

TOLL MODERNIZATION PROJECT

OHIO TURNPIKE AND INFRASTRUCTURE COMMISSION

Resolution Approving the Selection of Action Contractors, LLC for Project No. 58-21-01 for the Total Amount of \$9,564,014.00

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, during the State of Emergency, the Commission continued operations as Essential Infrastructure and Essential Governmental Functions under orders issued by the Director of Health, specifically the “Director’s Stay Safe Ohio Order,” dated April 30, 2020, and the “Updated and Revised Order for Business Guidance and Social Distancing,” dated May 29, 2020; and

WHEREAS, on April 5, 2021, the Director of Health rescinded several health orders, including those under which the Commission was continuing its operations, and issued a new order titled “Director’s Order for Social Distancing, Facial Coverings and Non-Congregating” which was amended on April 9, 2021 and April 27, 2021 and contains requirements applicable to all Ohioans to prevent the spread of COVID-19, including requirements for wearing face coverings, social distancing, congregating, sanitation, large gatherings, signage (i.e., requiring masks), ventilation in buildings accessible to the public, procedures for confirmed cases, and more; 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 that the work to be performed under the contract shall comply with the requirements of the “Director’s Amended Order for Social Distancing, Facial Coverings and Non-Congregating,” 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 a New Mainline Toll Plaza Facility, Utility Buildings, Toll Booths and Canopies, at Milepost 4, in Williams County, Ohio, designated as Project No. 58-21-01 (hereinafter the “Project”); and

WHEREAS, the Commission received three (3) 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 Action Contractors, LLC (“Action”), of Bedford, Ohio, submitted the apparent low bid on the Project in the total bid amount of \$9,564,014.00 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 Action conforms to the requirements of Ohio Revised Code Sections 153.54, 5537.07 and 9.312, and Action submitted a performance bond with good and sufficient surety; and

WHEREAS, the Office of Equity and Inclusion Manager has found that Action has made a good faith effort to attain the participation of small or otherwise disadvantaged businesses on the Project and has made a commitment to meet the SBE participation goal of 15% 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 Action 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 Action as the lowest responsive and responsible bidder; and

WHEREAS, the Commission's General Counsel advises that it is in the best interest of the Commission to obtain builder's risk insurance for this Project and recommends that the Commission approve the purchase of such insurance for the Project; 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 Action Contractors, LLC for Project No. 58-21-01 in the amount of \$9,564,014.00 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 General Counsel are permitted to obtain builder's risk insurance for the Project, after obtaining competitive quotes, for the Project; and

FURTHER RESOLVED, that the Commission finds and determines that that the contract approved pursuant to this Resolution is necessary for the Commission to continue its operations and that the work to be performed under the contract shall comply with the requirements of the "Director's Amended Order for Social Distancing, Facial Coverings and Non-Congregating," 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. 24-2021 adopted May 17, 2021)