the responsibility for selling the bonds, paying back the bonds, maintaining the asset, and passing final judgment over whether applications from the

Department of Transportation are appropriate for Turnpike funding, will ultimately rest with this body. That is the way the legislation is written. There is not a whole lot of direction in the legislation itself other than empowering this body to make those decisions as they see fit. One thing during the testimony over the last several weeks, I've been amused and bemused to discover that center of my world, which is the Turnpike, is not necessarily the center of everybody else's world, and a lot of our friends in the legislature, particularly the farther south you go, have no idea who we are and what we do. In point of fact, a number of them said, "I don't know if I've ever been on the Turnpike." So, I have been starting from the very beginning in trying to inform the legislature, along with Adam Greenslade and Kathy Weiss, about who we are, what we do and our sixty year history in telling them that we are not a part of ODOT but, a separate entity that works with ODOT. We have a sixty year tradition of excellence here that has included maintaining the asset in excellent condition; having the lowest toll rates in the country; the best bond rating in the country and the lowest maintenance cost per mile in our peer group – it costs a little bit more to do snow and ice up here than it does in Florida. In all relevant comparisons, we are among the best toll roads in the country. This is all new for them, and during this education process, the question has come up as to how we manage toll rates. The fact that we are among the lowest toll rates in the country, and have been for sixty years, is something we are very proud of, but a lot of people do not know how that process works, or the fact that it has been because of the wise stewardship of this Commission over sixty years, over a number of generations, and both political parties have gotten us to the point where we are today. Some of those folks who don't know much about us are concerned that, as a result of this Proposal, our toll rates on the toll road continue to be managed conservatively, and want to know what guarantees there are of that. However, we can't write toll rates into the legislation. Our ultimate

fiduciary responsibility is to the bondholders to pay back the bonds, and the legislation cannot impair that contract that we have so, ultimately, it is this body's responsibility to continue to manage tolls as conservatively as they have over the last sixty years. I am presenting a Resolution as a way of expressing to them the Commission's desire, and not just the Executive Director's desire, to reaffirm the fact that this Commission has always, and will always, be concerned with maintaining the value of this asset first and foremost. It also reaffirms that we will maintain our commitments to the bond holders as our highest legal obligation and, also that we will maintain toll rates conservatively, like we have over the last sixty years, through successive administrations and different parties. I am asking for the Resolution to try to reassure them that this is a very high commitment that this body has made and will continue to make, and that this body is expressing its will to ultimately make decisions that maintain the asset, pay back the bond holders, and keep our toll rates among the lowest in the country. There is no new policy in this resolution. You are not committing yourself to anything other than what we all understand to be true, and has been true for sixty years. I would ask for your consideration of that resolution as a way to communicate to folks who do not know us, the seriousness with which this Commission has always addressed its commitment to our customers and our bond holders. That is why I asked that the Resolution be placed on the Agenda, and it was sent to you separate from the other resolutions. Had it been new policy of any kind, or anything other than reaffirming our long-standing commitment, I would have waited until next month, but I thought it was a pertinent point at this point in time. That concludes my remarks Mr. Chairman. If you would entertain the Resolution, I would be grateful, and if you would like to ask the General Counsel to read the Resolved.

**Chairman Hruby:** Thank you, Director. Are there any questions for the Executive Director? Hearing none, I would just like to comment and thank you for your work on the *E-ZPass*<sup>®</sup> at the Service Plazas. I think that will be a good thing, and I know Mr. Balog has expressed that over and over again, as well as other Commission Members, so we thank you for doing that. I am also very interested in hearing about how we saved \$1 million, Mr. Seekely. Maybe you can help me in my own home? You have heard the request of the Executive Director regarding a Resolution Concerning the Implementation of Governor Kasich's Ohio Jobs and Transportation Plan. Would the General Counsel please read the Resolved.

**General Counsel:** RESOLVED, to effectively implement Governor John Kasich's Ohio Jobs and Transportation Plan upon passage of House Bill 51, the Ohio Turnpike Commission hereby directs the Commission's staff to conduct the Commission's operations in an efficient manner so that, for the next ten years, consistent with the Governor's Plan, toll rates may remain constant with the historic rate of inflation, and E-ZPass rates may be frozen for local trips of thirty miles or less; and

FURTHER RESOLVED, that certified copies of this Resolution shall be sent to the Governor, the Director of Transportation, the Director of the Office of Budget and Management and the respective leaders of the Ohio General Assembly.

**Chairman Hruby:** You've heard the Resolved, is there any action to be taken by the Board?

**Mr. Pakush:** Move to adopt.

**Secretary Barber:** Second.

**Chairman Hruby:** We have a motion to adopt and a second. Are there any questions or comments? Hearing none, please call the roll.

**Director Hodges:** Mr. Pakush.

**Mr. Pakush:** Yes.

**Director Hodges:** Secretary-Treasurer Barber.



**Secretary Barber:** Yes.

**Director Hodges:** Chairman Hruby.

**Chairman Hruby:** Yes.

**Director Hodges:** Vice Chairman Balog.

**Vice Chairman Balog:** Yes.

**Director Hodges:** Mr. Dixon.

**Mr. Dixon:** Yes.

**Director Hodges:** Five to nothing. Thank you. That concludes my remarks.

## **OHIO TURNPIKE COMMISSION**

### **Resolution Concerning Implementation of Governor Kasich's Ohio Jobs and Transportation Plan**

WHEREAS, the Ohio Turnpike Commission formally endorsed Governor John Kasich's Ohio Jobs and Transportation Plan (the "Plan") via Resolution No. 1-2013 on January 22, 2013, and House Bill 51 is currently pending before the General Assembly to implement the Governor's Plan; and

WHEREAS, initial implementation of the Plan will include the Ohio Turnpike Commission's issuance of up to \$1 billion dollars in revenue bonds that will be used to fund infrastructure projects identified by the Ohio Department of Transportation and approved by the Ohio Turnpike Commission in accordance with rules to be adopted by the Commission, which issuance will also include \$70 million to accelerate the Commission's pavement reconstruction program to replace the original concrete base of the Turnpike mainline, which is now nearly sixty years old; and

WHEREAS, issuance of the revenue bonds to fund infrastructure projects and the acceleration of the pavement reconstruction program will require the Commission to increase tolls rates; and

WHEREAS, the Commission has both a legal and fiduciary obligation to honor the covenants of the 1994 Master Trust Agreement, and specifically, Section 4.04(a), which requires the Commission to set tolls at rates that will generate net revenues available for debt service equal to at least 120% of the annual debt service requirements on the then outstanding Turnpike Bonds; and

WHEREAS, it is the Commission's intention to implement the Governor's Plan and to honor its legal and fiduciary obligations under the Master Trust Agreement by increasing toll rates at the historic rate of inflation; and

WHEREAS, the Ohio Turnpike Commission wishes to express its intent by directing the Ohio Turnpike staff to conduct the Commission's operations in an efficient manner so that, for the next ten years, consistent with the Governor's Plan, toll rates may remain constant with the historic rate of inflation, and *E-ZPass* rates may be frozen for local trips of thirty miles or less.

NOW THEREFORE, BE IT

RESOLVED, to effectively implement Governor John Kasich's Ohio Jobs and Transportation Plan upon passage of House Bill 51, the Ohio Turnpike Commission hereby directs the Commission's staff to conduct the Commission's operations in an efficient manner so that, for the next ten years, consistent with the Governor's Plan, toll rates may remain constant with the historic rate of inflation, and *E-ZPass* rates may be frozen for local trips of thirty miles or less; and

FURTHER RESOLVED, that certified copies of this Resolution shall be sent to the Governor, the Director of Transportation, the Director of the Office of Budget and Management and the respective leaders of the Ohio General Assembly.

**(Resolution No. 6-2013 adopted February 20, 2013)**

**Chairman Hruby:** All right, sir, thank you. Moving on to the report of our Chief Engineer, Doug Hedrick.

**Chief Engineer:** Thank you, Mr. Chairman and good morning. I have three Resolutions for your consideration this morning. The first Resolution is to award Contract No. 39-13-01 for the Westbound Right Two Lanes and Shoulder Reconstruction from Milepost 90.0 to Milepost 95.9 located in Sandusky County, Ohio. This work is included in the 2013 Capital Improvement Plan, and Procurement received three bids for this contract with the apparent low bid being submitted by the Kokosing Construction Company of Columbus, Ohio. Their bid was in the amount of \$16,868,872.85. This bid contained two alternative bid items. The first for full depth bituminous pavement in lieu of the base bid of composite pavement. The second, for full

depth bituminous shoulder material in lieu of roller-compacted concrete shoulders. These alternatives allowed the Commission to realize any cost savings by competitively bidding both types of equivalently designed pavements. This base bid included a line item for the cost of composite pavement in the amount of \$3,602,676, and for the roller-compacted shoulders and aggregate in the amount of \$1,109,062.65. The bid alternates for these items were \$2,973,672.00, and \$952,354.00, respectively. It is recommended that these alternatives be accepted, thus lowering the base bid from a total of \$16,868,872.85 to \$16,083,160.20. In addition to the alternative bid items, the Contract Documents also included a line item for a voluntary Access Credit. Kokosing Construction included a line item deduction in the amount of \$185,000, however, additional information is required for us to fully evaluate this proposal. It is our intent to further evaluate this proposal with the Contractor, and realize most, or all of these savings at a later date. Without consideration of this proposed credit, this bid is still the apparent low bid, and when compared to the next lowest bid with the similarly accepted alternatives, is 16.9% below the second bidder. The bid submitted by the Kokosing Construction Company is below the Engineer's estimate of \$19,000,000. The design consultant, Glaus, Pyle, Schomer, Burns and DeHaven, dba GPD Group, Akron, Ohio, has carefully evaluated the complete bid tabulation, and finds no errors or anomalies. Kokosing Construction has the available capacity in both manpower and resources, and has successfully completed projects of a similar size and nature for the Commission in the past. It is, therefore, recommended that the Commission award Contract No. 39-13-01 to the Kokosing Construction Company of Columbus, Ohio, in the amount of \$16,083,160.20, which bid includes the acceptance of the bituminous pavement and shoulder alternatives. This Resolution also contains provisions to assign the GPD Group, of Akron, Ohio, to perform construction administration and inspection, and Professional Services,

Incorporated, of Cleveland, Ohio, to perform materials testing. It is anticipated that overall inspection, administration and materials testing costs will not exceed 8% of the final project costs. With your permission, I would ask the General Counsel to please read the Resolved.

**Chairman Hruby:** Please.

**General Counsel:** RESOLVED that the bid of **Kokosing Construction Company** of **Columbus, Ohio**, in the amount of **\$16,083,160.20** for the performance of Contract No. 39-13-01 is, and is by the Commission, determined to be the lowest responsive and responsible bid received for the performance of said Contract, and is accepted, and that the Chairperson and Executive Director, or either of them, hereby is authorized to: 1) execute a Contract with said successful bidder in the form heretofore prescribed by the Commission pursuant to the aforesaid bid, 2) direct the return to the bidders of their bid security, when appropriate, and 3) take any and all action necessary or proper to carry out the terms of said bid and of said Contract; and

FURTHER RESOLVED that the Commission hereby authorizes the Executive Director and the Chief Engineer to assign **Glaus, Pyle, Schomer, Burns, & Dehaven, Inc., dba GPD Group** ("GPD Group") of **Akron, Ohio**, to Contract No. 39-13-01 for the purpose of performing construction administration services in accordance with the Agreement specific to this Project as previously authorized under Resolution No. 32-2012, and to assign **Professional Services Industries, Inc. ("PSI")** of **Cleveland, Ohio**, for the purpose of performing materials testing and inspection, with such assignment in accordance with the 2013-2014 Miscellaneous Engineering Services Agreement between the Ohio Turnpike Commission and said engineering firm; and

**FURTHER RESOLVED that Project No. 39-13-01 is designated a System Project under the Commission's 1994 Master Trust Agreement.**

**Chairman Hruby:** Thank you for the Resolved. What action by the Board?

**Mr. Pakush:** Move to adopt.

**Vice Chairman Balog:** Second.

**Chairman Hruby:** We have a motion to adopt and a second. Are there any questions or comments? Yes, Mr. Pakush.

**Mr. Pakush:** I have one comment for clarification. In your comments, Doug, you talked about how the Engineer's Estimate was \$19,000,000 and the bid came in at

\$16,000,000. Maybe I didn't hear it right, but it sounded like you meant it was below the Engineer's Estimate by \$19,000,000, but \$16,000,000 was the low bid.

**Chief Engineer:** Mr. Chairman and Commission Member Pakush, that is correct. The Engineer's Estimate was \$19,000,000.

**Chairman Hruby:** Are there any other questions? Hearing none, roll call.

**Director Hodges:** Mr. Pakush.

**Mr. Pakush:** Yes.

**Director Hodges:** Vice Chairman Balog.

**Vice Chairman Balog:** Yes.

**Director Hodges:** Chairman Hruby.

**Chairman Hruby:** Yes.

**Director Hodges:** Secretary-Treasurer Barber.

**Secretary Barber:** Yes.

**Director Hodges:** Mr. Dixon.

**Mr. Dixon:** Yes.

**Director Hodges:** Five to nothing.

## OHIO TURNPIKE COMMISSION

### Resolution Awarding Contract No. 39-13-01

WHEREAS, the Commission has duly advertised according to law for bids upon a Contract for Westbound Right Two Lanes and Shoulder Reconstruction from Milepost 90.0 to Milepost 95.90 located in Sandusky County, Ohio, herein designated **Contract No. 39-13-01**; and

WHEREAS, the Contract Documents for the Project also requested alternate bids for mainline base pavement, shoulder base pavement, shoulder aggregate base and temporary access credit; and

WHEREAS, expenditures for the award to be made under Contract No. 39-13-01 will exceed \$150,000.00, and, therefore, in accordance with Article V, Section 1.00 of the Commission's Code of Bylaws, Commission action is necessary for said Contract award; and

WHEREAS, the Commission received three bids for the performance of said Contract, and said bids have been reviewed and analyzed by the Commission's Chief Engineer, whose report concerning such analysis is before the Commission; and

WHEREAS, the Chief Engineer reports that the lowest responsive and responsible bid for the performance of Contract No. 39-13-01 was submitted by **Kokosing Construction Company of Columbus, Ohio**, in the total Alternate bid amount of **\$16,083,160.20**, consisting of full depth bituminous pavement and shoulders (in lieu of composite pavement and roller compacted concrete shoulders), as allowed for in the Bidding Documents, which bid he recommends be accepted by the Commission; and

WHEREAS, the Commission has also been advised by the General Counsel that bids for Contract No. 39-13-01 were solicited on the basis of the same terms and conditions and the same specifications, that the bid of Kokosing Construction Company for Contract No. 39-13-01 conforms to the requirements of Ohio Revised Code Sections 5537.07, 9.312 and 153.54, and that a performance bond with good and sufficient surety has been submitted by Kokosing Construction Company; and

WHEREAS, the Commission's Executive Director has reviewed the reports of the Chief Engineer and the General Counsel and, predicated upon such analysis, has made his recommendation to the Commission to award Contract No. 39-13-01 to the lowest responsive and responsible bidder, Kokosing Construction Company; and

WHEREAS, the Commission has duly considered such recommendations.

NOW, THEREFORE, BE IT

RESOLVED that the bid of **Kokosing Construction Company of Columbus, Ohio**, in the amount of **\$16,083,160.20** for the performance of Contract No. 39-13-01 is, and is by the Commission, determined to be the lowest responsive and responsible bid received for the performance of said Contract, and is accepted, and that the Chairperson and Executive Director, or either of them, hereby is authorized to: 1) execute a Contract with said successful bidder in the form heretofore prescribed by the Commission pursuant to the aforesaid bid, 2) direct the return to the bidders of their bid security, when appropriate, and 3) take any and all action necessary or proper to carry out the terms of said bid and of said Contract; and

FURTHER RESOLVED that the Commission hereby authorizes the Executive Director and the Chief Engineer to assign **Glaus, Pyle, Schomer, Burns, & Dehaven, Inc., dba GPD Group ("GPD Group")** of **Akron, Ohio**, to Contract No. 39-13-01 for the purpose of performing construction administration services in accordance with the Agreement specific to this Project as previously authorized under Resolution No. 32-2012, and to assign **Professional Services Industries, Inc. ("PSI")** of **Cleveland, Ohio**, for the purpose of performing materials testing and inspection, with such assignment in accordance with the 2013-2014 Miscellaneous Engineering Services Agreement between the Ohio Turnpike Commission and said engineering firm; and

**FURTHER RESOLVED that Project No. 39-13-01 is designated a System Project under the Commission's 1994 Master Trust Agreement.**

**(Resolution No. 7-2013 adopted February 20, 2013)**

**Chairman Hruby:** Thank you. Please continue.

**Chief Engineer:** My second Resolution is to award Contract No. 39-13-02 for the Eastbound Right Two Lanes and Shoulder Reconstruction from Milepost 164.82 to Milepost 169.74 located in Cuyahoga County, Ohio. This work was also included in the 2013 Capital Improvement Plan. Bids were received on January 28, 2013, for the above-referenced Project from three contractors: The Shelly Company of Twinsburg, Ohio, Kokosing Construction Company of Columbus, Ohio; and The Shelly and Sands of Akron, Ohio. Following a thorough review of the bids submitted, the apparent low bid has been submitted by The Shelly Company in the amount of \$11,664,126.00. There were no bid alternates for this project. The Engineering Department and the design consultant examined the prices submitted by The Shelly Company,

and found no irregularities or anomalies. The bid submitted by The Shelly Company is 14.9% less than the Engineer's Construction Estimate of \$13,400,000, and 8.8% less than the second low bid. Based upon our review, The Shelly Company appears to have sufficient capacity to perform this project. Furthermore, it should be noted that The Shelly Company has performed similar Ohio Turnpike Projects in the past on the opposite side of this project during last year's construction season. Based on the above, it appears this bid is the lowest responsive and responsible bid, and it is recommended that Contract No. 39-13-02 be awarded to The Shelly Company, of Twinsburg, Ohio, in the amount of \$11,664,126.00. This Resolution also contains provisions to assign Resource International, of Cleveland, Ohio, to perform construction administration and inspection, and Solar Testing Inc., of Cleveland, Ohio, to perform materials testing. As with the previous project, it is anticipated that overall inspection, administration and materials testing costs will not exceed 8% of the final project costs. With your permission, if the General Counsel would please read the Resolved.

**Chairman Hruby:** Please.

**General Counsel:** RESOLVED that the bid of **The Shelly Company (Northeast Division)** of **Twinsburg, Ohio**, in the amount of **\$11,664,126.00** for the performance of Contract No. 39-13-02 is, and is by the Commission, determined to be the lowest responsive and responsible bid received for the performance of said Contract, and is accepted, and that the Chairperson and Executive Director, or either of them, hereby is authorized to: 1) execute a Contract with said successful bidder in the form heretofore prescribed by the Commission pursuant to the aforesaid bid, 2) direct the return to the bidders of their bid security when appropriate, and 3) take any and all action necessary or proper to carry out the terms of said bid and of said Contract; and

FURTHER RESOLVED that the Commission hereby authorizes the Executive Director and the Chief Engineer to assign **Resource International, Inc.**, of **Cleveland, Ohio**, to Contract No. 39-13-02 for the purpose of performing construction administration services in accordance with the Agreement specific to this Project as previously authorized under Resolution No. 33-2012, and to assign **Solar Testing Laboratories, Inc.**, of **Brooklyn Heights, Ohio**, for the purpose of performing materials testing and inspection, with such assignment in accordance with the 2013-2014 Miscellaneous Engineering Services Agreement between the Ohio Turnpike Commission and said engineering firm; and



**FURTHER RESOLVED that Project No. 39-13-02 is designated a System Project under the Commission's 1994 Master Trust Agreement.**

**Chairman Hruby:** You've heard the Resolved, is there any action to be taken by the Board?

**Vice Chairman Balog:** Move to adopt.

**Chairman Hruby:** Is there a second?

**Secretary Barber:** Second.

**Chairman Hruby:** We have a motion to adopt and a second. Are there any questions or comments? Hearing none, please call the roll.

**Director Hodges:** Vice Chairman Balog.

**Vice Chairman Balog:** Yes.

**Director Hodges:** Secretary-Treasurer Barber.

**Secretary Barber:** Yes.

**Director Hodges:** Chairman Hruby.

**Chairman Hruby:** Yes.

**Director Hodges:** Mr. Dixon.

**Mr. Dixon:** Yes.

**Director Hodges:** Mr. Pakush.

**Mr. Pakush:** Yes.

**Director Hodges:** Five to nothing.

## OHIO TURNPIKE COMMISSION

### Resolution Awarding Contract No. 39-13-02

WHEREAS, the Commission has duly advertised according to law for bids upon a Contract for Eastbound Right Two Lanes and Shoulder Reconstruction from Milepost 164.82 to Milepost 169.74 located in Cuyahoga County, Ohio, herein designated **Contract No. 39-13-02**; and

WHEREAS, expenditures for the award to be made under Contract No. 39-13-02 will exceed \$150,000.00, and, therefore, in accordance with Article V, Section 1.00 of the Commission's Code of Bylaws, Commission action is necessary for said Contract award; and

WHEREAS, the Commission received three bids for the performance of said Contract, and said bids have been reviewed and analyzed by the Commission's Chief Engineer, whose report concerning such analysis is before the Commission; and

WHEREAS, the Chief Engineer reports that the lowest responsive and responsible bid for the performance of Contract No. 39-13-02 was submitted by **The Shelly Company (Northeast Division)** of **Twinsburg, Ohio**, in the total base bid amount of **\$11,664,126.00**, which bid he recommends be accepted by the Commission; and

WHEREAS, the Commission has also been advised by the General Counsel that bids for Contract No. 39-13-02 were solicited on the basis of the same terms and conditions and the same specifications, that the bid of The Shelly Company for Contract No. 39-13-02 conforms to the requirements of Ohio Revised Code Sections 5537.07, 9.312 and 153.54, and that a performance bond with good and sufficient surety has been submitted by The Shelly Company; and

WHEREAS, the Executive Director has reviewed the reports of the Chief Engineer and the General Counsel and, predicated upon such analysis, concurs with the recommendation to award Contract No. 39-13-02 to the lowest responsive and responsible bidder, The Shelly Company; and

WHEREAS, the Commission has duly considered such recommendations.

NOW, THEREFORE, BE IT

RESOLVED that the bid of **The Shelly Company (Northeast Division)** of **Twinsburg, Ohio**, in the amount of **\$11,664,126.00** for the performance of Contract No. 39-13-02 is, and is by the Commission, determined to be the lowest responsive and responsible bid received for the performance of said Contract, and is accepted, and that the Chairperson and Executive Director, or either of them, hereby is authorized to: 1) execute a Contract with said successful bidder in the form heretofore prescribed by the Commission pursuant to the aforesaid bid, 2) direct the return to the bidders of their bid security when appropriate, and 3) take any and all action necessary or proper to carry out the terms of said bid and of said Contract; and

FURTHER RESOLVED that the Commission hereby authorizes the Executive Director and the Chief Engineer to assign **Resource International, Inc.**, of **Cleveland, Ohio**, to Contract No. 39-13-02 for the purpose of performing construction administration services in accordance with the Agreement specific to this Project as previously authorized under Resolution No. 33-2012, and to assign **Solar Testing Laboratories, Inc.**, of **Brooklyn Heights, Ohio**, for the purpose of performing materials testing and inspection, with such assignment in accordance with the 2013-2014 Miscellaneous Engineering Services Agreement between the Ohio Turnpike Commission and said engineering firm; and

**FURTHER RESOLVED that Project No. 39-13-02 is designated a System Project under the Commission's 1994 Master Trust Agreement.**

**(Resolution No. 8-2013 adopted February 20, 2013)**

**Chairman Hruby:** Proceed.

**Chief Engineer:** Our final Resolution this morning is to award Contract No. 59-13-02 for the Repairs and Resurfacing of the Eastbound and Westbound Roadway between Milepost 127.2 and Milepost132.2 in Erie County, Ohio. This work was also included in the 2013 Capital Improvement Plan. Procurement received three bids for this project, with the apparent low bid being submitted by the Shelly Company of Twinsburg, Ohio, in the amount of \$3,045,205.25. This bid was below the Engineer's Estimate of \$3,500,000. A review of the bid concluded that The Shelly Company bid is the lowest responsive and responsible bid, and they have the capacity to perform this work. They have previously performed similar projects for the Commission in the past with excellent results. This Resolution also contains provisions to assign Mannik and Smith Group of Maumee, Ohio, to perform construction administration and inspection services and Geo-Sci, Inc. of Berea, Ohio, to perform materials testing. If the General Counsel would please read the Resolved.

**Chairman Hruby:** Please.

**General Counsel:** RESOLVED that the bid of **The Shelly Company (Northeast Division)** of **Twinsburg, Ohio**, in the amount of **\$3,045,205.25** for the performance of Contract No. 59-13-02 is, and is by the Commission, determined to be the lowest responsive and responsible bid received for the performance of said Contract, and is accepted, and that the Chairperson and Executive Director, or either of them, hereby is authorized to: 1) execute a Contract with said successful bidder in the form heretofore prescribed by the Commission pursuant to the aforesaid bid, 2) direct the return to the bidders of their bid security when appropriate, and 3) take any and all action necessary or proper to carry out the terms of said bid and of said Contract; and

FURTHER RESOLVED that the Commission hereby authorizes the Executive Director and the Chief Engineer to assign **The Mannik and Smith Group, Inc.**, of **Maumee, Ohio**, to Contract No. 59-13-02 for the purpose of performing construction administration and inspection services, and **Geo-Sci, Inc.**, of **Berea, Ohio**, for the purpose of performing materials testing, with such assignments in accordance with the 2013-2014 Miscellaneous Engineering Services Agreements between the Ohio Turnpike Commission and said engineering firms; and

**FURTHER RESOLVED that Project No. 59-13-02 is designated a System Project under the Commission's 1994 Master Trust Agreement.**

**Mr. Pakush:** Move to adopt.

**Chairman Hruby:** Motion to adopt. I'll second. Any questions or comments? Yes, Mr. Dixon.

**Mr. Dixon:** The Shelly Company, we are about to spend a lot of money with them, and I'm just curious, and we've had this discussion before, Kathy, do we have any idea as far as their minority hiring practices? Do we have any idea what their culture is?

**General Counsel:** Mr. Chairman and Commission Member Dixon, yes. On this particular project, the one the vote is being taken on, the Shelly Company has indicated that they will have MBE/FBE participation. They were unable to indicate the exact percentage or amount of participation. There are times when bidders for construction projects submit their bids, and they don't have their exact numbers and percentages down with respect to subcontractors so, we follow back up with them immediately during the contract execution phase. They will have to submit to Mr. Hedrick's office a list of their subcontractors for approval, and he will be looking

for that MBE/FBE participation level with respect to this contract because they did indicate it. I also stated that in the letter that I addressed to the Board.

**Mr. Dixon:** We do ask then?

**General Counsel:** Yes, we do.

**Vice Chairman Balog:** I saw also that the other two companies indicated that they had no MBE/FBE participation in their bids so, this is, by far, the best we can do.

**General Counsel:** It's a fair question. Mr. Chairman, I will take this opportunity to point out to the Board that I hope it is standing out sufficiently in the letter that I provided to the Board. I am trying to make sure that you are aware of what that level of participation is on the second page of the letter. If you have any questions while you are reviewing the materials that we supplied as to what those levels are, by all means feel free to call me, and we will provide you whatever information we've been given at that time.

**Mr. Dixon:** Yes, thank you. I saw that letter, and I appreciate it. I think it was the Chairman's idea to put that on every contract. I want to follow-up, and I want to ask these questions. Thank you.

**Chairman Hruby:** Very valid questions. Are there any other questions from anyone? Hearing none, roll call.

**Director Hodges:** Mr. Pakush.

**Mr. Pakush:** Yes.

**Director Hodges:** Chairman Hruby.

**Chairman Hruby:** Yes.

**Director Hodges:** Vice Chairman Balog.

**Vice Chairman Balog:** Yes.

**Director Hodges:** Secretary-Treasurer Barber.  
**Secretary Barber:** Yes.  
**Director Hodges:** Mr. Dixon.  
**Mr. Dixon:** Yes.  
**Director Hodges:** Five to nothing.

## **OHIO TURNPIKE COMMISSION**

### **Resolution Awarding Contract No. 59-13-02**

WHEREAS, the Commission has duly advertised according to law for bids upon a Contract for Repairs and Resurfacing, Eastbound and Westbound Roadways, from Milepost 127.2 to Milepost 132.2 located in Erie County, Ohio, herein designated **Contract No. 59-13-02**; and

WHEREAS, expenditures for the award to be made under Contract No. 59-13-02 will exceed \$150,000.00 and, therefore, in accordance with Article V, Section 1.00 of the Commission's Code of Bylaws, Commission action is necessary for said Contract award; and

WHEREAS, the Commission received three electronic bids for the performance of said Contract, via Bid Express, and said bids have been reviewed and analyzed by the Commission's Chief Engineer, whose report concerning such analysis is before the Commission; and

WHEREAS, the Chief Engineer reports that the lowest responsive and responsible bid for the performance of Contract No. 59-13-02 was submitted by **The Shelly Company (Northeast Division)** of **Twinsburg, Ohio**, in the amount of **\$3,045,205.25**, which bid he recommends be accepted by the Commission; and

WHEREAS, the Commission has also been advised by the General Counsel that bids for Contract No. 59-13-02 were solicited on the basis of the same terms and conditions and the same specifications, that the bid of The Shelly Company for Contract No. 59-13-02 conforms to the requirements of Ohio Revised Code Sections 5537.07, 9.312 and 153.54, and that a performance bond with good and sufficient surety has been submitted by The Shelly Company; and

WHEREAS, the Executive Director has reviewed the reports of the Chief Engineer and the General Counsel and, predicated upon such analysis, concurs with the recommendation to award Contract No. 59-13-02 to the lowest responsive and responsible bidder, The Shelly Company; and

WHEREAS, the Commission has duly considered such recommendations.

NOW, THEREFORE, BE IT

RESOLVED that the bid of **The Shelly Company (Northeast Division)** of **Twinsburg, Ohio**, in the amount of **\$3,045,205.25** for the performance of Contract No. 59-13-02 is, and is by the Commission, determined to be the lowest responsive and responsible bid received for the performance of said Contract, and is accepted, and that the Chairperson and Executive Director, or either of them, hereby is authorized to: 1) execute a Contract with said successful bidder in the form heretofore prescribed by the Commission pursuant to the aforesaid bid, 2) direct the return to the bidders of their bid security when appropriate, and 3) take any and all action necessary or proper to carry out the terms of said bid and of said Contract; and

FURTHER RESOLVED that the Commission hereby authorizes the Executive Director and the Chief Engineer to assign **The Mannik and Smith Group, Inc.**, of **Maumee, Ohio**, to Contract No. 59-13-02 for the purpose of performing construction administration and inspection services, and **Geo-Sci, Inc.**, of **Berea, Ohio**, for the purpose of performing materials testing, with such assignments in accordance with the 2013-2014 Miscellaneous Engineering Services Agreements between the Ohio Turnpike Commission and said engineering firms; and

**FURTHER RESOLVED that Project No. 59-13-02 is designated a System Project under the Commission's 1994 Master Trust Agreement.**

**(Resolution No. 9-2013 adopted February 20, 2013)**

**Chief Engineer:** Mr. Chairman, I have one other item for your consideration.

**Chairman Hruby:** Do we have any money left there, Mr. Hedrick?

**Chief Engineer:** I just want to give you an annual report, as the Chief Engineer would normally do, of a summary of contracts completed over the last year. We recently completed a close-out of projects for the 2012 construction year. I would also like to report that, on an award basis, we closed-out contracts awarded in the amount of \$74,901,000, and the final cost of those contracts actually came in at \$74,307,000 for a percentage of 99% of the awarded amount. Currently we have closed contracts in 2013, which were carry-overs from 2012, in the award amount of \$15,003,109, and those contracts final costs were \$13,659,018 for approximately a 91% of the award amount. This points out that the Commission's staff and our

consultants are doing a good job of maintaining these contracts, managing these contracts, keeping them under budget and on time.

**Chairman Hruby:** Mr. Hedrick, on behalf of the Commission, I just want to state publicly how much we appreciate the good work that you've been doing. You took over after someone who has had many, many years as our Chief Engineer, and it's been seamless. You've done an outstanding job in bringing the jobs in on-time and under budget. We appreciate that very much, and you are to be commended for that.

**Chief Engineer:** I appreciate the comment. It is a learning experience every day. That completes my report.

**Chairman Hruby:** Well said. Are there any other comments or questions for Mr. Hedrick? If not, we will move on to the report of our CFO/Comptroller, Marty Seekely.

**CFO/Comptroller:** Thank you, Mr. Chairman. I have two reports and one Resolution for your consideration this morning. First, I would like to update you on the results of the reverse auction for energy supplies that the Commission held. Last Monday, a series of reverse auctions for electric energy supply needs was held using the World Energy Solutions electronic bidding platform. We accepted bids for 12, 24 or 36-month terms, and each auction was held open for one hour. We were able to watch on the computer monitor as bids were placed by nine different energy firms and, in each auction, First Energy Solutions, came in at the last minute and bid the lowest price. We analyzed the bids after the completion of the auction, and determined that a 24-month energy supply agreement with First Energy Solutions for \$.0444 per kilowatt hour was the best bid. This is about \$.0233 per kilowatt hour less than we are currently paying and, as a result, we should save about \$930,000 in the first year of the contract, and about



\$1,150,000 in the second year of the contract. So, we are very happy with the process, it was a great result.

**Mr. Pakush:** How long are we locked into those rates?

**CFO/Comptroller:** 24 months. We decided to go 24 months because energy prices are pretty low right now, and we know there is going to be an increase in the capacity charge next year, so we wanted to lock in the rate for 24 months.

**Chairman Hruby:** And that is all inclusive – the \$.0444?

**CFO/Comptroller:** Yes. That includes the capacity charge and the fee for our consultants.

**Chairman Hruby:** It's a wonderful price.

**Director Hodges:** Mr. Chairman, if I could just add to that, and you've already complimented him but, if you want to see a bunch of accountants get excited, have a reverse auction on the computer. This is a big deal for us, and a lot of people participated. Marty saw it through to the end. It was an outstanding job.

**Mr. Cole:** To clarify, when we say "all-in" charge, that's the all-in generation charge. There is still a distribution charge, correct? For public awareness, if you compare this to your home bill, there is still two charges. There's the distribution charge and generation. When we say "all-in," I don't want anyone thinking that the Turnpike's just paying \$.0444 for the next 24 months.

**Chairman Hruby:** Thank you for clarifying that. I appreciate it.

**CFO/Comptroller:** Next, I would like to update you on our Traffic and Revenue for the month of January. This first chart shows the monthly passenger car miles traveled on the Ohio Turnpike over the past two years. Passenger car vehicle miles traveled in January

increased 3.5% from January of last year. Traffic was up substantially on the three day Martin Luther King weekend. Some of this increase may have been due to traffic traveling to the presidential inauguration that weekend. Commercial traffic continues to rebound with the improving economy and, as a result, commercial vehicle miles traveled increased in January, and were 6.7% higher than last year.

This chart shows the total vehicle miles traveled for the month of January during each year over the past decade. Total vehicle miles traveled for January were 4.7% above the amount from last year.

The increase in passenger car miles traveled caused the passenger car toll revenue in January to increase 2.0% from January of last year. The increase in vehicle miles traveled caused commercial vehicle toll revenue for the month of January to increase 6.0% from January of last year.

This chart shows toll revenues for the month of January during each year over the past decade. Total toll revenues for January were \$768,000, or 4.5% above the amount from last year.

That completes my report on Traffic and Revenue, Mr. Chairman. If there are no questions, I would like to present the Underwriter Resolution.

**Chairman Hruby:** Please do.

**CFO/Comptroller:** At the January meeting, the Commission passed a Resolution Endorsing Governor John Kasich's Ohio Jobs and Transportation Plan. This Plan calls for the Ohio Turnpike Commission to issue approximately \$1.5 billion in debt over the next five years in order to fund infrastructure projects around the State of Ohio that have a nexus to the

Turnpike. Also, included in the debt issuance, there would be approximately \$70 million for use by the Ohio Turnpike to help pay for the Turnpike's Base Replacement Program.

It is anticipated that the Commission will issue its first bonds for this purpose in July or August of this year. As part of the process to issue the new bonds, the Commission will need to hire underwriters who will provide advice on the best debt structure, help prepare official statements, assist with rating agency presentations, and market and sell the bonds.

In order to meet this timeframe, we are planning to issue a Request for Qualifications ("RFQ") for Underwriting Services in the next couple of days. We anticipate that, after reviewing and evaluating the submissions, a Resolution recommending a list of underwriting firms will be presented to the Commission at the end of March. The Commission has historically approved the issuance of a Request for Qualifications for Underwriting Services, and included in your information, is a Resolution that provides the Executive Director and me the authorization to issue the RFQ.

The Resolution also authorizes the solicitation of updated RFQ's for Bond Counsel. So, with your permission Mr. Chairman, I would like to turn it over to our General Counsel who can comment on that part of the Resolution.

**Chairman Hruby:** Please.

**General Counsel:** Thank you. Mr. Chairman and Members of the Board, as Marty indicated, we are going to be issuing both the RFQ for Underwriters, and what we will also do simultaneously is issue a requested update to approximately ten firms that have been previously pre-qualified with the Commission to provide outside counsel services. In August, 2012, my department conducted a RFQ Process for Outside Counsel Services for a variety of different types of legal services that that Commission needs. Among the responses received, the firms

were asked to tell us whether they could provide Bond Counsel Services. So, those ten firms that submitted proposals will be asked to update their proposals, and to provide us with a fee structure for providing Bond Counsel Services. It is our intent to issue both the Bond Counsel Update and also the RFQ for the Underwriters this week and, therefore, with your permission, Mr. Chairman, if I could read the Resolved, and then ask that you entertain a vote on this Resolution.

**Chairman Hruby:** Please do.

**General Counsel:** RESOLVED, that, pursuant to its authority under Section 5537.08 of the Ohio Revised Code, the Commission hereby authorizes the Executive Director and CFO/Comptroller to issue a Request for Qualifications soliciting proposals from those investment banking firms interested in furnishing underwriting services for the potential issuance of new revenue bonds under the current Master Trust Agreement and/or under a new Junior Lien Trust Agreement; and

FURTHER RESOLVED, that, pursuant to its authority under Section 5537.08 of the Ohio Revised Code, the Commission hereby authorizes the Executive Director and General Counsel to solicit updates to proposals previously received in response to the Legal Department's 2012 "Request for Qualifications for Outside Counsel" from those law firms prequalified to furnish bond counsel services, and which are interested in furnishing said services as required for the potential issuance of new revenue bonds under the current Master Trust Agreement and/or under a new Junior Lien Trust Agreement; and

FURTHER RESOLVED, that the CFO/Comptroller and the General Counsel shall prepare a report and recommendation to the Commission regarding the proposals received to provide underwriting services and bond counsel services.

**Chairman Hruby:** You've heard the Resolved. Is there any action to be taken by the Board?

**Vice Chairman Balog:** So moved.

**Chairman Hruby:** Mr. Balog moves, I'll second the motion. Are there any questions or comments? Yes, Mr. Hodges.

**Director Hodges:** Just to add to the comments that have been made, we are going down a path here where the Commission is going to be asked to do important work.

Ultimately, it is the authority of this Commission to make all decisions about anything regarding this program as far as bonds are concerned, toll rates, who we select, under what terms, how much money is available and how it's allocated. I believe it's my job to aggressively defend the authority of this Commission. This Resolution is not committing the Commission to anything other than starting the process of doing our due diligence. At such a point in time when any of those important decisions need to be made, it is the sole purview of the folks sitting up here, and it's our job to provide you with the information you need.

**Chairman Hruby:** I hope that this information will be gotten to us timely so that we have time to consider it, and have dialogue regarding any recommendations that you make. I appreciate that. Are there any further questions or comments? Hearing none, roll call.

**Director Hodges:** Chairman Hruby.

**Chairman Hruby:** Yes.

**Director Hodges:** Vice Chairman Balog.

**Vice Chairman Balog:** Yes.

**Director Hodges:** Secretary-Treasurer Barber.

**Secretary Barber:** Yes.

**Director Hodges:** Mr. Dixon.

**Mr. Dixon:** Yes.

**Director Hodges:** Mr. Pakush.

**Mr. Pakush:** Yes.

**Director Hodges:** Five to nothing.

## OHIO TURNPIKE COMMISSION

### Resolution Authorizing the Issuance of Requests for Qualifications for Underwriting Services and Updated Request for Qualifications for Bond Counsel Services Necessary for the Potential Issuance of New Revenue Bonds

WHEREAS, the Commission is authorized by Section 5537.08 of the Ohio Revised Code to issue revenue bonds for the purpose of paying for the cost of any one or more Turnpike projects; and

WHEREAS, Governor John Kasich's Ohio Jobs and Transportation Plan, which was endorsed by the Commission under Resolution No. 1-2013, provides for the issuance of up to \$1.1 billion in revenue bonds by the Commission in 2013 to fund both Turnpike and infrastructure projects; and

WHEREAS, legislation currently under consideration in the General Assembly contains revisions to the Ohio Turnpike Act that would rename the Commission as the "Ohio Turnpike and Infrastructure Commission," and which would allow for the Commission to additionally issue revenue bonds for the purpose of paying for the cost of "infrastructure projects" recommended by the Director of Transportation as evaluated and approved by the Commission; and

WHEREAS, to select either senior managing and/or co-managing underwriters for one or more potential transactions, the CFO/Comptroller has recommended that the Commission issue a Request for Qualifications to solicit proposals from interested investment banking firms; and

WHEREAS, to select bond counsel as required for one or more potential transactions, the General Counsel has recommended that the Commission solicit updates to proposals previously received in response to the Legal Department's 2012 "Request for Qualifications for Outside Counsel" from those law firms that are pre-qualified to serve as bond counsel; and

WHEREAS, the Commission's Executive Director concurs with the recommendations of both the CFO/Comptroller and the General Counsel; and

WHEREAS, the Commission has duly considered said recommendations.

NOW, THEREFORE, BE IT

RESOLVED, that, pursuant to its authority under Section 5537.08 of the Ohio Revised Code, the Commission hereby authorizes the Executive Director and CFO/Comptroller to issue a Request for Qualifications soliciting proposals from those investment banking firms interested in furnishing underwriting services for the potential issuance of new revenue bonds under the current Master Trust Agreement and/or under a new Junior Lien Trust Agreement; and

FURTHER RESOLVED, that, pursuant to its authority under Section 5537.08 of the Ohio Revised Code, the Commission hereby authorizes the Executive Director and General Counsel to solicit updates to proposals previously received in response to the Legal Department's 2012 "Request for Qualifications for Outside Counsel" from those law firms prequalified to furnish bond counsel services, and which are interested in furnishing said services as required for the potential issuance of new revenue bonds under the current Master Trust Agreement and/or under a new Junior Lien Trust Agreement; and

FURTHER RESOLVED, that the CFO/Comptroller and the General Counsel shall prepare a report and recommendation to the Commission regarding the proposals received to provide underwriting services and bond counsel services.

**(Resolution No. 10-2013 adopted February 20, 2013)**

**Chairman Hruby:** Anything else?

**CFO/Comptroller:** That completes my report, Mr. Chairman.

**Chairman Hruby:** Thank you, Marty. I appreciate it very much. We will move on to our other reports, if any, Mr. Adams?

**Mr. Adams:** No report, Mr. Chairman.

**Chairman Hruby:** General Consultant, Beth Fulton.

**Ms. Fulton:** No report, Mr. Chairman.

**Chairman Hruby:** Our trustee from Huntington, Mr. Lamb.

**Mr. Lamb:** No report, Mr. Chairman.

**Chairman Hruby:** Our Ohio State Highway Patrol, Lt. Sivak.

**Lt. Sivak:** I would like to start off with offering the Highway Patrol's appreciation for the Commission's purchase of laptops for our vehicles, and I thank you very much for that. Everything that our Troopers do now runs through those laptops, and through the hard work of the Chief Engineer, General Counsel and, specifically, Mr. Golick in Procurement, we were able to obtain a better, stronger, faster machine and we are really looking forward to

getting those. They should be here by the end of this week so, again, I just want to offer my appreciation and your work on that.

Staffing wise, on February 8, we graduated a class from our Academy with eleven of those troopers now assigned to the Turnpike. Seven are at the Milan Post, three are at Hiram and one is at Swanton, and we are looking forward to the reinforcements there. I met one of them, and they are very happy to be here and I'm looking forward to good things from them. Lastly, although, as previously stated, miles driven on the Turnpike increased in January, I am happy to report we had a 28% reduction in overall traffic crashes and no fatalities to report up to today. That is a very good thing considering the weather we've been experiencing, and today is no exception. In regards to my last statement, I would like to extend my appreciation for the hard work maintenance does out here on a daily basis and helping us with our job. We greatly appreciate that as well.

**Chairman Hruby:** Thank you for your comments. We appreciate your work. Are there any questions or comments for the Lieutenant? Hearing none, the next Commission Meeting will be held on Monday, March 18, 2013 at 10:00 a.m. Is there any further business?

**Mr. Pakush:** The last meeting of the Commission that I didn't attend, I was appointed the new Chairperson of the....

**Chairman Hruby:** Let me stop you right there. Anytime you are not in attendance, you can expect added responsibility. (all laugh)

**Mr. Pakush:** I do appreciate that, Mr. Chairman. I am excited about that assignment, and I look forward to helping the Commission work on that. With that, I think the way we would like to proceed – I haven't had a chance to talk with all of our Committee Members on the Noise Study but, maybe at each of our Board Meetings, at the pleasure of our



Committee Members, at the end we can have a standing committee meeting. We will put it on the Agenda, and we will make it open for the public to know that at the end of each of our monthly Commission Meeting, we will have a committee meeting of the noise barrier group. If that is okay with our committee members to do it that way, then we will also advertise that to let people know that we will be discussing that in an open forum for this study that we are going to go through. So, since it wasn't advertised today that we are going to have a committee meeting, I thought maybe as a group as a whole that if Chief Engineer, Doug Hedrick, can just do a quick five-minute briefing of what the Turnpike has done in the past to give everybody a little history and, from there, we'll move forward and do our group. So, if it's okay, can we have Doug give a short presentation on the history? Then next month, we will hold our first committee meeting.

**Chairman Hruby:** Do all Members of the Commission have a copy of the Study?

**Chief Engineer:** No, they do not.

**Chairman Hruby:** Okay. We need to get that to them at some point in time.

**Chief Engineer:** The Commission's Noise Study is on our website.

**Chairman Hruby:** So, it is on the website for the Commission Members to see.

**Mr. Cole:** If you could e-mail to us the link to where the full study is.

**General Counsel:** Mr. Chairman and Members of the Board, it is quite a lengthy document so, it probably won't e-mail very well. I agree with Mr. Cole that we can e-mail you the link, and it's readily accessible on the website.

**Chairman Hruby:** The public is welcome to also go onto that link and look at the study. Just so we make sure we are as open as possible with all of this. Please proceed, Mr. Hedrick.

**Chief Engineer:** To step back and give you a brief history of where the Turnpike has been historically, there have been two main factors that we've considered when we analyzed noise situations. The Commission has always taken the position that noise walls are not part of our purview for two reasons. First, we don't receive any Federal funding. If Federal funds are available for a project as a Type I Project, ODOT, as part of their program, is required to include an analysis for noise abatement. And, that is only done for increased capacity or, expansion of an existing system. So, if ODOT is adding two lanes or adding additional capacity a roadway, and Federal funds are involved, a noise impact analysis has to be performed. Back in the early 1980's, I believe Myron, that ODOT was also legislated to set-up a separate tier, or separate type of project, the Type II Project, that addresses existing conditions. So, those existing highways that maybe weren't adding any additional capacity, but which experienced increased volumes through the years, had funds set aside to build noise walls.

**Mr. Pakush:** That is correct. At ODOT, we established what we call our Type II Noise Barrier Retrofit Program. It happened actually in the early 1990's when that program was first implemented, then ODOT budgeted a certain amount of dollars to prioritize those locations to determine how much we can do on an annual basis. That is where you see a lot of the Type II Noise Walls across the State of Ohio but, also, there is a significant amount of Type I Walls that you mentioned, which are based on that expansion. ODOT has had the Type I and the Type II Programs for a number of years.

**Chief Engineer:** Since the Commission does not receive any Federal funding; we were not under those guidelines that require a noise analysis every time that either the third lane project was proceeding. It is my understanding, and this was a little bit before I got here, that we did perform comprehensive noise readings of the Turnpike prior to the third lane construction

just to see what impact some of these expansions would have. Our sense was that, since we were not widening the Turnpike out closer to traffic, but pushing it in towards the center, there was no real push to include noise abatement in any of those projects.

The second reason that the Commission has never really addressed the existing situation with existing neighbors is that, when the properties to build the Turnpike were originally purchased during the 1950's, there was a clause included in each one of those residual deeds absolving the Commission of all future damages. If I can read the exact language: "This settlement was for full and final payment for any and all current and future damages." It was the opinion of our General Counsel at the time, I believe, Kathleen, that we have an Attorney General's Opinion on this once or twice going back prior to you becoming General Counsel, we went to the Attorney General's Office for an Opinion of whether that language is valid, and it was upheld that we've already compensated those property owners for any future damages that may occur, and including in that was any impact that noise would have on their property values.

Those are the two general principles that the Commission has used to refute the need to install noise walls up to this point.

**Chairman Hruby:** Let me stop you there for a second. Did the study or the Commission take into consideration the fact that, when some of the plazas were reconstructed, the parking or the entrance way for the trucks had been revised from one side to another side? In our city, the trucking was moved in location and caused a different exit lane coming off, and the impact of the jake brake that the trucks were using as they came into the plaza was closer to the neighborhood because of that fact. Did any of that come to play or not?

**Chief Engineer:** Mr. Chairman, it is my understanding that, no, I don't believe that considerations were taken into account during the design of the plazas because I think that is a

different category of noise. It's not directly related to the actual highway itself. It's an ancillary function of the Service Plazas, and I know the Department of Transportation really doesn't have a comparable item to analyze that with.

**General Counsel:** Mr. Chairman, if I may just add, there is Turnpike case law involving noise mitigation, the *Amore* Case, which also needs to be considered in this discussion. The primary issue there was that the Turnpike had changed the configuration of the project, and despite the residual deed language that Mr. Hedrick read to you, there is, unfortunately, bad case law as far as the Turnpike is concerned that states, basically, we altered the configuration of the project and, therefore, we were held responsible in that case. This is something that my predecessor had brought to the attention of the Board, and I had brought it to the Board's attention as well. We really do need to look carefully at what that case states as we move forward with any noise mitigation policies. I think that is in line with the question you were asking. Maybe not exactly with relationship to a Service Plaza, but that particular case dealt with an interchange and a modification of the existing configuration.

**Mr. Pakush:** I appreciate that background, and also what the Turnpike has done historically. I think at our first meeting next month in March, we will go ahead and learn more about the case law to make sure we frame whatever we do with this new policy that we have that understanding so I would ask General Counsel to arrange that presentation to our committee, and maybe explain that a little better. I will also arrange for the ODOT noise specialist to come in and present what ODOT's policy is, and explain how ODOT's policy works better for everybody. We will start with that at the next meeting but, I think just to start us off, I feel good with where we are at today, and next month we'll really start into the analysis.

**Chairman Hruby:** If you would, Mr. Pakush, could you include the issue of jake brake. I had an extensive debate at one point with a former Director of the Turnpike regarding the use of the jake brake and whether it could be enforced or not by the Ohio State Highway Patrol if there was a non-jake brake area, and the impact of the plazas, any reconfiguration that took place when the newer plazas were created. As far as the exit lane is concerned, as well as the parking should play into it, I think.

**Mr. Pakush:** What you are stating is that when that was rebuilt, we had the plaza footprint moving closer to the residential area?

**Chairman Hruby:** And where the trucks were getting off and where there turn lane was in getting off of the mainline onto the plaza.

**Mr. Pakush:** I appreciate that. Are there any other comments from other Commission Members or Committee members?

**Secretary Barber:** I would just like to add that any additional information that our General Counsel obtains, if we could have it in advance of our committee meeting next time so we are fully informed of what we are going to be discussing.

**Mr. Pakush:** We will do that. I apologize to the Commission Members for not preparing anything for today.

**Chairman Hruby:** Well, this is not going to be an easy task, and I really appreciate the work of the Committee, and thank you again for volunteering to Chair this effort. We do appreciate that.

**Mr. Pakush:** You are welcome, and I will make sure I don't miss another meeting.

**Chairman Hruby:** Is there anything else? Are there any other comments or questions? The next Commission Meeting will be held on Monday, March 18, 2013 at 10:00 a.m. If there is no further business, I will accept a motion to adjourn.

**Vice Chairman Balog:** So moved.

**Secretary Barber:** Second.

**Chairman Hruby:** Moved and seconded. All in favor signify by saying "aye."


All Commission members say "aye." Thank you very much for your attendance, and please drive safely. We are adjourned.

Attendees for Record Keeping Purposes:

Toby S. Fritz, Hill International; Beth Fulton, URS; John Adams, Fifth Third; Neal Gresham, URS; Tom Parevosnik, IUOE 18; Glen Stephens, GSI; Julie Miller, RII; Frank Lamb, Huntington Bank; Dennis Golem, Wells Fargo; Rich LaRocco, M-E/IBI Group; Vic Spinabelli, Hill International; John Lee, First Southwest; Richard Hatlow, First Southwest; Mike Bartolotta, First Southwest; Eric Rockhold, JP Morgan; Richard Boylan, RLB Group; Dino Talbott, RLB Group; Frank Bronzo, KCI; Tom Breckenridge, Cleveland Plain Dealer; Dave Kiley, Piper Jaffray; Greg Szymanski, Hill International; Bill Matlock, Castle Oak Securities; Russ Critelli, Mannik & Smith; Ron Strauser, Hill International; Lieutenant Jim Sivak, Ohio State Highway Patrol; Marty Seekely, Ohio Turnpike; Robin Carlin, Ohio Turnpike; Tony Yacobucci, Ohio Turnpike; Dennis Albrecht, Ohio Turnpike; Donna Fritz, Ohio Turnpike; Jennifer Diaz, Ohio Turnpike; Lauren Hakos, Ohio Turnpike; Sharon Isaac, Ohio Turnpike; Dave Miller, Ohio Turnpike.

Time of adjournment: 11:11 a.m.

Approved as a correct transcript of the proceedings  
of the Ohio Turnpike Commission

  
Sandra K. Barber, Secretary-Treasurer