

# **TCS MODERNIZATION PROJECT**

## **OHIO TURNPIKE AND INFRASTRUCTURE COMMISSION**

### **Resolution Approving the Selection of The Shelly Company for Project No. 39-20-03 A&B for the Total Amount of \$45,684,293.84 and Approving Jacobs Engineering Group Inc. and ECS Midwest, LLC to Perform Professional Services on the Project**

WHEREAS, on March 9, 2020, Governor Mike DeWine issued Executive Order 2020-01D 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, former Director of Health, issued a “Stay at Home Order” which expired on May 1, 2020, requiring individuals to stay home unless engaged in Essential Activities, Essential Governmental Functions or to operate Essential Businesses and Operations; and

WHEREAS, under the Stay at Home Order, the Ohio Turnpike and Infrastructure Commission (“Commission”) continued operations as Essential Infrastructure and Essential Governmental Functions and further determined that its 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, on April 30, 2020, former Director Acton issued the “Director’s Stay Safe Ohio Order,” which was in effect through May 29, 2020 and subsequently revised by former Director Acton’s “Updated and Revised Order for Business Guidance and Social Distancing,” dated May 29, 2020, and extended by current Interim Director of Health, Lance D. Himes, until rescinded or modified by Interim Director Himes or the State of Emergency declared by the Governor no longer exists, which permits governmental entities and other businesses to continue operations subject to Sector Specific COVID-19 Information and Checklist for Businesses/Employees requiring measures such as, ensuring 6 feet between employees, daily symptom assessments of employees, wearing face coverings, regular handwashing, disinfecting work stations and common areas, changing shift patterns, working from home when possible, among others; and

WHEREAS, the Chief Engineer has issued a memorandum to the Commission’s contractors regarding required work site measures that comply with the Updated and Revised Order for Business Guidance and Social Distancing and this memorandum is available on the Commission’s website at <https://www.ohioturnpike.org/business/doing-business-with-us/construction-projects>; and

WHEREAS, the Chief Engineer recommends that the Commission finds and determines that the contract approved pursuant to this Resolution is necessary for the Commission to continue its operations and complies with the Updated and Revised Order for Business Guidance and Social Distancing and that the work to be performed under the contract shall comply with the Sector Specific COVID-19 Information and Checklist for Businesses/Employees set forth in the Updated and Revised Order for Business Guidance and Social Distancing and the Commission’s work site memorandum, as may be amended from time to time, unless or until such order is lifted entirely; and

WHEREAS, pursuant to Section 5537.04 of the Ohio Revised Code, the Commission has the power and authority to designate the locations and establish, limit, and control such points of ingress to and egress from the Ohio Turnpike as are necessary or desirable to ensure the proper operation and maintenance of the Ohio Turnpike, and prohibit entrance to such a turnpike project from any point not so designated; and

WHEREAS, the Commission published notice in accordance with law advertising its invitation to bid upon a contract for Mainline Pavement Reconstruction from Milepost 208.17 to Milepost 212.76 in Trumbull County (“Part A”) and Toll Plaza 211 Site Construction at Milepost

211.0 in Trumbull County (“Part B”), as part of the Commission’s Toll Collection System Modernization, and designated as Project No. 39-20-03 A&B (the “Project”); and

WHEREAS, the Commission received two bids to perform the Contractor’s obligations on Project No. 39-20-03 A&B; and

WHEREAS, both bids are in excess of ten percent (10%) above the Engineer’s estimate and, pursuant to Article V of the Instructions to Bidders, the Commission must convene a Construction Contracts Award Committee (“CCAC”) to determine if the bid prices are within reasonable conformance with the Engineer’s estimate and a bid price may be accepted by the Commission upon a recommendation by the Committee; and

WHEREAS, the CCAC met on August 7, 2020 and after considering the Commission consultant’s evaluation memorandum and the Engineering staff’s recommendation, the CCAC determined that the apparent low bid submitted by The Shelly Company-Northeast Division (“The Shelly Company”) is within reasonable conformance with the Engineer’s estimate and should be accepted; and

WHEREAS, the CCAC reports that that The Shelly Company, of Twinsburg, Ohio, submitted the apparent low bid on Project No. 39-20-03 A&B in the total bid amount of \$45,684,293.84, including credits for the Waste Site Deduct Alternate and the Temporary Access Deduct Alternate, which they recommend the Commission accept and approve authorization for the Executive Director to award; and

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

WHEREAS, the Office of Equity and Inclusion Manager found that The Shelly Company has made a good faith effort to attain the participation of small or otherwise disadvantaged businesses on the Project and has made a commitment of 11% which meets the SBE participation goal of 11% for the Project; 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 Project No. 39-20-03 A&B that will exceed \$150,000.00; and

WHEREAS, the CCAC recommends the Commission select The Shelly Company as the lowest responsive and responsible bidder for Project No. 39-20-03 A&B; and

WHEREAS, the Commission’s Executive Director concurs with the CCAC’s recommendation that the Commission approve the award of the Project to The Shelly Company as the lowest responsive and responsible bidder; and

WHEREAS, the Commission has duly considered such recommendations.

NOW, THEREFORE, BE IT

RESOLVED by the Ohio Turnpike and Infrastructure Commission that the Project is hereby declared to be necessary and appropriate for the proper operation and maintenance of the Ohio Turnpike and the bid of The Shelly Company for Project No. 39-20-03 A&B in the amount of \$45,684,293.84, including credits for the Waste Site Deduct Alternate and the Temporary Access Deduct Alternate, is approved as the lowest responsive and responsible bid received and the Executive Director is authorized to execute a contract based on said bid; and

FURTHER RESOLVED that the Executive Director and the Chief Engineer are authorized to assign Jacobs Engineering Group Inc. to assist with necessary construction services in accordance with its contract previously authorized under Resolution 44-2016 and assign ECS Midwest, LLC, to perform all necessary material testing services in accordance with the 2019-2020 Miscellaneous Professional Services Agreement between the Commission and said firm; and

FURTHER RESOLVED that the Commission finds and determines that the contract approved pursuant to this Resolution is necessary for the Commission to continue its operations and complies with the Updated and Revised Order for Business Guidance and Social Distancing and that the work to be performed under the contract shall comply with the Sector Specific COVID-19 Information and Checklist for Businesses/Employees set forth in the Updated and Revised Order for Business Guidance and Social Distancing and the Commission's work site memorandum, as may be amended from time to time, unless or until such order is lifted entirely; 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 a result of an increase in the planned quantities, newly mandated requirements that did not exist at the time of original contract award, 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.

**(Resolution No. 52-2020 adopted August 17, 2020)**