

# OHIO TURNPIKE AND INFRASTRUCTURE COMMISSION

## **Resolution Authorizing Participation in ODOT Cooperative Purchasing Program for Road Salt For 2020/2021 Winter Season**

WHEREAS, on March 9, 2020, Governor Mike DeWine issued an Executive Order 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, Director of Health, issued a “Stay at Home Order” requiring individuals to stay home unless engaged in Essential Activities, Essential Governmental Functions or to operate Essential Businesses and Operations and, on April 2, 2020, amended the Stay at Home Order so that it shall be in effect through May 1, 2020; and

WHEREAS, under the Stay at Home Order, Essential Activities, Essential Governmental Functions and Essential Businesses and Operations include:

- Essential Infrastructure (Par. 9) – “[I]ndividuals may leave their residence to provide any service or perform any work necessary to offer, provision, operate, maintain and repair Essential Infrastructure,” which includes construction, building management and maintenance, and highways.
- Essential Governmental Functions (Par. 10) – “[A]ll services provided by the State or any...political subdivision, board, commission or agency of government and needed to ensure the continuing operation of the government agencies or to provide for or support the health, safety and welfare of the public, including contractors performing Essential Functions.”
- Essential Businesses and Operations (Par. 12) –
  - Critical Trades (Par. 12(k)) – “Building and Construction Tradesmen and Tradeswoman...and other service providers who provide services that are necessary to maintaining the safety, sanitation, and essential operation of residences, Essential Activities, and Essential Businesses and Operations.”
  - Supplies for Essential Businesses and Operations – “Businesses that sell, manufacture, or supply other Essential Businesses and Operations with the support or materials necessary to operate....”
  - Essential Critical Infrastructure Workers – The Cybersecurity and Infrastructure Security Agency (CISA) Advisory Memorandum on Identification of Essential Critical Infrastructure During COVID-19 Response, dated March 28, 2020, identifies the following as essential critical infrastructure workers: (1) Transportation and Logistics – “Employees supporting or enabling transportation functions...”; (2) Public Works and Infrastructure Support Services – “Workers who support the operation, inspection, and maintenance of essential public works facilities and operations...”; and (3) Government-Based Operations and Essential Functions – “Workers supporting essential maintenance, manufacturing, design, operation, inspection, security, and construction for essential products, services, and supply chain and COVID 19 relief efforts;” and

WHEREAS, being the fastest east-west corridor in northern Ohio, the Ohio Turnpike performs a critical role in our state and national economy as a vital part of Ohio’s transportation network and a nationally ranked freight corridor and this role is more important now than ever before so that essential medical supplies, food and other necessary goods can reach their destinations to those in need during this COVID-19 pandemic; and

WHEREAS, based on the referenced orders and guidance, the Ohio Turnpike and Infrastructure Commission (the “Commission”) finds that it must continue operations under the Stay at Home Order as Essential Infrastructure and as Essential Governmental Functions to maintain the supply chain and that the Commission’s 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, based on the foregoing, the Commission finds that the contract approved pursuant to this Resolution is necessary for the Commission to continue operations as Essential Infrastructure and as Essential Governmental Functions and complies with the requirements of and exceptions to the Stay at Home Order; and

WHEREAS, the Commission is authorized to participate in contracts awarded by the Ohio Department of Transportation (“ODOT”) for the purchase of machinery, materials, supplies, or other articles under Section 5513.01(B) of the Ohio Revised Code; and

WHEREAS, the Deputy Chief Engineer/Director of Field Operations recommends leveraging the volume pricing ODOT is able to obtain from salt suppliers for fulfilling the Commission’s requirements for road salt; and

WHEREAS, the Deputy Chief Engineer/Director of Field Operations has recommended the following estimated quantities for the 2020/2021 Winter season under the ODOT Cooperative Purchasing Program, (“ODOT Winter Contract No. 018-21”) for the counties where the following delivery sites are located:

<u>Delivery Locations</u>	<u>Estimated Winter Use</u>
Kunkle MB (Williams Cty.)	2,800 Tons
Swanton MB (Fulton Cty.)	2,200 Tons
TP 59 (Lucas Cty.)	400 Tons
Elmore MB (Ottawa Cty.)	2,600 Tons
River Road (Sandusky Cty.)	400 Tons
Castalia MB (Erie Cty.)	4,000 Tons
Humm Road (Erie Cty.)	2,300 Tons
Amherst MB (Lorain Cty.)	7,500 Tons
TP 161 (Cuyahoga Cty.)	4,100 Tons
Boston MB (Summit Cty.)	7,600 Tons
TP 187 (Portage Cty.)	3,000 Tons
Hiram MB (Portage Cty.)	4,100 Tons
TP 218 (Mahoning Cty.)	3,600 Tons
Canfield MB (Mahoning Cty.)	3,600 Tons
<b>TOTAL</b>	<b>48,200 Tons</b>

WHEREAS, the ODOT Winter Contract No. 018-21 will be structured such that the Commission must commit to order at least a minimum of 90% and no more than 110% of the estimated quantities for each delivery location; and

WHEREAS, in accordance with Section 5513.01(B) of the Ohio Revised Code, the Commission must file a certified copy of a Commission resolution requesting authorization to participate in the ODOT contract and agreeing to be bound by such terms and conditions as the Director of the Department of Transportation prescribes; and

WHEREAS, the Deputy Chief Engineer and the Executive Director recommend that the Commission authorize participation in the ODOT Cooperative Purchasing Program, ODOT Winter Contract No. 018-21 for sodium chloride in the counties specified for the above-referenced delivery locations during the 2020/2021 Winter season; and

WHEREAS, the Commission has duly considered such recommendations.

NOW, THEREFORE, BE IT

RESOLVED that the Ohio Turnpike and Infrastructure Commission hereby agrees to participate in the Ohio Department of Transportation Cooperative Purchasing Program, Annual Winter Road Salt Bid (Invitation No. 018-21) in accordance with Section 5513.01(B) of the

Revised Code, and that the Executive Director is authorized to take any and all actions necessary in the name of the Ohio Turnpike and Infrastructure Commission concerning its participation in the ODOT Contract for Road Salt during the Winter of 2020/2021 (“ODOT Salt Contract (018-21)”) and

FURTHER RESOLVED, that the Commission hereby requests to participate in ODOT Salt Contract (018-21) in the total estimated amount of 48,200 tons of Sodium Chloride (Road Salt), which the Commission agrees to purchase from the awarded salt supplier(s) for each of the above-specified delivery locations in the subtotal quantities provided as the Estimated Winter Use at the bid price per ton awarded by the Director of Transportation, and the Commission agrees to purchase a minimum of 90% of its above-requested salt quantities from its awarded salt supplier(s) during the term of ODOT Salt Contract (018-21); and

FURTHER RESOLVED, that the Commission hereby agrees to be bound by all terms and conditions established under the ODOT Salt Contract (018-21), and acknowledges that upon award of the Contract by the Director of Transportation the Commission shall be bound by all such terms and conditions included in the contract and that upon the signing of the ODOT Salt Contract (018-21) by the Director of Transportation, the agreement shall effectively form a contract between the awarded salt supplier(s) and the Commission; and

FURTHER RESOLVED, that the Commission hereby agrees to place orders under the ODOT Salt Contract (018-21) directly with the awarded salt supplier(s) and make payments directly to the awarded salt supplier(s) on a 30 day net basis for all road salt received under the ODOT Salt Contract (018-21), and the Commission agrees to be solely responsible for resolving all claims or disputes arising out of its participation in the ODOT Salt Contract (018-21) and agrees to hold the Department of Transportation harmless for any claims, actions, expenses, or other damages arising out of the Commission’s participation in the ODOT Salt Contract (018-21); and

FURTHER RESOLVED, that the Commission instructs the Deputy Chief Engineer to issue a report back to the Commission indicating the results of the ODOT bidding process; and

FURTHER RESOLVED that the Executive Director is authorized to submit a certified copy of this Resolution to the Director of Transportation providing the Commission’s authorization and commitment to participate in the ODOT Salt Contract (018-21) for the purchase of road salt in the quantities and at the delivery sites referenced above; and

FURTHER RESOLVED that the Commission must provide ODOT with a resolution setting for its estimated quantities of road salt for the 2020/2021 winter season on or before April 24, 2020 and the purchase of road salt under the ODOT Salt Contract (018-21) is necessary as Essential Infrastructure and Essential Governmental Functions under the Stay at Home Order to ensure that the Ohio Turnpike is maintained and improved such that it shall remain the fastest east-west corridor in northern Ohio to provide goods and necessary supplies to those in need during this COVID-19 pandemic.

**(Resolution No. 32-2020 adopted April 20, 2020)**