

RESOLUTION NO.: 63-2017

INTRODUCED BY: MAYOR ANN MARIE DONEGAN

A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A COOPERATION AGREEMENT WITH THE OHIO DEPARTMENT OF TRANSPORTATION (ODOT) FOR THE CITY TO PROVIDE SNOW AND ICE CONTROL ON STATE ROUTE 252 FROM MILE MARKER 2.3 TO 2.9 IN OLMSTED TOWNSHIP IN EXCHANGE FOR ODOT PROVIDING THE CITY WITH 200 TONS OF SALT FOR THE 2017/2018 WINTER SEASON AT NO COST TO THE CITY, AND DECLARING AN EMERGENCY.

WHEREAS, the Ohio Department of Transportation desires that the City provide snow and ice removal control on Columbia Road (S.R. 252) in Olmsted Township in exchange for which ODOT will provide the city, at no cost to the city, 200 tons of salt for the 2017/2018 winter season; and

WHEREAS, the City is agreeable to providing such service in exchange for the provision of salt. Now therefore,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF OLMSTED FALLS, OHIO, THAT:

SECTION 1. The Mayor is hereby authorized to enter into a certain cooperation agreement in substantially the form of Exhibit "A" attached hereto and incorporated herein by reference authorizing the City's Department of Public Service to provide snow and ice control on S.R. 252 outside the city limits on a portion of Columbia Road S.R. 252 from mile marker 2.3 to 2.9 in Olmsted Township all in exchange for ODOT providing the city with 200 tons of salt for the 2017/2018 winter season.

SECTION 2. The Council finds and determines that all formal actions of this Council relating to the adoption of this Resolution have been taken at open meetings of this Council; and that deliberations of this Council and of its committees, resulting in such formal action, took place in meetings open to the public, in compliance with all statutory requirements including the requirements of Section 121.22 of the Ohio Revised Code.

SECTION 3. This Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare of the residents of the City of Olmsted Falls for the reason that it is necessary to provide the clearing of the roads and the provision of salt at the earliest practicable date prior to the arrival of anticipated winter snow weather, and therefore, this Resolution shall be

effective immediately upon the affirmative vote of not less than five (5) members elected to Council and approval by the Mayor, or otherwise at the earliest time allowed by law.


Linda Garrity, President of Council

PASSED: December 12, 2017

APPROVED:


Ann Marie Donegan, Mayor

12.14.17

Date

APPROVED AS TO FORM:


Gregory M. Sponseller, Director of Law

ATTEST:


Angela Mancini, Clerk of Council

First Reading: December 12, 2017

Second Reading: suspended

Third Reading: suspended

POSTING CERTIFICATE OF OLMSTED FALLS

Angi Mancini, Clerk of Council of the City of Olmsted Falls, hereby certify that Res/Ord 63-2017 was duly posted on the 8 day of DEC, 2017 and will remain so posted for a period of 15 days after its effective date as required by the Charter of the City
A. Mancini Clerk of Council

	Yea	Nay
Garrity	<input checked="" type="checkbox"/>	_____
Haviland	<u>EXCUSED</u>	_____
Sculac	<input checked="" type="checkbox"/>	_____
Gorski	<input checked="" type="checkbox"/>	_____
Stibich	<input checked="" type="checkbox"/>	_____
Duncan	<input checked="" type="checkbox"/>	_____
Miller	<input checked="" type="checkbox"/>	_____

I, ANGI MANCINI, CLERK OF COUNCIL OF OLMSTED FALLS, COUNTY OF CUYAHOGA, STATE OF OHIO, DO HEREBY CERTIFY THAT THE FOREGOING ORD. OR RESOL. NO. 63 WAS DULY AND REGULARLY ADOPTED BY THIS COUNCIL AT A MEETING HELD ON DEC. 12 2017
Angi Mancini CLERK

ODOT AGREEMENT NO. _____

AGREEMENT

This Agreement is made by and between the State of Ohio, Department of Transportation, 1980 West Broad Street, Columbus, Ohio 43223 (ODOT), hereinafter referred to as the **STATE**, and the City of Olmsted Falls, 26100 Bagley Road, Olmsted Falls, Ohio 44138, hereinafter collectively referred to as the **CITY**.

RECITALS

WHEREAS, pursuant to Ohio Revised Code 5501.03(A)(3) and 5501.41, the Ohio General Assembly has provided that the Director of Ohio Department of Transportation may remove snow and ice from State Highways and may make contracts necessary to accomplish such removal; and

WHEREAS, the **STATE** has jurisdiction over all State Highways within Cuyahoga County, outside of municipalities, and desires to provided snow and ice control services for such highways; and

WHEREAS, in the interest of public safety and convenience, it is the desire of the parties hereto that the **CITY** shall perform the snow and ice control on State Route 252 from the south Olmsted Township corporation line (MM 2.3) to the north Olmsted Township corporation line (John Road, MM 2.9). The City of Olmsted Falls, using its own forces, equipment, and materials with reimbursement from the **STATE** in the form of salt deliveries during snow and ice season.

NOW, THEREFORE, for and in consideration of the mutual covenants hereinafter stipulated to be kept performed, it is agreed by the parties that the **CITY** shall perform snow and ice control on certain State Highways, in accordance with the provisions of this agreement.

Section I - Maintenance

1. All snow and ice control services shall be performed by the CITY in accordance with the procedures, as applicable, set forth in the ODOT "Standard Operating Procedure, OPS-101", dated October 16, 1995.
2. The CITY shall provide snow and ice removal on State Route 252 from SLM 2.3 to SLM 2.9 (12 feet per lane x 2 lanes = 24 feet wide; 0.6 mile x 2 lanes = 1.20 mile total).
3. All other maintenance, including, but not limited to, pothole patching, guardrail and fence repair, litter removal, pavement markings, and sign maintenance, as well as the disposition of any special problems, will remain the responsibility of the STATE.

Section II - Reimbursement

1. As reimbursement for removing snow and ice from State Route 252, the STATE shall provide to the CITY 200 tons of salt to be delivered at one time to either the Olmsted Falls Service Department, or to a location designated by the CITY. The time and location shall be determined by mutual agreement of the parties.
2. This reimbursement, as stated above, shall constitute full compensation to the CITY for furnishing all labor, equipment, and materials necessary to perform snow and ice control on State Route 252, within the limits as previously set forth.

Section III - Dispute Resolution

In the event a dispute arises regarding responsibilities under this Agreement, notification of such dispute shall be sent to the District Deputy Director of District 12, Ohio Department of Transportation, and a designated representative of the City of Olmsted Falls, in writing, within 90 days of discovery of such dispute. In such notification, the disputing party shall present such evidence as may support their position. Within a reasonable time, District Deputy Director of District 12, Ohio Department of Transportation, and a designated representative of the City of Olmsted Falls shall review the facts and circumstances surrounding the dispute for the purpose of determination. Said dispute shall be resolved within a reasonable period of time.

Section IV - Inspections

Periodic inspections may be performed jointly by representatives of the CITY and the STATE, to determine the level of service being provided on the State Highway system during a snow and ice event.

Section V -Time of Performance; Termination

1. This Agreement shall commence on the date of the last signature and shall terminate on June 30, 2018. The STATE may renew this Agreement on the same terms and conditions for one successive term by giving written notice to the CITY no later than June 1, 2018, provided that any successive term shall not extend beyond the end of the STATE's biennium.
2. Either party may unilaterally terminate this Agreement by giving thirty (30) days written notice to the other party. If this Agreement is terminated during the snow and ice season and after the delivery of salt, the CITY shall reimburse the STATE a prorated amount for the salt based on the remaining portion of the salt on hand.

Section VI- Third Parties

Nothing stated in this Agreement shall inure to the benefit of any third parties. Nothing stated in this Agreement shall act as a waiver of any immunities or defenses available to either party, either by statute or common law.

Section VII - Equal Employment Opportunity

1. In carrying out this contract, the CITY shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, disability, or age. The CITY will ensure that applicants are hired and that employees are treated during employment without regard to their race, religion, color, sex, national origin, disability, military status, age or ancestry. Such action shall include, but not be limited to, the following: Employment, Upgrading, Demotion, or Transfer; Recruitment or

Recruitment Advertising; Layoff or Termination; Rates of Pay or other forms of Compensation; and Selection for Training including Apprenticeship.

2. The CITY agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause. The CITY will, in all solicitations or advertisements for employees placed by or on behalf of the CITY, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, national origin, disability, military status, age or ancestry. The CITY shall incorporate the foregoing requirements of this paragraph in all of its contracts for any of the work prescribed herein (other than subcontracts for standard commercial supplies or raw materials) and will require all of its subcontractors for any part of such work to incorporate such requirements in all subcontracts for such work.

Section VIII - Responsibility for Claims

Each party to this Agreement recognizes that the other is self-insured. Nothing in this Agreement shall be construed as an indemnification by one party of the other for liabilities of the other party or third parties for property loss or damage or personal injury or death arising out of and/or during the use described in this Agreement. Any liability for claim for property loss or damage or personal injury or death by a party, its employees, agents, invitees, or contractors, or by third persons, arising out of and during the activities associated with the Agreement shall be determined in accordance with laws of the State of Ohio.

Section IX - Compliance with Law

The CITY agrees to comply with all applicable federal, state, and local laws in the conduct of the work hereunder. The CITY accepts full responsibility for payment of all taxes including without limitation, workers' compensation, unemployment compensation insurance premiums, all income tax deductions, social security deductions, and any and all other taxes or payroll deductions required for all employees engaged by the CITY in the performance of the work authorized by this Agreement. The

STATE shall not be liable for any taxes under this contract.

Section X - Certification of Funds

It is expressly understood by the parties that none of the rights, duties, and obligations described in this Agreement shall be binding on either party until all statutory provisions under the Ohio Revised Code, including but not limited to Section 126.07, have been complied with and until such time as all necessary funds are made available and forthcoming from the appropriate state agencies, and, when required, such expenditure of funds is approved by the General Assembly and by the Controlling Board of the State of Ohio or, in the event that federal funds are used, until such time that the State gives the CITY written notice that such funds have been made available to the STATE by the STATE's funding source.

Section XI - Change or Modification

This contract constitutes the entire agreement between the parties, and any changes or modifications to this contract shall be made and agreed to in writing.

Section XII - Assignment

Neither this contract nor any rights, duties, or obligations described herein shall be assigned by either party hereto without the prior express written consent of the other party.

Section XIII - Construction

This contract shall be construed and interpreted and the rights of the parties determined in accordance with the laws of the State of Ohio.

Section XIV - Drug Free Workplace

The CITY agrees to comply with all applicable state and federal laws regarding a drug free workplace. The CITY shall make a good faith effort to ensure that all CITY employees, while working on state property, will not purchase, transfer, use or possess illegal drugs

or alcohol, or abuse prescription drugs in any way.

Section XV - Signatures

Any person executing this Contract in a representative capacity hereby warrants that he/she has been duly authorized by his/her principal to execute this Agreement on such principal's behalf.

Any party hereto may deliver a copy of its counterpart signature page to this Agreement via fax or e-mail. Each party hereto shall be entitled to rely upon a facsimile signature of any other party delivered in such a manner as if such signature were an original.

The parties hereunto have caused this Agreement to be executed by officials thereunto duly authorized as of the day and year last written below.

STATE OF OHIO DEPARTMENT OF TRANSPORTATION

Date: _____

BY: _____

Jerry Wray, Director

OLMSTED FALLS CITY COUNCIL by the MAYOR OF OLMSTED FALLS

Date: _____

BY: _____

Ann Marie Donegan