

OHIO TURNPIKE AND INFRASTRUCTURE COMMISSION

Resolution Approving the Selection of Gerken Paving, Inc. for Project No. 59-21-02 for the Total Amount of \$11,742,589.76

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which was revised by “Updated and Revised Order for Business Guidance and Social Distancing,” and extended until rescinded or modified by the Director of Health or the State of Emergency declared by the Governor no longer exists, which permits governmental entities and other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, the Commission published notice in accordance with law advertising its invitation to bid upon a contract for Repairs and Resurfacing Eastbound and Westbound Roadways from Milepost 112.45 to Milepost 118.80 in Erie County, Ohio, designated as Project No. 59-21-02 (hereinafter the “Project”); and

WHEREAS, the Commission received two bids to perform the Contractor’s obligations on the Project and the report of the Commission’s Chief Engineer and Deputy Chief Engineer/Director of Field Operations concerning the review and analysis of the bids is before the Commission; and

WHEREAS, the Chief Engineer and Deputy Chief Engineer/Director of Field Operations report that Gerken Paving, Inc. (“Gerken”), of Napoleon, Ohio, submitted the apparent low bid on the Project in the total bid amount of \$11,742,589.76, 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 selecting the bid of Gerken conforms to the requirements of Ohio Revised Code Sections 153.54, 5537.07 and 9.312, and Gerken submitted a performance bond with good and sufficient surety; and

WHEREAS, the Office of Equity and Inclusion Manager has found that Gerken 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 10% which meets the SBE participation goal of 10% 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 the Project that will exceed \$150,000.00; and

WHEREAS, the Chief Engineer and Deputy Chief Engineer/Director of Field Operations recommend the Commission select Gerken as the lowest responsive and responsible bidder for the Project; and

WHEREAS, the Commission's Executive Director concurs with the Chief Engineer and Deputy Chief Engineer/Director of Field Operations' recommendation that the Commission approve the award of the Project to Gerken 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 bid of Gerken Paving, Inc. for Project No. 59-21-02 in the amount of \$11,742,589.76 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 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. 14-2021 adopted March 15, 2021)