

## OHIO TURNPIKE AND INFRASTRUCTURE COMMISSION

### **Resolution Authorizing Expenditures for the Settlement of Litigation Related to the Reginella Construction Company's Contract No. 53-11-01 and 53-11-02**

WHEREAS, on January 24, 2011, by Resolution No. 1-2011, the Ohio Turnpike and Infrastructure Commission ("Commission") awarded multiple trade contracts, designated as Contract No. 53-11-01 and 53-11-02, for the reconstruction of the Mahoning Valley and Glacier Hills Service Plazas located at Milepost 237.2 in Mahoning County; and

WHEREAS, on May 21, 2012, the Commission terminated the Contract of Reginella Construction Company ("Reginella") due to its default under the terms and conditions of the General Trades Contract for Contract No. 53-11-01 and 53-11-02; and

WHEREAS, the terms and conditions of Contract No. 53-11-01 and 53-11-02 and the Contract Bond provided by Reginella required Travelers Casualty and Surety Company of America ("Travelers"), as Surety for the Project, to undertake completion of the Project, and effective June 3, 2012, Travelers entered into a "Takeover Agreement" with the Commission; and

WHEREAS, pursuant to Resolution No. 39-2012, the Commission authorized the General Counsel, "to do or cause to be done all things that may be appropriate or necessary, whether by agreement or through legal proceedings, to defend the Commission when necessary and to assert any claims the Commission may have against others as a result of Reginella's default under Contract No. 53-11-01 and 53-11-02; and to pursue the recovery of all costs or expenses incurred by the Commission in undertaking its legal defense with respect to any claims against the Commission, and similarly with respect to any claims asserted by the Commission;" and

WHEREAS, Resolution No. 39-2012 further authorized the continued retention of Calfee, Halter and Griswold, of Cleveland, Ohio, under the supervision of the General Counsel, to provide "legal services required in connection with the aforementioned claims associated with Contract No. 53-11-01 and 53-11-02[;]" and

WHEREAS, Reginella initiated litigation against the Commission in the Cuyahoga County Court of Common Pleas, case number CV20-927962, refiled as case number CV22-964019; and

WHEREAS, in addition to the authority previously granted to the General Counsel under Resolution No. 39-2012, this Resolution grants full settlement authority to the General Counsel for purposes of the aforementioned mediation and/or any litigation that has resulted or will result from the claims of the prime contractors under Contract No. 53-11-01 and 53-11-02; and

WHEREAS, the Commission has duly considered the General Counsel's recommendations.

NOW, THEREFORE, BE IT

RESOLVED, that in addition to the instructions of the Commission and authority previously granted to the General Counsel under Resolution No. 39-2012 and 56-2014, the General Counsel is hereby fully authorized to pursue and engage in any settlement and payment of agreed settlement amounts, as she deems appropriate, of any or all claims asserted against the Commission by Reginella under Contract No. 53-11-01 and 53-11-02 in the course of litigation that has been filed or will be filed by Reginella against the Commission.

**(Resolution No. 98-2023 adopted October 16, 2023)**