

**RESOLUTION NO. 18 , 2012**

**A RESOLUTION RESOLVING A CONTRACT CLAIM WITH MORTON INTERNATIONAL, INC. AND AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH MORTON INTERNATIONAL, INC. FOR THE PURCHASE OF DE-ICING ROCK SALT FOR THE 2013 SEASON**

**WHEREAS**, R.C. § 9.48 provides the opportunity for counties, townships and municipal corporations to participate in joint purchasing programs with other municipal corporations for the purchase of machinery, materials and supplies without advertisement and without bids; and

**WHEREAS**, for the winter season 2011-2012, the City under authority granted by the City Council did enter into a contract with Morton International, Inc. to purchase rock salt through a joint purchasing bid with the City of Cincinnati at a cost of \$61.56 per ton; and

**WHEREAS**, with the unusual 2011-2012 winter season, the City did not need to purchase the minimum contractual requirements for rock salt; and

**WHEREAS**, because the City was obligated to minimum requirements, Morton International, Inc. has asserted a claim against the City and all other municipalities through the Cincinnati joint purchasing bid to be compensated for the minimum purchase requirements for the 2011-2012 winter season; and

**WHEREAS**, a settlement has been reached between Morton International, Inc. and the City of Cincinnati, which settlement forms a framework for all communities to globally resolve their claims with Morton International, Inc., which settlement proposes that the City of Montgomery will complete its minimum purchase requirements equal to 900 tons for the winter season 2011-2012 by paying the contractual minimum

by June 30, 2012 provided, however, Morton International, Inc. shall store such salt for delivery through February 28, 2013 at no additional cost; and

**WHEREAS**, as a part of the settlement Morton has proposed a contract rate of \$64.02 for the 2013 winter season, which 4% increase the City believes is just and appropriate, and which total cost may not exceed the authority of the City Manager to contract without competitive bidding; and

**WHEREAS**, Council does desire to extend authority to the City Manager to resolve the contract claim with Morton International, Inc., and pursuant to R.C. § 9.48 to contract with Morton International, Inc. for the purchase of rock salt for the 2013 winter season as a part of the settlement and joint purchasing bid with the City of Cincinnati.

**NOW THEREFORE, BE IT RESOLVED** by the Council of the City of Montgomery, Hamilton County, Ohio, that:

**SECTION 1.** The City Manager is hereby authorized to resolve any and all claims with Morton International, Inc. for its de-icing rock salt contract for the winter season 2011-2012 by completing the purchase of 900 tons of rock salt with payment by June 30, 2012 with the stipulation that Morton International, Inc. will hold such rock salt for delivery, as needed, and as requested, by the City before February 28, 2013. Further, the City Manager is authorized as a second component to this settlement to contract with Morton International, Inc. under the authority of R.C. § 9.48 through the joint purchasing bid of the City of Cincinnati, and the authority granted by the Charter of the City of Montgomery, Ohio without competitive bidding to purchase de-icing rock salt

at the cost of \$64.02 per ton as the Public Works Director may project for winter season 2013 delivery.

**SECTION 2.** The maximum amount which may be expended for such 2013 winter season purchase shall be \$35,000.00. The amount to be funded under the previously approved 2011-2012 contract for the purchase of the remaining tonnage requirements shall not exceed \$55,404.00.

**SECTION 3.** The authority granted to the City Manager through this Ordinance shall at this time apply only to the purchase of de-icing rock salt through the City of Cincinnati Cooperative Purchasing Program.

**SECTION 4.** This Resolution shall be in full force and effect from and after its passage.

PASSED: June 6, 2012

ATTEST: Susan J. Hamrn  
Susan J. Hamrn, Clerk of Council

Ken Suer  
Ken Suer, Mayor

APPROVED AS TO FORM:  
Terrence M. Donnellon  
Terrence M. Donnellon, Law Director