

**MINUTES OF THE 513th MEETING OF THE OHIO TURNPIKE COMMISSION**  
**April 18, 2005**

Pursuant to the bylaws, the Ohio Turnpike Commission met for a regular meeting at the Commission's Administration Building at 1:05 p.m. on April 18, 2005, with members of the staff: Jerry Pursley, Deputy Executive Director; Dan Castrigano, Chief Engineer; Noelle Tsevdos, General Counsel; Kathleen Weiss, Director of Contracts Administration; James T. Steiner, CFO/Comptroller; W. R. Fleischman, Assistant Chief Engineer; Kerry Ferrier, Traffic Engineer; Tim Ujvari, Maintenance Engineer; Dave Miller, Director of Audit & Internal Controls; Dick Morgan, Director of Information Systems; Richard Lash, Director of Safety Services; Andrew Herberger, Customer Services Manager; William Keaton, Telecommunications Manager; Lauren Dehrmann, Manager, Public Affairs; Crickett Jones, Tracy Cowley and Diane Pring.

The Chairman called the meeting to order and asked the Assistant Secretary-Treasurer to call the roll.

**Present:** Mr. Noe, Mr. Balog, Mr. Dixon, Mr. Regula and Deputy Director Mo Darwish

**Absent:** Representative Buehrer

The Chairman said we have recently been advised that the new Speaker of the House, Jon Husted, has re-appointed Representative Stephen Buehrer to the Commission. Representative Buehrer could not be here today. We have not yet had an appointment made by the new President of the Senate, Bill Harris.

The Executive Director said I will let everyone know when our new Senate member has been appointed.

The Chairman said we have a number of guests here today, so I'd like everyone to introduce themselves as we customarily do: Eric Erickson, Fifth Third Securities; Bobby Everhart, Mike Burgess, URS Corporation; Allan V. Johnson (retired former Executive Director); Larry Halco, TransCore; Stefan Holmes, Fifth Third Bank; Chuck Cvitkovich, HNTB; Don Glosser, Lichtenstein Investments; Ryan Connors, Connors & Co.; Brett Bailey, Key Bank; Dick Boylan; Brett Neff, R. E. Warner Co.; Dennis Albrecht, Dick Corporation; Capt. Robert Ferguson; OSHP; Steve DeLong, Steve Mayer, Steve DiLoretto and Floyd Jeffries, Operating Engineers and Rich Exner (The Plain Dealer).

The Chairman said this is the 513<sup>th</sup> meeting of the Ohio Turnpike Commission, and we are meeting here in the Commission's headquarters as provided for in the Commission's Code of Bylaws for a regular meeting which started at 1:00 p.m. instead of 10:00 a.m. Various reports will be received, and

we will act on several resolutions, draft copies of which have been previously sent to Members and updated drafts are also in the Members' folders. The resolutions will be explained during the appropriate reports.

The Chairman said, could I have a motion to adopt the minutes of the March 16, 2005 Commission Meeting?

Commissioner Dixon moved and Commissioner Balog seconded. All other members voted in the affirmative, and the minutes were adopted.

The Chairman said we'll proceed with the report of the Secretary-Treasurer,  
Mr. Dixon.

Commissioner Dixon said the following items have been sent to the members since the last regularly scheduled meeting of the Commission on March 16, 2005:

1. Minutes of the March 16, 2005 "Special" Commission Meeting
2. Traffic & Revenue Report, March, 2005
3. Total Revenue by Month and Year, March, 2005
4. Investment Report, March, 2005
5. Traffic Crash Summary Report for January, 2005
6. Traffic Crash Summary Report for February, 2005 \*
7. OTC Financial Statements dated March 31, 2005 \*
8. OTC Budget Report, Three Months, 2005 \*
9. Various News Releases

\* *in Commission Member's folders*

The Chairman asked the Executive Director for his report.

Mr. Suhadolnik said I don't have any resolutions to introduce, but I have two comments. As you may be aware, there was some language included in the ODOT budget bill that would have required us to allow certain types of heavier trucks on the Turnpike. We were able to get that language amended, but we did agree to meet with the Ohio Trucking Association and some representatives to discuss the matter. That meeting will take place on Friday, April 22, 2005 at the Administration Building in Berea. We hope to meet to see if some accommodation can be worked out.

I am proud to announce that effective last Friday, April 15<sup>th</sup>, we kicked off "Wi-Fi", our wireless internet service at our new service plazas starting with the Great Lakes and Towpath facilities located in the Brecksville/Broadview Heights area. In the next few months, that service will be available at a small cost to users at the Commission's ten new facilities. Wi-Fi will be available not only in

the facility, but out in the parking area as well in case a trucker might want to use his lap-tap in his cab or a salesman wants the privacy of his car to do some on-line work.

Commissioner Regula asked about the cost for this service. The Director said he believes users would pay \$7.95 for a day-pass and approximately \$19+ for a monthly pass. There is a reduced rate if you are already a SBC customer. We did go out for competitive bids and SBC's was the best proposal. There is no cost to the Commission, but as mentioned previously, there is a cost to the users. The Commission does receive a percentage of those revenues. That's all I have.

The Chairman asked Dan Castrigano, Chief Engineer for his report.

Mr. Castrigano said I have four resolutions for consideration. The first resolution pertains to Contract No. 40-05-01, 40-05-02 and 40-05-03. These are for re-painting bridge structures that pass over the Turnpike. Each contract contained four bridge structures. We received five bids in response to the contracts. The low bid for all three contracts was submitted by American Painting Company of Campbell, Ohio. This bidder has performed satisfactorily for the Commission in the past. The bid for Contract No. 40-05-01 was submitted in the amount of \$550,850.00 and is 13% below the engineer's estimate. The Bid for Contract No. 40-05-03 was submitted in the amount of \$707,995.00.

However, the bid we received for Contract No. 40-05-02 in the amount of \$834,860.00 was approximately 37.5% above the engineer's estimate. The Engineering Department staff did some research and, in reviewing the bid tabs, it was apparent that there was no adequate explanation as to why the painting and preparation costs were higher for this contract. So, we are proposing to award Contract No. 40-05-01 and 40-05-03. We are also recommending to reject the combined bids and the bids for Contract No. 40-05-02 and re-bidding this project at some time in the future.

This resolution also provides for inspection services to be performed by Greenman-Pederson, Inc. Would General Counsel please read the Resolved?

General Counsel read the Resolved as follows:

"RESOLVED that the bids of **American Painting Co., Inc.** of Campbell, Ohio in the amount of **\$550,850.00** for the performance of **Contract No. 40-05-01**, and the bid in the amount of **\$707,995.00** for the performance of **Contract No. 40-05-03** are, and are by the Commission, determined to be the lowest responsive and responsible bids received for the performance of said Contracts, and are accepted, and that the chairperson and executive director, or either of them, hereby is authorized: (1) to execute Contracts with said successful bidder in the form heretofore prescribed by the Commission pursuant to the aforesaid bids; (2) to direct the return to the other bidders of their bid security, when

appropriate, and (3) to take any and all action necessary or proper to carry out the terms of said bids and of said Contracts; and

“RESOLVED that the bids for the Contract for bridge repainting designated **Contract No. 40-05-02**, and all Combined Bids received, be and the same hereby are rejected, and the executive director is authorized to notify the bidders in writing of said action, and to return to the bidders the bid security furnished by each; and

“FURTHER RESOLVED that the executive director and director of contracts administration hereby are authorized to take any and all action necessary to re-advertise for bids for **Contract No. 40-05-02** for bridge repainting of the aforesaid bridges located in Cuyahoga and Summit Counties at a later date; and

“FURTHER RESOLVED that the Commission hereby directs the executive director and the chief engineer to assign Greenman-Pederson, Inc. of Babylon, New York to **Contract No. 40-05-01** and **Contract No. 40-05-03** for the purpose of performing inspection services. Such assignment shall be in accordance with the 2005-2006 engineering services agreement between the Ohio Turnpike Commission and Greenman-Pederson, Inc.; and

“FURTHER RESOLVED that Project Nos. 40-05-01 and 40-05-03 are designated Fuel Tax Projects under the Commission’s 1994 Master Trust Agreement.”

Mr. Castrigano pointed out there was a typographical error in the fourth Resolved paragraph of the resolution, i.e., Contract No. 40-03-03 should be 40-05-03. (This will be corrected when the resolution is finalized and numbered.)

The Chairman asked, is there a motion?

Commissioner Balog moved and Commissioner Dixon seconded.

The “Resolution Awarding Contract No. 40-05-01 and Contract 40-05-03 and Rejecting Bids for Contract No. 40-05-02” was moved for adoption.

**RESOLUTION NO. 15-2005**

WHEREAS, the Commission has duly advertised according to law for bids upon a contract(s) for bridge repainting to the following bridges:

<b><u>Bridge</u></b>	<b><u>Milepost</u></b>	<b><u>County</u></b>	
<b><u>Project No.</u></b>			
Oberlin Road	141.2	Lorain	40-05-01
Murray Ridge Road	143.4	Lorain	40-05-01

Gulf Road	146.4	Lorain	40-05-01
S.R. 83	150.5	Lorain	40-05-01
Barr Road	171.6	Cuyahoga	40-05-02
Exit 173 Ramp	173.2	Summit	40-05-02
Boston Mills Road	178.0	Summit	40-05-02
Metroparks Bike Path Bridge	179.0	Summit	40-05-02
S. R. 303	207.3	Trumbull	40-05-03
Herbert Road	225.0	Mahoning	40-05-03
Raccoon Road	226.7	Mahoning	40-05-03
U.S. 224	227.6	Mahoning	40-05-03

WHEREAS, the Commission has received bids from five (5) companies for the performance of said contracts, and bidders were given the option to submit a single bid for one, two or all three contracts, as well as to submit a Combined Bid to perform all three Contracts as a “package;” and

WHEREAS, said bids have been reviewed and analyzed by the Commission’s chief engineer who has stated that **American Painting Co., Inc.** of Campbell, Ohio submitted the apparent low bid for all three Contracts, individually, as well as the lowest Combined Bid for all three Contracts, however, the individual bid for Contract No. 40-05-02 was 37.5% above the engineering estimate; and

WHEREAS, the Commission’s chief engineer and director of contracts administration recommend that awards be made to American Painting Co., Inc. only for Contract No. 40-05-01 and Contract No. 40-05-03, and that all other bids received in response to Contract No. 40-05-02, as well as all Combined Bids be rejected, and that Contract No. 40-05-02 be re-advertised at a later date; and

WHEREAS, the Commission’s executive director has made his recommendation to the Commission predicated upon the analyses of the chief engineer and the director of contracts administration; and

WHEREAS, all bids for said contracts were solicited on the basis of the same terms and conditions and the same specifications, and the bid of **American Painting Co., Inc.** in the amount of **\$550,850.00** for the performance of **Contract No. 40-05-01**, and in the amount of **\$707,995.00** for the performance of **Contract No. 40-05-03** have been determined to be the lowest responsive and responsible bids received for said Contracts; and

WHEREAS, the Commission has been advised by its director of contracts administration that the bids submitted by American Painting Co., Inc. for the performance of Contract Nos. 40-05-01 and 40-05-03 conform to the requirements of Section 5537.07, Section 9.312 and Section 153.54, all of the

Revised Code of Ohio, and that a performance bond with good and sufficient surety has been submitted by American Painting Co., Inc.; and

WHEREAS, the Commission has been advised by its director of contracts administration that it may lawfully reject all bids submitted in response to Contract No. 40-05-02, and the Combined Bids, pursuant to its authority contained in the bidding documents and under the provisions of Ohio Revised Code Section 5537.07(A).

NOW, THEREFORE, BE IT

RESOLVED that the bids of **American Painting Co., Inc.** of Campbell, Ohio in the amount of **\$550,850.00** for the performance of **Contract No. 40-05-01**, and the bid in the amount of **\$707,995.00** for the performance of **Contract No. 40-05-03** are, and are by the Commission, determined to be the lowest responsive and responsible bids received for the performance of said Contracts, and are accepted, and that the chairperson and executive director, or either of them, hereby is authorized: (1) to execute Contracts with said successful bidder in the form heretofore prescribed by the Commission pursuant to the aforesaid bids; (2) to direct the return to the other bidders of their bid security, when appropriate, and (3) to take any and all action necessary or proper to carry out the terms of said bids and of said Contracts; and

RESOLVED that the bids for the Contract for bridge repainting designated **Contract No. 40-05-02**, and all Combined Bids received, be and the same hereby are rejected, and the executive director is authorized to notify the bidders in writing of said action, and to return to the bidders the bid security furnished by each; and

FURTHER RESOLVED that the executive director and director of contracts administration hereby are authorized to take any and all action necessary to re-advertise for bids for **Contract No. 40-05-02** for bridge repainting of the aforesaid bridges located in Cuyahoga and Summit Counties at a later date; and

FURTHER RESOLVED that the Commission hereby directs the executive director and the chief engineer to assign Greenman-Pederson, Inc. of Babylon, New York to **Contract No. 40-05-01** and **Contract No. 40-05-03** for the purpose of performing inspection services. Such assignment shall be in accordance with the 2005-2006 engineering services agreement between the Ohio Turnpike Commission and Greenman-Pederson, Inc.; and

FURTHER RESOLVED that Project Nos. 40-05-01 and 40-05-03 are designated Fuel Tax Projects under the Commission's 1994 Master Trust Agreement.

The Chairman asked if there was any discussion.

Commissioner Dixon asked, on the contract we are rejecting, are there safety implications or restrictions by not doing it, or will it just be ugly until we get it painted?

Mr. Castrigano said no there is no safety hazard by letting it go until this fall or rolling it over into next year's budget.

The Chairman asked, when you get bids going from \$5.2 down to \$2 million, is the \$5.2 ridiculously high or do we have any concerns that the bid by American Painting is too low and they can't do the job for us? You said they performed work for us before. This is one of the few contracts where I've seen some monstrous differences in the total bids.

Mr. Castrigano said that's correct, Mr. Chairman. If you will notice the three lowest (combined) bids, although we are not awarding the combined bids, ranged from \$2.1 to \$2.3 million. These are all Ohio companies. The higher bids were outfits from Florida and Minnesota coming into Ohio to bid.

Commissioner Dixon said, RTA is doing the same. I guess it's the season to paint bridges. We are getting bids and experiencing the same problem. The bids are all over the place.

Chairman Noe asked Dan if he expects to re-figure this and probably come back in the next few months with another contract?

Mr. Castrigano said we don't want to come back too soon. We don't want to be painting bridges in the summer. There is a possibility we may come back in the fall. Most probably, we'll just carry it over until the 2006 painting season.

Deputy Director Mo Darwish asked Mr. Castrigano what is the average square foot price you are paying for?

Mr. Castrigano said he did not have that information, but he will get it for him.

The resolution was adopted with all members voting in the affirmative. The resolution was identified as No. 15-2005.

Mr. Castrigano said the next resolution related to furnishing and applying herbicide on Commission right-of-ways under Invitation No. 4016. This application includes the non-selective spray along the guardrail delineators and also selective spray along the right-of-way fences to prevent weeds from encroaching upon adjacent property owner's land. The contract was divided into two groups (east and west). The bidder could bid on one or both groups. We

received responses from three bidders. The low bid submitted for both groups was submitted by DeAngelo Brothers, Inc. of Hazelton, Pennsylvania. The total bid price for Group I was in the amount of \$100,500.00 and for Group II was in the amount of \$111,400.00. This bidder has performed satisfactorily in the past, and the total amount bid is approximately 25% below the estimated cost. When we saw that large amount below the estimate, I had the Maintenance Department do a little research into this pricing. Apparently, some of the herbicide materials that we are using on this contract are a lot like prescription drugs. We had some materials that came off patent-protection over the last year so we have seen the prices drop.

The quantities that are set up in the contract are estimates. The contractor is paid for the material that is actually applied. Therefore, we are recommending the purchase order in the amount of \$220,000 to provide a cushion depending upon how much materials are applied. That will prevent us from coming back to the Commission if the contractor exceeds the estimated quantities by a little bit. Would General Counsel please read the Resolved?

General Counsel read the Resolved as follows:

“RESOLVED that the bid of **DeAngelo Brothers, Inc.** in the amount of \$100,500.00 for Group I and in the amount of \$111,400.00 for Group II for a total bid in the amount of \$211,900.00 under Invitation No. 4016 is, and is by the Commission deemed to be the lowest responsive and responsible bid received and is accepted, and the chairperson and executive director, or either of them, is hereby authorized: (1) to execute a Contract with the successful bidder in the form heretofore prescribed by the Commission pursuant to the aforesaid Invitation in the amount of **\$220,000.00**; (2) to direct the return to the other bidder of its bid security at such time as DeAngelo Brothers, Inc. has entered into a contract and furnished a performance bond required thereby; and (3) to take any and all action necessary to properly carry out the terms of said contract.”

The Chairman said, do we have a motion?

Commissioner Balog moved and Commissioner Regula seconded.

The Chairman asked if there were any questions.

The “Resolution Awarding a Contract for the Furnishing and Applying Herbicide on Right-of-Way Areas” was moved for adoption.

#### **RESOLUTION NO. 16-2005**

WHEREAS, the Commission advertised for bids for Invitation No. 4016 for the furnishing and applying herbicide on right-of-way areas between Milepost 0.0



and Milepost 241.2, with three bids received in response to that Invitation that have been reviewed by the Commission's staff; and

WHEREAS, it is anticipated that the expenditures by the Commission for furnishing and applying herbicide under Invitation No. 4016 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 the award of such Contract; and

WHEREAS, the three bids received in response to the Invitation were reviewed by the maintenance engineer who has stated that the lowest responsive and responsible bid for Group I in the amount of \$100,500.00 and for Group II in the amount of \$111,400.00 was submitted by **DeAngelo Brothers, Inc.** of Hazleton, Pennsylvania, in the total amount of \$211,900.00, and that this bidder proposes to furnish materials and services in accordance with the Commission's specifications; and

WHEREAS, the maintenance engineer recommends that a Contract in the amount of **\$220,000.00** be awarded to DeAngelo Brothers, Inc. to allow for possible application of additional quantities of herbicide; and

WHEREAS, the Commission's director of contracts administration has reviewed the bids received and has advised the Commission that the procedure followed by the Commission in advertising for Invitation No. 4016 is in accordance with Section 5537.07, Section 9.312 and Section 153.54 of the Revised Code of Ohio, and that the bid of **DeAngelo Brothers, Inc.** of Hazleton, Pennsylvania is the lowest responsive and responsible bid received and that the Commission may legally enter into a contract with **DeAngelo Brothers, Inc.** to furnish and apply herbicide in accordance with Invitation No. 4016; and

WHEREAS, the executive director has reviewed the bids received and has recommended to the Commission that the contract be awarded to the lowest responsive and responsible bidder, DeAngelo Brothers, Inc.

NOW, THEREFORE, BE IT

RESOLVED that the bid of **DeAngelo Brothers, Inc.** in the amount of \$100,500.00 for Group I and in the amount of \$111,400.00 for Group II for a total bid in the amount of \$211,900.00 under Invitation No. 4016 is, and is by the Commission deemed to be the lowest responsive and responsible bid received and is accepted, and the chairperson and executive director, or either of them, is hereby authorized: (1) to execute a Contract with the successful bidder in the form heretofore prescribed by the Commission pursuant to the aforesaid Invitation in the amount of **\$220,000.00**; (2) to direct the return to the other bidder of its bid security at such time as DeAngelo Brothers, Inc. has entered into a

contract and furnished a performance bond required thereby; and (3) to take any and all action necessary to properly carry out the terms of said contract.

The resolution was adopted with all members voting in the affirmative. The resolution was identified as No. 16-2005.

Mr. Castrigano said the next resolution is an award of contract pursuant to Invitation No. 4018 to furnish and apply retro-reflective pavement markings along the entire length of the Turnpike. This is for the line-striping on the roadways and ramps. We received two bids in response to this Invitation. The apparent low bid was submitted by Oglesby Construction, Inc. of Norwalk, Ohio in the total amount of \$663,764.06. The total amount bid is approximately 4-1/2% below the estimated cost and this bidder has performed satisfactorily in the past for the Commission. The resolution also contains provisions for Quality Control Inspection of Bedford, Ohio to perform the construction inspection. Would General Counsel please read the Resolved?

General Counsel read the Resolved as follows:

“RESOLVED that the bid of **Oglesby Construction, Inc.** of Norwalk, Ohio, in the total amount of **\$663,764.06** under **Invitation No. 4018** 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: (1) to execute a Contract with the successful bidder in the form heretofore prescribed by the Commission pursuant to the aforesaid Invitation; (2) to direct the return to the other bidder of its bid security, at such time as Oglesby Construction, Inc. has entered into a Contract and furnished the performance bond required thereby; and (3) to take any and all action necessary or proper to carry out the terms of said Contract; and

“FURTHER RESOLVED that the Commission hereby authorizes and directs the executive director and the chief engineer to assign Quality Control Inspection, Inc. of Bedford, Ohio to the subject Invitation for the purpose of performing inspection services. Such assignment shall be in accordance with the 2005-2006 engineering services agreement between the Ohio Turnpike Commission and Quality Control Inspection, Inc.”

The Chairman asked is there a motion?

Commissioner Balog moved and Commissioner Dixon seconded.

The Chairman said, is there any discussion on this?

Commissioner Dixon asked, why don't we perform this work in-house?

Mr. Castrigano said years ago we did line striping in-house, however, we found that it was quite a job to maintain the specialized equipment needed to install the pavement markings. We found we could do it cheaper by contracting it out.

Chairman Noe asked how long this line-striping lasts.

Mr. Castrigano said we perform this work annually. The line may look good during the daylight, but our snowplow blades during the winter tend to destroy the reflectivity beads in the paint and consequently the reflectivity at night.

Commissioner Regula asked if we might look at this down the road and do it another way?

Mr. Castrigano said yes. In fact, right now, when we do our construction projects, we have to obliterate the existing line that is there, and what we are actually doing is using a head to grind that line out completely and down to a recess of about 1/8 inch. When the new surface is applied, we go back, we re-install the line marking back in that same channel. We found this method is protecting the pavement markings from the snow plows. We started this procedure about two or three years ago.

Commissioner Regula said so when we are putting down new pavement that's what we are doing?

Mr. Castrigano said not when we put down "new" pavement, but when we have a construction job in an existing area and we have to resurface.

Commissioner Dixon asked Deputy Director Darwish how does ODOT handle this?

Deputy Director Darwish said we bid this out to the private industry. The problem you have is to maintain the material and also your maintenance equipment, i.e., the striper itself. Also, if you have any excess material, how will you dispose it? You run into the OEPA requirements and you run into a problem with these water-based or oil-based products. It's a seasonal task so, as a state agency, we elect to bid it out and it's a lot cheaper.

The "Resolution Awarding Contracts to Furnish and Apply Retro-Reflective Pavement Markings on the Ohio Turnpike's Mainline Roadway and Interchange Ramps" was moved for adoption.

**RESOLUTION NO. 17-2005**

WHEREAS, the Commission advertised for bids for Invitation No. 4018 for furnishing and applying retro-reflective pavement markings on the Ohio Turnpike's mainline roadway and interchange ramps located in Williams, Fulton, Lucas, Wood, Ottawa, Sandusky, Erie, Lorain, Cuyahoga, Summit, Portage, Trumbull and Mahoning Counties, Ohio (*Milepost 0.0 to Milepost 241.2*) with two (2) bids received in response to that Invitation that have been reviewed by the Commission's staff; and

WHEREAS, it is anticipated that the expenditures by the Commission for furnishing and applying retro-reflective pavement markings on the Ohio Turnpike mainline roadway and interchange ramps under Invitation No. 4018 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 the award of such contract; and

WHEREAS, the two bids received in response to the Invitation were reviewed by the maintenance engineer who has stated that the lowest responsive and responsible bid was submitted by Oglesby Construction, Inc. of Norwalk, Ohio, in the total amount of \$663,764.06 and that this bidder proposes to furnish materials and services in accordance with the Commission's specifications; and

WHEREAS, the Commission's director of contracts administration has reviewed the bids received and has advised the Commission that the procedure followed by the Commission in advertising for Invitation No. 4018 is in accordance with Section 5537.07, Section 9.312 and Section 153.54 of the Revised Code of Ohio, that the bid of Oglesby Construction, Inc. of Norwalk, Ohio is the lowest responsive and responsible bid received and that the Commission may legally enter into a contract with Oglesby Construction, Inc. to furnish and apply retro-reflective pavement markings on the Ohio Turnpike's mainline roadway and interchange ramps in accordance with Invitation No. 4018; and

WHEREAS, the executive director has reviewed the recommendations of the maintenance engineer and the director of contracts administration, and has predicated his recommendation to the Commission that the Contract be awarded to the lowest responsive and responsible bidder, Oglesby Construction, Inc. based on their analyses.

NOW, THEREFORE, BE IT

RESOLVED that the bid of **Oglesby Construction, Inc.** of Norwalk, Ohio, in the total amount of **\$663,764.06** under **Invitation No. 4018** 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: (1) to execute a Contract with the successful bidder in the form heretofore prescribed by the Commission pursuant to the aforesaid Invitation; (2) to direct the return to the other bidder of its bid security, at such time as Oglesby Construction, Inc. has entered into a Contract and furnished the performance bond required thereby; and (3) to take any and all action necessary or proper to carry out the terms of said Contract; and

FURTHER RESOLVED that the Commission hereby authorizes and directs the executive director and the chief engineer to assign Quality Control Inspection, Inc. of Bedford, Ohio to the subject Invitation for the purpose of performing inspection services. Such assignment shall be in accordance with the 2005-2006 engineering services agreement between the Ohio Turnpike Commission and Quality Control Inspection, Inc.

The Resolution was adopted with all Members voting in the affirmative. The Resolution was identified as No. 17-2005.

Mr. Castrigano said the final resolution I have to present is a resolution exercising the final extension of the agreement for maintenance services for the Commission's telecommunications system, toll information system and toll lane equipment. To give you a little history, on April 26, 1999 the Commission adopted Resolution No. 18-1999 awarding a contract to TransCore of Middleburg Heights, Ohio for these services. The initial term of the three-year contract commenced on June 1, 1999. The contract also included provisions for two, three-year extensions. This resolution is to authorize the final extension of the contract commencing June 1, 2005. A copy of TransCore's proposal which summarizes its duties under the contract was forwarded to the Members with the initial draft resolutions.

In order to give you a brief overview, TransCore maintains all of our telecommunications equipment such as the Commission's fiber-optic system, digital microwave radios system, two-way radio systems including all radios installed in OSHP and Commission vehicles, our internal telephone system, and the "911" and public service telephones at all our buildings across the Turnpike. TransCore also maintains the toll system equipment installed in our 225 toll collection lanes including all the classification equipment, toll ticket issuing machines, lane controllers, fare displays, ticket transports, terminals, receipt printers and all in-lane equipment. These services are provided 24 hours a day, 365 days a year.

The current agreement provisions will be modified as follows. The billing rates will increase 6.9% for a cost-of-living increase that is capped and solid for the entire three-year period, and one additional System Equipment Technician will also be assigned to the project. These revisions will result in an increase in the monthly rate for the maintenance agreement from \$172,860.36 to

\$196,022.43. This agreement also contains provisions for additional services. Typical tasks that may be assigned include: 1) when the OTC opened up Interchange 140 in Lorain County, TransCore installed new equipment at that Interchange; 2) when the OTC closed the Service Plazas at Blue Heron and Wyandot, TransCore removed equipment and is reinstalling it for the re-opening; and 3) TransCore has performed upgrades to our Toll Audit System. To give you some idea of the magnitude of the additional expenditures, the average cost for calendar year 2002, 2003 and 2004 totaled approximately \$550,000. We also revised some provisions under the additional services agreement portion of the agreement that would result in savings of approximately \$50,000 annually. Would General Counsel please read the Resolved?

General Counsel read the Resolved as follows:

“RESOLVED that the Commission hereby directs the executive director and director of contracts administration to execute renewal of the **TransCore** Agreement, under the proposed modified terms agreed to by the parties, which Agreement reflects a three (3) year extension period (**June 1, 2005, to May 31, 2008**).”

The Chairman asked, is there a motion?

Commissioner Balog moved and Commissioner Dixon seconded.

The Chairman said is there any discussion?

The Chairman said it looks like we'll re-bid this contract in 2008?

Mr. Castrigano said that's correct.

Deputy Director Darwish said this contract started in 1999 and technology changes. You mentioned a lot of revisions to your agreement, should you perhaps put it back on the market to see what kind of pricing we can get?

Mr. Castrigano said right now we are working with the same basic toll information system that we had in 1999. Right now, as we speak, our Information Systems Department is looking at revising the toll collection process and the system. So, I'm hoping within three years that will be complete and in place. Then, the time would be right to re-bid the maintenance contract with any new system.

Commissioner Regula asked about the 6.9% cost-of-living increase, should we expect that to increase also?

Mr. Castrigano said no, TransCore will receive a 6.9% increase on the billing rates right now, and there will be no further changes for the term of the contract.

The Chairman said so, essentially, it's a little over 2% each year.

Mr. Castrigano said that's correct. That CPI data was taken from calendar years 2002, 2003 and 2004.

The Chairman said please call the roll.

The "Resolution Directing the Executive Director to take Immediate Action Concerning Extension of an Agreement for Maintenance Services for the Commission's Telecommunications System, Toll Information System and Toll Lane Equipment" was moved for adoption.

#### **RESOLUTION NO. 18-2005**

WHEREAS, pursuant to Resolution No. 18-1999 adopted on April 26, 1999, the Commission awarded a Contract to furnish maintenance services for the Commission's telecommunications system, toll information system and toll lane equipment to TransCore of Middleburg Heights, Ohio; and

WHEREAS, said Agreement provided for an initial term of June 1, 1999 to May 31, 2002, and also provided that the Agreement may be extended for two (2) additional three-year periods at the sole discretion of the Commission; and

WHEREAS, the parties agreed to the first extension for the period of June 1, 2002, to May 31, 2005; and

WHEREAS, the Commission has been very satisfied with the services rendered by TransCore during the first two terms of the Agreement, and the parties have reached consensus concerning modifications for the second, three-year term of the Agreement, from June 1, 2005 through May 31, 2008; and

WHEREAS, a copy of the proposed modifications are summarized in TransCore's proposal dated April 7, 2005, a copy of which is before the Commission; and

WHEREAS, under the renewal term, the Commission shall pay as compensation to TransCore a monthly maintenance fee of **\$196,022.43**, as well as for any "Additional Services" required for purposes of: 1) installation of telecommunications equipment and toll collection and lane equipment at new or renovated toll plazas; 2) installation of telecommunications equipment at renovated service plazas; or 3) upgrades of toll audit equipment; and

WHEREAS, the Commission's chief engineer and telecommunications manager have reviewed TransCore's proposal and have recommended that the Commission exercise its option to renew the TransCore Agreement, subject to the referenced modifications, for the period of June 1, 2005 through May 31, 2008; and

WHEREAS, the Commission's director of contracts administration has reviewed the proposed renewal terms and has advised the executive director that the Commission has full legal authority to enter into the proposed Agreement extension with TransCore; and

WHEREAS, the Commission's executive director concurs with the recommendations of the Commission's chief engineer and director of contracts administration.

NOW, THEREFORE, BE IT

RESOLVED that the Commission hereby directs the Executive Director and Director of Contracts Administration to execute renewal of the **TransCore** Agreement, under the proposed modified terms agreed to by the parties, which Agreement reflects a three (3) year extension period (**June 1, 2005, to May 31, 2008**).

The resolution was adopted with all Members voting in the affirmative. The resolution was identified as No. 18-2005.

Mr. Castrigano said that completes my report, Mr. Chairman.

Chairman Noe asked Jerry Pursley, Deputy Executive Director, for his report.

Mr. Pursley said I have one resolution which authorizes the Executive Director to enter into a contract with AVI Foodsystems, Inc. of Warren, Ohio to provide food, beverage and laundry vending services at the Commission's Blue Heron and Wyandot Service Plazas. As the Commission is aware, both of these service plazas are being reconstructed, and they are scheduled to re-open in May, 2005. Two companies filed timely responses to the Commission's Request for Proposals (RFP).

An evaluation committee reviewed and evaluated the proposals. The Committee's scoring and recommendations have been included as part of the Commission's packet. After that evaluation was completed, the Commission's Purchasing Manager evaluated the cost proposals. A copy of his report is also included in the Commissioner's packets. We also considered the fact that AVI Foodsystems, Inc. has provided excellent vending services for the Commission for over six years at Service Plazas 4, 5, 6 and 7. Based on the evaluation and



past performance, it is recommended that the Commission authorize the Executive Director to enter into a contract with AVI to provide vending services at the Blue Heron and Wyandot Service Plazas for an initial term of three (3) years with three additional, two-year extensions. Would General Counsel please read the Resolved?

General Counsel read the Resolved as follows:

“RESOLVED that the proposal submitted by **AVI Foodsystems, Inc.** of Warren, Ohio, is, and is by the Commission determined to be, the **best** of all proposals received for the performance of Agreement TRV-8E and is accepted; and

“FURTHER RESOLVED that the executive director and director of contracts administration hereby are authorized to execute an Agreement with **AVI Foodsystems, Inc.** of Warren, Ohio, to furnish vending services at the Commission’s **Blue Heron and Wyandot Service Plazas** under Agreement TRV-8E, which provides for an initial term of three (3) years commencing on the date of execution and further provides the option to extend the Agreement for no more than three (3), two (2) year terms, in the form heretofore prescribed by the Commission pursuant to the aforesaid RFP, and to take any and all action necessary or proper to carry out the terms of said RFP and said Agreement; and

“FURTHER RESOLVED that the Commission directs the return to the other respondent of its proposal guaranty, as submitted with its proposal, as soon as said Agreement is executed with AVI Foodsystems, Inc., and to advise any other interested party of the Commission’s actions forthwith.”

The Chairman asked, is there a motion?

Commissioner Balog moved and Commissioner Regula seconded.

The Chairman asked are there any questions?

Deputy Director Darwish said the resolution mentioned the Bureau for the Visually Impaired. In compliance with the Ohio Revised Code, we, as a state agency, use the Visually Impaired. He inquired whether the OTC is required to use them.

General Counsel, Noelle Tsevdos, said I would recommend if we have questions regarding the legality of that issue, that the Commission go into executive session. The question is whether or not we are required to be a part of that program. The Commission is unique, and I did render an informal opinion to our Executive Director. We are also in contact with the Office of the Attorney General regarding this issue.

Chairman Noe said, can we just put a hold on the discussion of this resolution?

General Counsel said yes, we can do that.

Commissioner Dixon suggested that for continuity sake, do you think it would be wise to continue with the rest of the business in order that parties might be able to leave and we'll come back.

Chairman Noe said I don't think it will be long. I would prefer to go into Executive Session and keep going.

Commissioner Regula said, I move that we recess this meeting to hold an Executive Session to confer with General Counsel and outside counsel regarding a threatened litigation matter as it relates to the award of this contract, under the provision of Ohio Revised Code Section 121.22(G)(3). At the end of such Executive Session, the Commission Meeting shall reconvene.

The motion was seconded by Commissioner Balog.

The Assistant Secretary-Treasurer called the roll with all Members in agreement to adjourn into executive session at 1:37 p.m.

The Chairman said, let the record reflect that we are returning from executive session at 1:52 p.m. Please call the roll.

The Assistant Secretary-Treasurer called the roll and all Members were present.

The Chairman said we have a motion and a second and we are in the discussion phase on the RFP for food, beverage and laundry vending services at the Commission's Blue Heron and Wyandot Service Plazas under Agreement TRV-8E. Any other discussion on this before we call the roll?

The Assistant Secretary-Treasurer called the roll, and Commissioners Balog, Regula, Dixon and Noe voted aye. Deputy Director Darwish voted nay.

The "Resolution Awarding Agreement TRV-8E for Food, Beverage and Laundry Vending Services at the Commission's Blue Heron and Wyandot Service Plazas" was moved for adoption.

#### **RESOLUTION NO. 19-2005**

WHEREAS, on February 16, 2005, the Commission issued its Request for Proposals (RFP) for Food, Beverage and Laundry Vending Services at the Commission's **Blue Heron and Wyandot Service Plazas** for an initial term of

three (3) years, which may be extended for not more than three (3) additional two (2) year terms; and

WHEREAS, copies of the Commission's RFP were mailed to thirty-six (36) firms expressing an interest in providing the requested vending services to the Commission for both of the aforesaid service plazas; and

WHEREAS, AVI Foodsystems, Inc. and Canteen/Cuyahoga Group presented proposals to furnish vending services at the Commission's Blue Heron and Wyandot Service Plazas, which were duly opened on March 9, 2005, as provided in said published notice; and

WHEREAS, an evaluation committee comprised of the deputy executive director, the division service plaza manager-east and the division service plaza manager-west reviewed the proposals submitted and awarded technical scores to each respondent, which scores were then added to the score awarded to the cost proposal submitted by each respondent in order to identify the "best proposal;" and

WHEREAS, as a result of this process, the evaluation committee has concluded that the "best proposal" received in response to the subject RFP was submitted by **AVI Foodsystems, Inc.** of Warren, Ohio and recommends that an Agreement be entered into with AVI Foodsystems, Inc., which, under the ensuing Agreement, will compensate the Commission in the amount of 41.6% of food and beverage vending gross revenues and 50% of laundry vending gross revenues to the Commission; and

WHEREAS, subsequent to the bid opening, the Commission was contacted by the Bureau of Services for the Visually Impaired, Business Enterprise Program ("BEP") regarding its possible interest in operating a vending facility at the Blue Heron and Wyandot Service Plazas, but the offer received from the BEP would not generate any revenue for the Commission; and

WHEREAS, the Commission's director of contracts administration has reported to the Commission that Ohio Revised Code Section 5537.13(B) contemplates that the Commission will accept the "best bid" for service plazas operations, and also that the Commission has pledged its concession revenues to help cover its debt ratio for the repayment of obligations to the Commission's bondholders pursuant to its Trust Agreement with the Huntington National Bank; and

WHEREAS, the Commission's director of contracts administration has reviewed the evaluation committee's recommendation, as well as the general counsel's opinion, expressed in correspondence with the BEP and the BEP's offer, all of which are summarized in the director of contracts administration's written recommendation, which is before the Commission, and she has

communicated her concurrence with the evaluation committee's recommendation to the executive director and the Commission; and

WHEREAS, the executive director has made his recommendation to the Commission predicated on the evaluation committee's, the director of contracts administration's recommendation and the general counsel's legal opinion regarding this matter; and

WHEREAS, the Commission has given due and full consideration to the proposals received, the respondents' qualifications and abilities to perform the Agreement, as well as the BEP's offer; and

WHEREAS, the two aforesaid proposals were solicited on the basis of the same terms and conditions with respect to all respondents and potential respondents; and

WHEREAS, the Commission has determined that the proposal submitted by **AVI Foodsystems, Inc.** of Warren, Ohio, is the **best** of all proposals received in response to the advertisement of said Agreement TRV-8E; and

WHEREAS, the Commission has been advised by its director of contracts administration that said RFP conforms to the requirements of Ohio Revised Code Section 5537.13 as it relates to the award of service plaza operator agreements and to the terms and conditions set forth in the legal notice and the RFP, and that AVI Foodsystems, Inc. has provided a proposal guaranty and evidence of its ability to provide all other required bonds and insurance as set forth in the RFP, and that the Commission may legally accept said proposal from AVI Foodsystems, Inc.; and

WHEREAS, the executive director and the director of contracts administration and the other members of the Commission's staff are satisfied with AVI Foodsystems, Inc.'s capacity, ability and prior excellent service to the Commission to perform its obligations pursuant to its proposal.

NOW, THEREFORE, BE IT

RESOLVED that the proposal submitted by **AVI Foodsystems, Inc.** of Warren, Ohio, is, and is by the Commission determined to be, the **best** of all proposals received for the performance of Agreement TRV-8E and is accepted; and

FURTHER RESOLVED that the executive director and director of contracts administration hereby are authorized to execute an Agreement with **AVI Foodsystems, Inc.** of Warren, Ohio, to furnish vending services at the Commission's **Blue Heron and Wyandot Service Plazas** under Agreement TRV-8E, which provides for an initial term of three (3) years commencing on the

date of execution and further provides the option to extend the Agreement for no more than three (3), two (2) year terms, in the form heretofore prescribed by the Commission pursuant to the aforesaid RFP, and to take any and all action necessary or proper to carry out the terms of said RFP and said Agreement; and

FURTHER RESOLVED that the Commission directs the return to the other respondent of its proposal guaranty, as submitted with its proposal, as soon as said Agreement is executed with AVI Foodsystems, Inc., and to advise any other interested party of the Commission's actions forthwith.

The resolution was adopted with the majority of Members voting in the affirmative. The resolution was identified as No. 19-2005.

Mr. Pursley said that completes my report, Mr. Chairman.

The Chairman said thank you, Jerry. Noelle, do you have a report?

Noelle Tsevdos, General Counsel said I have one resolution for the Commission's consideration. I have drafted a resolution, a copy of which is included in your folders, declaring the necessity of appropriating some personal property that was necessary for construction of the S.R. 58 interchange in Lorain County. This matter involves the Grobe Fruit Farm, Ltd. We are involved in litigation with them. Prior to and, as we started construction, the property owner did enter into a written agreement with us allowing us to use the property. We were involved in good faith negotiations, but were unable to reach an agreement regarding the purchase price. As we are involved in litigation, you can refer to the developments of that litigation in my Quarterly Report. The legal description is attached to the draft resolution. I'll read the Resolved paragraph of the resolution:

"FURTHER RESOLVED that the general counsel be, and she is hereby instructed to do or cause to be done all things that may be necessary in the premises in order that proceedings for the appropriation of the property described above may be commenced."

The Chairman asked, is there a motion?

Commissioner Balog moved and Commissioner Dixon seconded.

The Chairman asked General Counsel, have we declared this eminent domain?

General Counsel said no, we have not. The property owner is taking legal action against us because we could not reach a reasonable agreement with him. We have still been trying to negotiate a reasonable purchase price with him. The property owner has started a legal action against us in order to get us into the

right court forum. This is a housekeeping matter under which the Commission must declare the necessity to take the property.

Commissioner Balog said, you have provided us some written information on this matter, but I just don't remember, what is his theory of litigation – trespass?

General Counsel said the property owner's allegations contained in his complaint was that the Commission had taken the property without fair compensation even though we were involved in good faith negotiations with him. Under the eminent domain statute, the Commission is required to exhaust all reasonable and good faith negotiations prior to filing an action to take the property by eminent domain.

The Chairman said thank you, Noelle. Will the Assistant Secretary-Treasurer please call the roll.

The "Resolution Declaring the Necessity of Appropriating Property and Directing that Proceedings to Effect Such Appropriation be Begun and Prosecuted" was moved for adoption

**RESOLUTION NO. 20-2005**

RESOLVED that the Commission has negotiated for a reasonable time for the purchase of real estate described herein with the owners, but has been unable to enter into an agreement and has complied with the provisions of Section 163.04 of the Revised Code; and said property is necessary for the construction of an interchange with S. R. 58 and the Ohio Turnpike in the vicinity of Milepost 140.2 in Lorain County, Ohio; and

BE IT FURTHER RESOLVED that proceedings be begun and prosecuted to effect the appropriation of the fee title and necessary easements on the following described property from the owners and persons having an interest therein, to wit:

<b><u>Owners</u></b>	<b><u>Location</u></b>
Grobe Fruit Farm, Ltd.	Lorain County Auditor Permanent Parcel Nos.: 05-00-055-000-001 05-00-055-000-002 05-00-055-000-003
David J. Talarek Lorain County Treasurer	226 Middle Avenue Elyria, Ohio 44035

Mark R. Stewart  
Lorain County Auditor

226 Middle Avenue  
Elyria, Ohio 44035

The aforementioned property to be appropriated is described as follows:

**Parcel 13WL – Fee Simple**

Legal description of the parcel is attached as Exhibit “A”;

FURTHER RESOLVED that the general counsel be, and she is hereby instructed to do or cause to be done all things that may be necessary in the premises in order that proceedings for the appropriation of the property described above may be commenced.

The resolution was adopted with all Members voting in the affirmative. The resolution was identified as No. 20-2005.

The Chairman asked Jim Steiner, CFO for his report.

Mr. Steiner said passenger car miles traveled on the Ohio Turnpike over the last twelve months continued to track the prior twelve months. A modest increase in March was due to the fact that Easter was in March this year, and it fell in April last year. Due to the improved economy, the increase in the speed limit and the temporary reduction in toll rates, miles traveled by commercial vehicles during the last twelve months continued to outpace the numbers from last year.

Passenger car miles traveled during the first quarter of 2005 were up 1% from last year, however, if Easter had been in April, as it had last year, miles traveled by passenger cars would likely be down by 1% from 2004. Miles traveled by commercial vehicles during the first quarter were up 17.1% from last year.

Like the miles traveled, toll revenues from passenger cars over the last year have tracked very closely to revenues from the prior twelve months. Despite the growth in commercial traffic, 2005 toll revenues from commercial vehicles have fallen well below those from last year. This is a result of the temporary reduction in toll rates which became effective January 1<sup>st</sup>.

The first quarter revenue from passenger cars was up 1.1% from last year. However, without the added traffic from Easter, revenue from passenger cars would likely be down about 1% from 2004. Revenues from commercial vehicles were down 7.1% compared to the first quarter of last year.

This slide shows the year-to-date revenues, expenditures and transfers from the General Fund. Toll revenues for the first quarter were \$1.65 million or 4.6% higher than budgeted. Total revenues for the first quarter were \$1.9 million or 4.4% higher than budgeted. While it is encouraging that first quarter revenue exceeded the amount budgeted, it is important to keep it in perspective. Despite the improved economy and growth in traffic, our total first quarter revenues were still slightly lower than they were during the first three months of 2000.

First quarter expenditures including our debt service payments were \$900,000 or 1.8% lower than the amount budgeted. Total expenditures for the quarter exceeded the revenues by \$2.5 million due to the fact that we retired the remaining \$6.3 million of 1994 bonds in February as we had planned, however, the deficit was actually \$2.8 million lower than we had anticipated. This allowed us to start transferring funds to the Renewal & Replacement Fund and the System Project Fund to support our 2005 capital expenditures.

That completes my report, Mr. Chairman, and I'd be happy to respond to any questions.

The Chairman said, Jim, it's still pretty early to get a "real gut" feeling until we get through some of the summer months to see what our revenues are going to be, based on the increase in speed limit and lowering the tolls. Easter was obviously a weird one. Does that make a difference in commercial traffic -- the opposite way it does to cars, I would guess?

Mr. Steiner said that's correct, Mr. Chairman. The Easter holiday does generate an increase in passenger car traffic and a drop in commercial traffic. Once you get through April, you'll have a better indication.

The Chairman said, June 30<sup>th</sup> might even be better as the statistics will include Memorial Day weekend traffic.

Mr. Steiner said, we'll also be in the summer months, and we should see passenger car traffic growing substantially.

The Chairman asked Bobby Everhart, URS Corporation, with the increase in the cost of gasoline, do you think that is a trend right now that passenger cars are down.

Mr. Everhart said I don't believe so. In the past the passenger car traffic has not been affected substantially. With the kind of travel that you get on the Turnpike, people are going to take vacation no matter what the price of fuel is.

I think the overall employment in the areas of this corridor has an effect on it. I don't think population is growing in the areas feeding this corridor as much as it is in other parts of the country. I believe the economy and the airline travel,



after the big surge away from the airlines as a result of 09/11, is steadily coming back. All those things factor in.

The Chairman said thank you, Jim and Bobby.

The Chairman asked Eric Erickson, our financial advisor, if he had a report.

He said no, Mr. Chairman.

The Chairman said Mr. Yacobucci is not here, but HNTB's representative, Mr. Cvitkovich, is here. Do you have a report?

Mr. Cvitkovich said HNTB has begun its annual inspection program for the Commission's bridges, culverts, roadways, etc. As of yet we have not found any items of any major concern.

The Chairman said thank you. Is any representative here from Huntington National Bank, our trustee?

No, OK, Captain Ferguson from OSHP, do you have a report?

Captain Ferguson said no report, Mr. Chairman.

The Chairman asked if there was anything else for the good of the order?

If not, our next meeting will be **Monday, May 16<sup>th</sup> at 10:00 a.m.** We are also having discussions because of conflicts with the June meeting date. We'll make a decision at the May meeting, but we may cancel the June meeting if that works for everybody.

The Chairman said I'll accept a motion to adjourn.

Commissioner Balog moved and Commissioner Dixon seconded to adjourn. All members were in agreement. Time of adjournment was 2:02 p.m.

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

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George F. Dixon, Secretary-Treasurer