

CITY OF STRONGSVILLE, OHIO

RESOLUTION NO. 2014 – 163

By: Mayor Perciak and All Members of Council

**A RESOLUTION AUTHORIZING THE MAYOR, DIRECTOR OF PUBLIC SERVICE, AND DIRECTOR OF FINANCE TO SETTLE AND COMPROMISE A CLAIM OF THE CITY FOR LIQUIDATED DAMAGES FOR LATE DELIVERIES OF ROCK SALT IN CONNECTION WITH THE 2013-2014 OHIO DEPARTMENT OF TRANSPORTATION CONTRACT WITH MORTON SALT, AND DECLARING AN EMERGENCY.**

WHEREAS, through passage of Ordinance No. 2013-108, the City ratified, authorized and approved participation in Ohio Department of Transportation (“ODOT”) contracts for the purchase of sodium chloride (rock salt) for use by the Service Department of the City during the 2013-2014 winter season, and authorized the Mayor and the Director of Finance to do all things necessary to enter into an agreement in connection therewith; and

WHEREAS, due to unavailability of rock salt supplies from time to time for many communities participating in the ODOT contracts, various deliveries were late, notwithstanding good faith efforts on an ongoing basis by ODOT and its vendor, Morton Salt; and

WHEREAS, the ODOT contract specified various liquidated damage penalties for late delivery damages which, in this instance, totaled some \$49,871.88, as per the attached Exhibits A-1, A-2, A-3 and A-4; and

WHEREAS, ODOT has negotiated an arrangement with Morton Salt, the vendor, for the City to receive 1500 tons of salt in lieu of monetary damages/credits, which when valued at the contract price of \$29.40/ton equates to \$44,100.00, some \$5,771.88 less than what might otherwise arguably be due to the City, although the cost of salt has increased considerably rendering its value greater; and

WHEREAS, the City’s Service Director has recommended that the City accept this adjusted amount and compromise, and receive the salt for the upcoming winter season in lieu of cash/credits for damages.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF STRONGSVILLE, COUNTY OF CUYAHOGA AND STATE OF OHIO:

**Section 1.** That the Mayor, Director of Finance and Director of Public Service be and are hereby authorized to compromise and settle the City’s claims for late deliveries

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under the 2013-2014 ODOT Rock Salt Contract with Morton Salt by accepting some 1500 tons of rock salt from the vendor at no charge to the City.

**Section 2.** That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Council; and that all deliberations of this Council, and any of its committees, that resulted in such formal actions were in meetings open to the public, in compliance with all legal requirements.

**Section 3.** That this Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare of the City, and for the further reason that the immediate approval of the aforesaid settlement and compromise is necessary to resolve the City's pending claims, avoid legal proceedings, provide the Service Department with sufficient quantities of salt for the next winter season, and conserve public funds. Therefore, provided this Resolution receives the affirmative vote of two-thirds of all members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise from and after the earliest period allowed by law.

Michael Daymut  
 President of Council

Approved: Thomas S. Surier  
 Mayor

Date Passed: September 2, 2014

Date Approved: September 3, 2014

	<u>Yea</u>	<u>Nay</u>
Carbone	<u>✓</u>	_____
Daymut	<u>✓</u>	_____
DeMio	<u>✓</u>	_____
Dooner	<u>✓</u>	_____
Maloney	<u>✓</u>	_____
Schonhut	<u>✓</u>	_____
Southworth	<u>✓</u>	_____

Attest: Aimee Pientka  
 Clerk of Council

RES  
 ORD. No. 2014-163 Amended: \_\_\_\_\_  
 1st Rdg. 09-02-14 Ref: \_\_\_\_\_  
 2nd Rdg. Suspended Ref: \_\_\_\_\_  
 3rd Rdg. Suspended Ref: \_\_\_\_\_

Pub Hrg. \_\_\_\_\_ Ref: \_\_\_\_\_  
 Adopted: 09-02-14 Defeated: \_\_\_\_\_

Please fill out this information before going forward with calculations:

Political Subdivision:	City of Strongsville
County Location:	Cuyahoga County
Salt Vendor:	Morton Salt

**Instructions: You will only need to fill in the areas highlighted in yellow for each order. The calculations will automatically fill in as you fill out the information.**

<b>Late Delivery Damages- Order #1</b>	
Date you received an order number from salt company: (xx/xx/xxxx)	12/30/2013
Order delivery due date: (either 7 or 14 days)	7
Date your order was completed from salt company: (xx/xx/xxxx) (Leave blank if order is not complete)	1/13/2014
Order amount in tons: (enter number only)	3000
Price Per Ton: (xx.xx)	\$29.40

Delivery Number:	Delivery Date:(xx/xx/xxxx)	Amount of Tonnage Received:	Balance	Is delivery Late? Completed?	Penalty Assessed (1%/day late):
	12/30/2013		3000	NO	
	12/31/2013		3000	NO	
	1/1/2014		3000	NO	
	1/2/2014		3000	NO	
	1/3/2014	72.8	2927	NO	
	1/4/2014		2927	NO	
	1/5/2014	47.11	2880	NO	
	1/6/2014	291.38	2589	YES	\$761.08
	1/7/2014	49.32	2539	YES	\$746.58
	1/8/2014	418.26	2121	YES	\$623.61
	1/9/2014	685.86	1435	YES	\$421.97
	1/10/2014	256.93	1178	YES	\$346.43
	1/11/2014		1178	YES	\$346.43
	1/12/2014		1178	YES	\$346.43
	1/13/2014	1187.45		COMPLETE	
	1/14/2014			COMPLETE	
	1/15/2014			COMPLETE	
	1/16/2014			COMPLETE	
	1/17/2014			COMPLETE	
	1/18/2014			COMPLETE	
	1/19/2014			COMPLETE	
	1/20/2014			COMPLETE	
	1/21/2014			COMPLETE	
	1/22/2014			COMPLETE	
	1/23/2014			COMPLETE	
	1/24/2014			COMPLETE	
	1/25/2014			COMPLETE	
	1/26/2014			COMPLETE	
	1/27/2014			COMPLETE	
	1/28/2014			COMPLETE	
	1/29/2014			COMPLETE	
	1/30/2014			COMPLETE	
	1/31/2014			COMPLETE	
	2/1/2014			COMPLETE	
	2/2/2014			COMPLETE	
	2/3/2014			COMPLETE	
	2/4/2014			COMPLETE	
	2/5/2014			COMPLETE	
	2/6/2014			COMPLETE	
	2/7/2014			COMPLETE	

**EXHIBIT A-1**

Please fill out this information before going forward with calculations:

Political Subdivision:	City of Strongsville
County Location:	Cuyahoga
Salt Vendor:	Morton Salt

**Instructions: You will only need to fill in the areas highlighted in yellow for each order. The calculations will automatically fill in as you fill out the information.**

Late Delivery Damages- Order #2					
Date you received an order number from salt company: (xx/xx/xxxx)					1/6/2014
Order delivery due date: (either 7 or 14 days) (xx/xx/xxxx)					7
Date your order was completed from salt company: (xx/xx/xxxx) (Leave blank if order is not complete)					2/7/2014
Order amount in tons: (enter number only)					3000
Price Per Ton: (xx.xx)					\$29.40
Delivery Number:	Delivery Date:(xx/xx/xxxx)	Amount of Tonnage Received:	Balance	Is delivery Late? Completed?	Penalty Assessed (1%/day late):
	1/6/2014		3000	NO	
	1/7/2014		3000	NO	
	1/8/2014		3000	NO	
	1/9/2014		3000	NO	
	1/10/2014		3000	NO	
	1/11/2014		3000	NO	
	1/12/2014		3000	NO	
	1/13/2014		3000	YES	\$882.00
	1/14/2014		3000	YES	\$882.00
	1/15/2014		3000	YES	\$882.00
	1/16/2014		3000	YES	\$882.00
	1/17/2014	42.87	2957	YES	\$869.40
	1/18/2014		2957	YES	\$869.40
	1/19/2014		2957	YES	\$869.40
	1/20/2014		2957	YES	\$869.40
	1/21/2014	229.17	2728	YES	\$802.02
	1/22/2014	135.9	2592	YES	\$762.07
	1/23/2014	326.36	2266	YES	\$666.12
	1/24/2014	206.5	2059	YES	\$605.40
	1/25/2014		2059	YES	\$605.40
	1/26/2014		2059	YES	\$605.40
	1/27/2014	231.86	1827	YES	\$537.24
	1/28/2014	23.3	1804	YES	\$530.39
	1/29/2014	202.59	1601	YES	\$470.83
	1/30/2014	234.29	1367	YES	\$401.95
	1/31/2014	257.59	1110	YES	\$326.21
	2/1/2014	246.07	864	YES	\$253.87
	2/2/2014		864	YES	\$253.87
	2/3/2014	259.25	604	YES	\$177.65
	2/4/2014	233.89	370	YES	\$108.89
	2/5/2014		370	YES	\$108.89
	2/6/2014	181.09	189	YES	\$55.65
	2/7/2014	201.83		COMPLETE	
	2/8/2014			COMPLETE	
	2/9/2014			COMPLETE	
	2/10/2014			COMPLETE	
	2/11/2014			COMPLETE	
	2/12/2014			COMPLETE	
	2/13/2014			COMPLETE	

Please fill out this information before going forward with calculations:

Political Subdivision:	City of Strongsville
County Location:	Cuyahoga
Salt Vendor:	Morton Salt

**Instructions: You will only need to fill in the areas highlighted in yellow for each order. The calculations will automatically fill in as you fill out the information.**

<b>Late Delivery Damages- Order #3</b>	
<b>Date you received an order number from salt company: (xx/xx/xxxx)</b>	1/24/2014
<b>Order delivery due date: (either 7 or 14 days) (xx/xx/xxxx)</b>	7
<b>Date your order was completed from salt company: (xx/xx/xxxx) (Leave blank if order is not complete)</b>	2/25/2014
<b>Order amount in tons: (enter number only)</b>	2000
<b>Price Per Ton: (xx.xx)</b>	\$29.40

<b>Delivery Number:</b>	<b>Delivery Date:(xx/xx/xxxx)</b>	<b>Amount of Tonnage Received:</b>	<b>Balance</b>	<b>Is delivery Late? Completed?</b>	<b>Penalty Assessed (1%/day late):</b>
	1/24/2014		2000	NO	
	1/25/2014		2000	NO	
	1/26/2014		2000	NO	
	1/27/2014		2000	NO	
	1/28/2014		2000	NO	
	1/29/2014		2000	NO	
	1/30/2014		2000	NO	
	1/31/2014		2000	YES	\$588.00
	2/1/2014		2000	YES	\$588.00
	2/2/2014		2000	YES	\$588.00
	2/3/2014		2000	YES	\$588.00
	2/4/2014		2000	YES	\$588.00
	2/5/2014		2000	YES	\$588.00
	2/6/2014		2000	YES	\$588.00
	2/7/2014	23.73	1976	YES	\$581.02
	2/8/2014		1976	YES	\$581.02
	2/9/2014		1976	YES	\$581.02
	2/10/2014	182	1794	YES	\$527.52
	2/11/2014	192.32	1602	YES	\$470.97
	2/12/2014	188.76	1413	YES	\$415.48
	2/13/2014	190.22	1223	YES	\$359.55
	2/14/2014	188	1035	YES	\$304.28
	2/15/2014		1035	YES	\$304.28
	2/16/2014		1035	YES	\$304.28
	2/17/2014		1035	YES	\$304.28
	2/18/2014	190.93	844	YES	\$248.15
	2/19/2014	180.4	664	YES	\$195.11
	2/20/2014	18.95	645	YES	\$189.54
	2/21/2014	189.1	456	YES	\$133.94
	2/22/2014		456	YES	\$133.94
	2/23/2014		456	YES	\$133.94
	2/24/2014	214.56	241	YES	\$70.86

	2/25/2014	229.75		COMPLETE	
	2/26/2014			COMPLETE	
	2/27/2014			COMPLETE	
	2/28/2014			COMPLETE	
	3/1/2014			COMPLETE	
	3/2/2014			COMPLETE	
	3/3/2014			COMPLETE	
	3/4/2014			COMPLETE	
	3/5/2014			COMPLETE	
	3/6/2014			COMPLETE	
	3/7/2014			COMPLETE	
	3/8/2014			COMPLETE	
	3/9/2014			COMPLETE	
	3/10/2014			COMPLETE	
	3/11/2014			COMPLETE	
	3/12/2014			COMPLETE	
	3/13/2014			COMPLETE	
	3/14/2014			COMPLETE	
	3/15/2014			COMPLETE	
	3/16/2014			COMPLETE	
	3/17/2014			COMPLETE	
	3/18/2014			COMPLETE	
	3/19/2014			COMPLETE	
	3/20/2014			COMPLETE	
	3/21/2014			COMPLETE	
	3/22/2014			COMPLETE	
	3/23/2014			COMPLETE	
	3/24/2014			COMPLETE	
	3/25/2014			COMPLETE	
	3/26/2014			COMPLETE	
	3/27/2014			COMPLETE	
	3/28/2014			COMPLETE	
	3/29/2014			COMPLETE	
	3/30/2014			COMPLETE	
	3/31/2014			COMPLETE	
	4/1/2014			COMPLETE	
	4/2/2014			COMPLETE	
	4/3/2014			COMPLETE	
	4/4/2014			COMPLETE	
	4/5/2014			COMPLETE	
	4/6/2014			COMPLETE	
	4/7/2014			COMPLETE	
	4/8/2014			COMPLETE	
	4/9/2014			COMPLETE	
	4/10/2014			COMPLETE	
	4/11/2014			COMPLETE	
	4/12/2014			COMPLETE	
	4/13/2014			COMPLETE	
	4/14/2014			COMPLETE	
	4/15/2014			COMPLETE	
	4/16/2014			COMPLETE	
	4/17/2014			COMPLETE	
	4/18/2014			COMPLETE	
	4/19/2014			COMPLETE	

Please fill out this information before going forward with calculations:

Political Subdivision:	City of Strongsville
County Location:	Cuyahoga
Salt Vendor:	Morton Salt

**Instructions: You will only need to fill in the areas highlighted in yellow for each order. The calculations will automatically fill in as you fill out the information.**

<b>Late Delivery Damages- Order #4</b>					
<b>Date you received an order number from salt company: (xx/xx/xxxx)</b>				<b>2/4/2014</b>	
<b>Order delivery due date: (either 7 or 14 days) (xx/xx/xxxx)</b>				<b>7</b>	
<b>Date your order was completed from salt company: (xx/xx/xxxx) (Leave blank if order is not complete)</b>				<b>3/31/2014</b>	
<b>Order amount in tons: (enter number only)</b>				<b>2000</b>	
<b>Price Per Ton: (xx.xx)</b>				<b>\$29.40</b>	
<b>Delivery Number:</b>	<b>Delivery Date:(xx/xx/xxxx)</b>	<b>Amount of Tonnage Received:</b>	<b>Balance</b>	<b>Is delivery Late? Completed?</b>	<b>Penalty Assessed (1%/day late):</b>
301D	2/4/2014		2000	NO	
	2/5/2014		2000	NO	
	2/6/2014		2000	NO	
	2/7/2014		2000	NO	
	2/8/2014		2000	NO	
	2/9/2014		2000	NO	
	2/10/2014		2000	NO	
	2/11/2014		2000	YES	\$588.00
	2/12/2014		2000	YES	\$588.00
	2/13/2014		2000	YES	\$588.00
	2/14/2014		2000	YES	\$588.00
	2/15/2014		2000	YES	\$588.00
	2/16/2014		2000	YES	\$588.00
	2/17/2014		2000	YES	\$588.00
	2/18/2014		2000	YES	\$588.00
	2/19/2014		2000	YES	\$588.00
	2/20/2014		2000	YES	\$588.00
	2/21/2014		2000	YES	\$588.00
	2/22/2014		2000	YES	\$588.00
	2/23/2014		2000	YES	\$588.00
	2/24/2014		2000	YES	\$588.00
	2/25/2014		2000	YES	\$588.00
	2/26/2014		2000	YES	\$588.00
	2/27/2014		2000	YES	\$588.00
	2/28/2014		2000	YES	\$588.00
	3/1/2014	93.67	1906	YES	\$560.46
	3/2/2014		1906	YES	\$560.46
	3/3/2014		1906	YES	\$560.46
	3/4/2014	90.62	1816	YES	\$533.82
	3/5/2014		1816	YES	\$533.82
	3/6/2014	87.46	1728	YES	\$508.11
	3/7/2014		1728	YES	\$508.11

**EXHIBIT A-4**

	3/8/2014		1728	YES	\$508.11
	3/9/2014		1728	YES	\$508.11
	3/10/2014	88	1640	YES	\$482.23
	3/11/2014	88	1552	YES	\$456.36
	3/12/2014		1552	YES	\$456.36
	3/13/2014		1552	YES	\$456.36
	3/14/2014		1552	YES	\$456.36
	3/15/2014		1552	YES	\$456.36
	3/16/2014		1552	YES	\$456.36
	3/17/2014	89.58	1463	YES	\$430.02
	3/18/2014	91.16	1372	YES	\$403.22
	3/19/2014	94.13	1277	YES	\$375.55
	3/20/2014	87.98	1189	YES	\$349.68
	3/21/2014	72.29	1117	YES	\$328.43
	3/22/2014		1117	YES	\$328.43
	3/23/2014		1117	YES	\$328.43
	3/24/2014	112.99	1004	YES	\$295.21
	3/25/2014	90.55	914	YES	\$268.59
	3/26/2014	392.15	521	YES	\$153.30
	3/27/2014	381.43	140	YES	\$50.00
	3/28/2014		140	YES	\$50.00
	3/29/2014		140	YES	\$50.00
	3/30/2014		140	YES	\$50.00
	3/31/2014	138.88		COMPLETE	
	4/1/2014			COMPLETE	
	4/2/2014			COMPLETE	
	4/3/2014			COMPLETE	
	4/4/2014			COMPLETE	
	4/5/2014			COMPLETE	
	4/6/2014			COMPLETE	
	4/7/2014			COMPLETE	
	4/8/2014			COMPLETE	
	4/9/2014			COMPLETE	
	4/10/2014			COMPLETE	
	4/11/2014			COMPLETE	
	4/12/2014			COMPLETE	
	4/13/2014			COMPLETE	
	4/14/2014			COMPLETE	
	4/15/2014			COMPLETE	
	4/16/2014			COMPLETE	
	4/17/2014			COMPLETE	
	4/18/2014			COMPLETE	
	4/19/2014			COMPLETE	
	4/20/2014			COMPLETE	
	4/21/2014			COMPLETE	
	4/22/2014			COMPLETE	
	4/23/2014			COMPLETE	
	4/24/2014			COMPLETE	
	4/25/2014			COMPLETE	
	4/26/2014			COMPLETE	
	4/27/2014			COMPLETE	
	4/28/2014			COMPLETE	
	4/29/2014			COMPLETE	
	4/30/2014			COMPLETE	