

CITY OF STRONGSVILLE, OHIO

ORDINANCE NO. 2014 – 203

By: Mayor Perciak and All Members of Council

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE STRONGSVILLE CITY SCHOOL DISTRICT FOR THE CITY TO PROVIDE ROAD SALT DURING THE 2014-2015 WINTER SEASON, AND DECLARING AN EMERGENCY.

WHEREAS, the Strongsville City School District ("District") is a political subdivision of the State of Ohio; and

WHEREAS, various provisions in the law, including Ohio Revised Code Sections 9.48, 9.482 and 735.053, provide that a political subdivision may authorize the appropriate official to enter into a contract, without advertising and bidding, for the purchase of material, equipment, or supplies from another political subdivision of the State; and

WHEREAS, the City is purchasing and has available or will have available an additional supply of road salt; and

WHEREAS, the District is desirous of purchasing approximately 300 tons of road salt from the City of Strongsville at the rate of some \$61.50 per ton for use during the 2014-2015 winter season; and

WHEREAS, the City is desirous of entering into an intergovernmental agreement with the District to provide said agency with road salt which the City has available to it.

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

Section 1. That the Mayor be and is hereby authorized and directed to enter into an Intergovernmental Agreement with the Strongsville City School District in order that the City may provide it with road salt which the City has available, at the rate of \$61.50 per ton loaded as needed on a weekly basis, but not to exceed a total of 300 tons during the 2014-2015 winter season ending April 1, 2015; and subject to the availability of supplies and requirements for City streets. Said Agreement shall be in the form attached hereto as Exhibit A and incorporated herein, but subject to final adjustment by the Law Director.

Section 2. That the funds for the aforesaid purpose shall be paid into the City's Street Construction, Maintenance and Repair Fund.

Section 3. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance 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 action were in meetings open to the public in compliance with all legal requirements.

Section 4. That this Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, property, health, safety and welfare of the City, and for the further reason that the aforesaid Agreement is necessary in order to provide the City's Schools with additional rock salt that the City has available, provide for the continuity of services to residents of the City, and conserve public funds. Therefore, provided this Ordinance 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. Serier
Mayor

Date Passed: October 20, 2014

Date Approved: October 21, 2014

	<u>Yea</u>	<u>Nay</u>
Carbone	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Daymut	<input checked="" type="checkbox"/>	<input type="checkbox"/>
DeMio	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Dooner	<u>Absent</u>	<input type="checkbox"/>
Maloney	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Schonhut	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Southworth	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Attest: Akma Printhka
Clerk of Council

ORD. No. 2014-203 Amended: _____
1st Rdg. 10-20-14 Ref: _____
2nd Rdg. Suspended Ref: _____
3rd Rdg. Suspended Ref: _____

Pub Hrg. _____ Ref: _____
Adopted: 10-20-14 Defeated: _____

INTERGOVERNMENTAL AGREEMENT

THIS AGREEMENT made this ____ day of _____, 2014, by and between the **CITY OF STRONGSVILLE, OHIO**, located at 16099 Foltz Parkway, Strongsville, Ohio 44149, (hereinafter "City") and the **STRONGSVILLE CITY SCHOOL DISTRICT**, located at 13200 Pearl Road, Strongsville, Ohio 44136 (hereinafter "District").

WITNESSETH:

WHEREAS, the School District and the City are political subdivisions of the State of Ohio; and

WHEREAS, various provisions in the law, including Ohio Revised Code Sections 9.48, 9.482 and 735.053, provide that a political subdivision may authorize the appropriate official to enter into a contract, without advertising and bidding, for the purchase of material, equipment, or supplies from another political subdivision of the State; and

WHEREAS, the City is purchasing and has available or will have available an additional supply of road salt; and

WHEREAS, the District is desirous of purchasing approximately 300 tons of road salt from the City at the rate of \$61.50 per ton for use during the 2014-2015 winter season; and

WHEREAS, the City is desirous of entering into an intergovernmental agreement with the District to provide said agency with road salt which the City has available to it, and to this end the City Council on October 20, 2014 adopted Ordinance No. 2014-203, authorizing the Mayor of the City to enter into such an agreement;

NOW, THEREFORE, in consideration of the promises, terms, conditions and considerations herein, City and the District agree as follows:

1. The term of this Agreement shall be effective from the date of execution hereof to April 1, 2015, and is renewable from year to year only if both parties concur and determine a mutually agreeable rate and amount of supply of salt. In any event, either party can cancel this Agreement at any time without cause upon sixty (60) days prior written notice.
2. The City shall provide to the District approximately 300 tons of road salt at a cost to the District of \$61.50 per ton loaded as needed on a weekly basis, not to exceed 300 tons, during the annual term of this Agreement.
3. The District shall provide drivers and trucks to pick up the road salt which it purchases from the City at the City's facility located at 16099 Foltz Parkway, Strongsville, Ohio.
4. The City shall provide manpower and equipment in order to load and fill the District's vehicles with the road salt that the District purchases.

5. Purchases of such road salt by the District from the City and the extent of any purchases shall be subject to the availability of supply and the City's needs. If the City within its sole discretion does not have sufficient salt in order to properly provide for the City's needs, then the City shall not be obligated to sell and/or provide the District road salt.
6. The City shall invoice the District on or before the 15th day of each month for the amounts of road salt purchased by it. All said billings shall be paid by the District to the City within thirty (30) days from the date of such invoice. Any said billings not paid by the District and received by the City within said thirty (30) day period shall accrue interest at the rate of 1.5% per month.
7. In the event that the District fails to make any payment due hereunder or otherwise fails to comply with any term, condition or provision of this Agreement, the City may, at its option, cancel and terminate this Agreement and/or seek money damages against the District and/or pursue any other remedy available at law or in equity.
8. Concurrently with the execution of this Agreement, the District shall provide a certification by its fiscal officer or agent that the funds required to meet its obligations under the terms of this Agreement have been lawfully appropriated, or are lawfully deemed to be appropriated or are in the District's treasury or in the process of collection to the credit of an appropriate fund, free from any previous encumbrances.
9. Subject to the limitations provided by law, the District agrees to defend and hold harmless the City and its agents, officers, employees and representatives from and against any and all injuries (including death), demands, claims, causes of action, judgments, liens, fines, penalties, liabilities, losses, costs and expenses, including, but not limited to, the amounts paid for settlement of claims, attorney fees, paralegal fees, consultant fees, expert fees and court costs (collectively "claims") caused by the District or the City, or their respective agents, officers, employees and representatives or arising out of the supplying or non-supplying of road salt to the District, unless such claim arises out of or is caused by the gross negligence or willful misconduct of the City or its officers, employees, agents or representatives as finally determined by a court of competent jurisdiction. District will provide City with an annual Certificate of Insurance in proper form and to the reasonable satisfaction of the City.
10. All notices or other communications required or permitted under this Agreement shall be in writing and either delivered personally or mailed, by certified U.S. mail, return receipt requested, or sent by a nationally recognized overnight courier, delivery and postage charges prepaid, to the addresses listed below or to such other address as either party may designate in writing:

If to City:

City of Strongsville
16099 Foltz Parkway
Strongsville, OH 44149
Attention: Director of Public Service
(with a copy to the Law Director at the above address)

If to the District:

Strongsville City School District
13200 Pearl Road
Strongsville, OH 44136
Attention: Mark Donnelly, CPA, Director of Business Services

11. This Agreement shall be subject to and governed by the laws of the State of Ohio.
12. This Agreement constitutes the entire agreement of the parties with regard to the subject matter, and is intended as a complete and exclusive statement of the promises, representation, negotiations, discussions and agreements of the parties. No modification or amendment of this Agreement shall be binding upon the parties unless the same is in writing and signed by the respective parties hereto.
13. The waiver of any party hereto of a breach or violation of any provision of this Agreement shall not operate as or be construed to be a waiver of any subsequent breach of the same or any other provision. No waiver shall be binding unless it is in writing, and no course of dealing, delay or omission in the exercise of any rights shall operate as a waiver.
14. No party hereto shall be deemed in violation of this Agreement if it is prevented from performing any of its obligations hereunder for any reason beyond its reasonable control, including, but not limited to, strikes, inmate disturbances, acts of God, civil or military authority, earthquakes, floods, or any similar cause beyond the reasonable control of either party.
15. In the event any provision of this Agreement is held to be unenforceable for any reason, the unenforceability thereof shall not affect the remainder of the Agreement, which shall remain in full force and effect and enforceable in accordance with its terms.
16. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and permitted assigns.
17. The undersigned representatives of each of the parties hereby represent and warrant that he/she is the duly authorized officer or agent of such party, that each party has approved this Agreement by appropriate legal and/or legislative action, and that this Agreement constitutes a valid and binding contract and agreement properly undertaken and binding upon each of the parties.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

Signed in the presence of:

Nancy M. Sikorski
Timue Pientha

“CITY”
CITY OF STRONGSVILLE

By: Thomas P. Perciak
Thomas P. Perciak, Mayor

“DISTRICT”
STRONGSVILLE CITY
SCHOOL DISTRICT

By: _____

Its: _____

CERTIFICATE OF LAW DIRECTOR OF THE CITY OF STRONGSVILLE

I have hereby reviewed and approved the form of the foregoing Agreement this 21st day of October, 2014.

Kenneth A. Kraus
Law Director

**CERTIFICATION OF FUNDS BY THE
STRONGSVILLE CITY SCHOOL DISTRICT**

I, _____, Treasurer of the Strongsville City School District hereby certify that the money to meet the foregoing Agreement has been lawfully appropriated for the purpose of said Agreement and is in the treasury of the School District, or is in the process of collection to the credit of the appropriate fund free from prior encumbrance.

Date

Treasurer