

ORDINANCE NO. 03-09

By: Robyn Jones

An Ordinance authorizing the Service Director to enter into a contract with the Ohio Department of Transportation.

WHEREAS, the City of Bexley agrees to comply with all the terms and conditions of an agreement with the Director of Transportation for the purpose of purchasing of road salt, said agreement attached hereto as Exhibit A; and

WHEREAS, the agreed sum that the City of Bexley commits to compensate the Department is estimated to be: **600 tons of salt @ \$75.00 = \$45,000.00**, and,

WHEREAS, the Director of Transportation has approved said legislation proposing cooperation and has executed an agreement (ODOT Contract #15522), attached hereto as Exhibit A, committing to make 600 tons of salt available to the City of Bexley.

BE IT ORDAINED BY COUNCIL OF THE CITY OF BEXLEY, OHIO:

Section One

That the estimated sum of \$45,000.00 is hereby appropriated for purchase of road salt as described and the Services Director is hereby authorized and directed to enter into a contract with ODOT.

Section Two

The City of Bexley shall transmit to the Director of Transportation a fully executed copy of this Ordinance

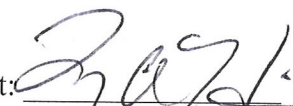
Section Three

That in order to assure uninterrupted city services, this Ordinance is an emergency measure and shall go into effect upon its passage.

Passed: 1-13, 2009




President of Council

Attest: 

Clerk of Council

Approved: 1/13, 2009


John M. Brennan, Mayor

First Reading 1-13-09

ODOT AGREEMENT NO. 15522

EXHIBIT "A"

**AGREEMENT BETWEEN THE
OHIO DEPARTMENT OF TRANSPORTATION
AND
City of Bexley**

This AGREEMENT is made between the Ohio Department of Transportation, hereinafter referred to as ODOT, having an address of 1980 West Broad Street, Columbus, Ohio 43223 and the City of Bexley, hereinafter referred to as POLITICAL SUBDIVISION, having an address of 2242 East Main Street, Bexley, OH 43209.

1. RECITALS

- 1.1 Pursuant to Sections 5501.03 and 5501.11 of the Ohio Revised Code, ODOT may coordinate with political subdivisions to maintain public roads and bridges. Section 5501.03(A)(3) of the Ohio Revised Code provides that the ODOT may coordinate with other appropriate public authorities and enter into contracts with such authorities as necessary to carry out its duties, powers and functions.
- 1.2 Pursuant to Sections 5513.01 and 5513.04 of the Ohio Revised Code, ODOT may participate in contracts with Political Subdivisions and sell materials to them.
- 1.3 Sections 5501.41 and 5535.16 indicate that removal of snow and ice from state highways are primary functions of ODOT and political subdivisions, and both may purchase material and equipment pursuant to these Sections.
- 1.4 Due to the lack of availability of road salt in the State of Ohio, creating a near-emergency condition for political subdivisions who need to use road salt as a method of treating snow and ice conditions on roadways under their jurisdiction, including state highways, ODOT has deemed that it is in the best interest of the traveling public to provide certain political subdivisions with a limited amount of road salt that ODOT has purchased.

2.0 PURPOSE

- 2.1 The purpose of this AGREEMENT is to establish procedures for the sale and transfer of road salt from ODOT to the POLITICAL SUBDIVISION. This AGREEMENT also provides a process for the financial payment for the salt by the POLITICAL SUBDIVISION to ODOT.
- 2.2 POLITICAL SUBDIVISIONS who participate in this AGREEMENT represent that they received no bids on road salt, that they maintain no current contacts for road salt with any vendor, and that they are not a current Co-Op in ODOT Contracts 018-09, 318-09, or 319-09.
- 2.3 This AGREEMENT does not impact, has no effect upon and does not modify the conditions of ODOT Contracts 018-09, 318-09, or 319-09.

3.0 RESPONSIBILITIES OF THE PARTIES

- 3.1 For the AGREEMENT duration, ODOT agrees to sell road salt to the POLITICAL SUBDIVISION and the POLITICAL SUBDIVISION agrees to pay ODOT for said salt. The AGREEMENT duration shall be defined as beginning December 1, 2008 and ending February 1, 2009.

- 3.2 The road salt supplied shall be Regular Road Salt – Type 1, Grade 1, ASTM-D632 – Modifier per ODOT.
- 3.3 The POLITICAL SUBDIVISION agrees to pick up road salt from a designated ODOT location. ODOT will designate the specific location from which the POLITICAL SUBDIVISION shall pick up salt at the time it is requested if not sooner. The chosen location shall be solely at ODOT's discretion and based on salt availability. If the POLITICAL SUBDIVISION is located in a county in which salt is available, the POLITICAL SUBDIVISION agrees that it will purchase such salt from said county.

PICK UP LOCATION IS: ODOT Franklin County Grove City Garage, 6000 Haughn Road, Grove City, OH 43123.

- 3.4 The amount of salt that the POLITICAL SUBDIVISION may pick up for this snow season shall not exceed 600 tons of salt. The POLITICAL SUBDIVISION agrees to pay ODOT \$75.00 per ton.
- 3.5 The POLITICAL SUBDIVISION agrees that the rights granted under this AGREEMENT shall be used solely by the POLITICAL SUBDIVISION, and that such rights are non-transferrable or assignable without the express written consent of the Director of Transportation.
- 3.6 The POLITICAL SUBDIVISION shall provide its own vehicles to transport the salt to its facilities. ODOT shall provide the loading equipment to load the salt into the POLITICAL SUBDIVISION's vehicle but it shall not provide any transportation for the removal of salt from ODOT's premises.
- 3.7 The POLITICAL SUBDIVISION shall notify the designated ODOT facility of its intent to pick-up salt at least 24 hours in advance to coordinate the pick-up. As this AGREEMENT shall exist for a limited duration and as salt is being provided on a first-come-first-served basis, the POLITICAL SUBDIVISION should pick up its full allotment of salt in as short a time as possible, and should haul multiple loads daily.
- 3.8 The salt shall be supplied by "bucket-full" which shall be a unit of measurement specific to the county garage or ODOT facility where the salt is located. The POLITICAL SUBDIVISION agrees to make payments based on the value of a "bucket-full" of salt or an equivalent price-per-ton of said "bucket(s)-full" of salt. These units of measurement shall be established by ODOT.
- 3.9 The POLITICAL SUBDIVISION's representative shall complete an **Outside Agency Salt Use Sheet** each time salt is picked up from ODOT. This form will be available at the ODOT garage or located inside the loading equipment used for salt loading. The completed form shall be left in the loading equipment for collection by ODOT staff. These forms shall be collected on a daily basis and shall be used to create an invoice for the purposes of payment.
- 3.10 At the end of each month of this AGREEMENT, ODOT shall submit an invoice for the actual cost of the salt used by the POLITICAL SUBDIVISION. The POLITICAL SUBDIVISION shall remit payment to ODOT within thirty (30) days of receipt of the invoice.

4.0 TERM; TERMINATION

- 4.1 The term of this AGREEMENT shall be effective from December 1, 2008 through February 1, 2009.
- 4.2 Either party may terminate this AGREEMENT upon thirty (30) days written notice to the other party.
- 4.3 ODOT may terminate this AGREEMENT during snow season if the POLITICAL SUBDIVISION has reached its maximum amount list in Paragraph 3.4 for road salt for the season or if ODOT's operational needs require no more salt be taken from its facilities during the snow season.

- 4.4 In the event that ODOT's operational needs require termination, ODOT shall provide the POLITICAL SUBDIVISION with written notice of termination within 10 days of that determination.

5.0 **MISCELLANEOUS**

- 5.1 This AGREEMENT shall be construed and interpreted and the rights of the parties determined in accordance with the laws of the State of Ohio. Any provision of this AGREEMENT that is prohibited by the laws of the State of Ohio shall be deemed void and of no effect, leaving the remaining provisions intact. To the extent that ODOT is a party to any litigation arising out of, or relating in any way to, this AGREEMENT or the performance thereunder, such an action shall be brought only in a court of competent jurisdiction in Franklin County, Ohio.

- 5.2 Notices shall be sent, or otherwise delivered, to the following persons:

For ODOT:

Agreement

**Dave Ray, Administrator
Maintenance Administration
1980 West Broad Street
Columbus, OH 43223
Phone: 614/644-7105 Fax: 614/728-5590**

Pick Up & Invoice

**Chuck Rumery
ODOT District 7
6000 Haughn Road
Grove City, OH 43123
Phone: 614/875-3336 Fax: 614/387-0702**

For POLITICAL SUBDIVISION:

EMS Agency Code

(For Internal Use Only)

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Bill Harvey

City of Bexley

2242 East Main Street

Bexley, OH 43209

Phone: 614/559-4220 Fax: 614/559-4201

- 5.3 All financial obligations of the State of Ohio, as provided in this AGREEMENT, are subject to the provisions of Section 126.07 of the Ohio Revised Code. The financial obligations of the State of Ohio shall not be valid and enforceable unless funds are appropriated by the Ohio General Assembly and encumbered by the encumbering agency.
- 5.4 This AGREEMENT constitutes the entire agreement between the parties. All prior discussions and understandings between the parties are hereby superseded by this AGREEMENT.
- 5.5 Any change to the provisions of this AGREEMENT must be made by written amendment executed by all parties.
- 5.6 Neither this AGREEMENT 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. Any changes or modifications to this AGREEMENT shall be made in a written amendment executed by the POLITICAL SUBDIVISION and ODOT.
- 5.7 The POLITICAL SUBDIVISION agrees to comply with all applicable state and federal laws regarding drug-free workplace. The POLITICAL SUBDIVISION shall make a good faith effort to ensure that all employees, while working on state property, will not purchase, transfer, use or possess illegal drugs or alcohol or abuse prescription drugs in any way.

- 5.8 Each party herein waives, but only as against the other, any and all damages or the right to claim damage to any of its property growing out of or in any way connected with the work contemplated herein. Neither party to this AGREEMENT shall be liable to the other for any delay or failure of performance under this AGREEMENT.
- 5.9 The POLITICAL SUBDIVISION acknowledges that there are safety procedures in force on ODOT properties, and that its employees and agents agree to abide by these procedures as well as all directives received from ODOT authorized representatives while on ODOT property.
- 5.10 The POLITICAL SUBDIVISION further assumes all risk for its employees, agents, and equipment while on ODOT property, and the POLITICAL SUBDIVISION hereby expressly assumes full responsibility for any and all claims demands, action, damages or other liability resulting from or arising out of personal injuries or other damages sustained by the POLITICAL SUBDIVISION or its employees, agents and equipment which may occur while on ODOT property whether or not resulting from the negligence of ODOT.
- 5.11 In no event and for no purpose shall any employee or agent of the POLITICAL SUBDIVISION considered an employee of ODOT during this AGREEMENT.
- 5.12 The POLITICAL SUBDIVISION agrees to provide insurance coverage for its employees, agents and equipment that is reasonable and customary in the industry.
- 5.13 In accordance with Executive Order 2007-01S, the POLITICAL SUBDIVISION certifies: (1) it has reviewed and understands Executive Order 2007-01S; (2) has reviewed and understands the Ohio ethics and conflict of interest laws; and (3) will take no action inconsistent with those laws and this order. The POLITICAL SUBDIVISION understands that failure to comply with Executive Order 2007-01S is, in itself, grounds for termination of this AGREEMENT and may result in the loss of other contracts with the State of Ohio.
- 5.14 Any person executing this AGREEMENT in a representative capacity hereby represents that he/she has been duly authorized by his/her director to execute this AGREEMENT on such director's behalf.

IN WITNESS WHEREOF, the parties hereunto have caused the agreement to be duly executed in duplicate as of the last day and year written below.

POLITICAL SUBDIVISION**STATE OF OHIO**By: William Hawen**DEPARTMENT OF TRANSPORTATION**Title: SERVICE DIRECTOR

By: _____

Date: DEC. 18, 2008

James G. Beasley, P.E., P.S., Director

Date: _____