

## OHIO TURNPIKE AND INFRASTRUCTURE COMMISSION

### **Resolution Approving the Selection of Kenmore Construction Co., Inc. Under Project No. 59-20-03 in the Amount of \$1,622,398.80 and Approving the Assignment of CT Consultants, Inc. and Geo-Sci, Inc. to Perform Professional Services on the Project**

WHEREAS, on March 9, 2020, Governor Mike DeWine issued an Executive Order declaring a State of Emergency for the entire State of Ohio in response to the COVID-19 pandemic; and

WHEREAS, on March 22, 2020, Amy Acton, MD, MPH, Director of Health, issued a “Stay at Home Order” requiring individuals to stay home unless engaged in Essential Activities, Essential Governmental Functions or to operate Essential Businesses and Operations and, on April 2, 2020, amended the Stay at Home Order so that it shall be in effect through May 1, 2020; and

WHEREAS, under the Stay at Home Order, Essential Activities, Essential Governmental Functions and Essential Businesses and Operations include:

- Essential Infrastructure (Par. 9) – “[I]ndividuals may leave their residence to provide any service or perform any work necessary to offer, provision, operate, maintain and repair Essential Infrastructure,” which includes construction, building management and maintenance, and highways.
- Essential Governmental Functions (Par. 10) – “[A]ll services provided by the State or any...political subdivision, board, commission or agency of government and needed to ensure the continuing operation of the government agencies or to provide for or support the health, safety and welfare of the public, including contractors performing Essential Functions.”
- Essential Businesses and Operations (Par. 12) –
  - Critical Trades (Par. 12(k)) – “Building and Construction Tradesmen and Tradeswoman...and other service providers who provide services that are necessary to maintaining the safety, sanitation, and essential operation of residences, Essential Activities, and Essential Businesses and Operations.”
  - Supplies for Essential Businesses and Operations – “Businesses that sell, manufacture, or supply other Essential Businesses and Operations with the support or materials necessary to operate....”
  - Essential Critical Infrastructure Workers – The Cybersecurity and Infrastructure Security Agency (CISA) Advisory Memorandum on Identification of Essential Critical Infrastructure During COVID-19 Response, dated March 28, 2020, identifies the following as essential critical infrastructure workers: (1) Transportation and Logistics – “Employees supporting or enabling transportation functions...”; (2) Public Works and Infrastructure Support Services – “Workers who support the operation, inspection, and maintenance of essential public works facilities and operations...”; and (3) Government-Based Operations and Essential Functions – “Workers supporting essential maintenance, manufacturing, design, operation, inspection, security, and construction for essential products, services, and supply chain and COVID 19 relief efforts;” and

WHEREAS, being the fastest east-west corridor in northern Ohio, the Ohio Turnpike performs a critical role in our state and national economy as a vital part of Ohio’s transportation network and a nationally ranked freight corridor and this role is more important now than ever before so that essential medical supplies, food and other necessary goods can reach their destinations to those in need during this COVID-19 pandemic; and

WHEREAS, based on the foregoing orders and guidance, the Ohio Turnpike and Infrastructure Commission (the “Commission”) finds that it must continue operations under the Stay at Home Order as Essential Infrastructure and as Essential Governmental Functions to maintain the supply chain and that the Commission’s contractors and service providers must continue to perform services and supply goods and materials to the Commission as Essential

Infrastructure, Critical Trades, Supplies for Essential Business and Operators and/or Essential Critical Infrastructure Workers; and

WHEREAS, based on the foregoing, the Commission finds that the contract approved pursuant to this Resolution is necessary for the Commission to continue operations as Essential Infrastructure and as Essential Governmental Functions and complies with the requirements of and exceptions to the Stay at Home Order; and

WHEREAS, the Commission published a notice in accordance with law advertising its invitation to bid on a Contract to repair and resurface the Interchange at Exit 180, in Summit County, Ohio, designated as Project No. 59-20-03 (the "Project"); and

WHEREAS, the Commission received six (6) bids to perform the contractor's obligations on the Project, and the Chief Engineer and Deputy Chief Engineer/Director of Field Operations reviewed and evaluated the bids received, which report concerning such analysis is before the Commission; and

WHEREAS, the Chief Engineer and Deputy Chief Engineer/Director of Field Operations report that Kenmore Construction Company, Inc. ("Kenmore"), of Akron, Ohio, submitted the lowest responsive and responsible bid to perform the Contractor's obligations on the Project for the total amount of \$1,622,398.80, which they recommend the Commission accept and approve authorization for the Executive Director to award; and

WHEREAS, the Staff Attorney has determined that bids for the Project were solicited on the basis of the same terms and conditions and the same specifications, that Kenmore submitted a performance bond with good and sufficient surety, and the bid of Kenmore conforms to the requirements of Ohio Revised Code Sections 153.54, 5537.07 and 9.312, and;

WHEREAS, the Office of Equity and Inclusion Manager has found that Kenmore made a good faith effort to attain the participation of small or otherwise disadvantaged businesses on the Project and has made a commitment of 10.2% which meets the SBE participation goal of 10% for the Project; and

WHEREAS, the Executive Director concurs with the Chief Engineer and Deputy Chief Engineer's recommendation that the Commission approve the award of the Project to Kenmore as the lowest responsive and responsible bidder; and

WHEREAS, Commission action is necessary to approve the contract in accordance with Article V, Section 1.00 of the Commission's Bylaws because the amount of the bids received will require expenditures under the Project that will exceed \$150,000.00; and

WHEREAS, the Commission has duly considered such recommendation.

NOW, THEREFORE, BE IT

RESOLVED by the Ohio Turnpike and Infrastructure Commission that the bid of Kenmore Construction Company, Inc. in the total amount of \$1,622,398.80 for Project No. 59-20-03 is approved as the lowest responsive and responsible bid received, and the Executive Director is authorized to execute a contract on the basis of said bid; and

FURTHER RESOLVED that the Commission approves the Executive Director or the Chief Engineer assigning CT Consultants, Inc. to perform the necessary construction administration and inspection services for the Project and Geo-Sci, Inc, of Berea, Ohio, to perform materials testing and inspection services both in accordance with the 2019-2020 Miscellaneous Professional Services Agreement between the Ohio Turnpike and Infrastructure Commission and said firms; and

FURTHER RESOLVED that the Executive Director has the authority under Article V, Section 1.00 of the Code of Bylaws to approve such extra work or change orders under said contract that does not exceed ten percent of the approved contract amount or the Executive Director's contracting authority and which is the result of an increase in the planned quantities, newly mandated requirements that did not exist at the time of original contract awards, or

circumstances that would create a life, safety, or health threatening situation or would unduly delay the completion of the Project or increase its costs; and

FURTHER RESOLVED that the awarding of the contract for Project No. 59-20-03 to Kenmore Construction Company, Inc. is necessary as Essential Infrastructure and Essential Governmental Functions under the Stay at Home Order to ensure that the Ohio Turnpike is maintained and improved such that it shall remain the fastest east-west corridor in northern Ohio to provide goods and necessary supplies to those in need during this COVID-19 pandemic.

**(Resolution No. 28-2020 adopted April 20, 2020)**