

AN ORDINANCE

AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH THE VILLAGE OF BENTLEYVILLE FOR THE JOINT PURCHASE AND OPERATION OF AN ASPHALT ROLLER AND AUTHORIZING THE MAYOR TO PURCHASE AN ASPHALT ROLLER FROM STATE CONTRACT, AND DECLARING AN EMERGENCY.

WHEREAS, Village operations require the use of an asphalt roller; and

WHEREAS, an asphalt roller is used only for a few months out of each year; and

WHEREAS, the Village of Chagrin Falls and the Village of Bentleyville have agreed to jointly purchase an asphalt roller to be used by both communities according to a mutually agreed upon schedule; and

WHEREAS, the Village of Chagrin Falls and the Village of Bentleyville have agreed to enter into a Joint Purchase Agreement that identifies the obligations and responsibilities of each party; and

WHEREAS, the State of Ohio, after receiving competitive bids, prepares a list of supplies and/or equipment available for purchase by political subdivisions; and

WHEREAS, the state contract process enables political subdivisions to take advantage of lower costs than municipalities would otherwise experience; and

WHEREAS, the asphalt roller that is the subject of the Joint Purchase Agreement will be purchased pursuant to the state-bid contract; and

WHEREAS, this Council desires to authorize the Mayor to enter into the Joint Purchase Agreement and desires to authorize the Mayor to purchase an asphalt roller pursuant to the state-bid contract.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF CHAGRIN FALLS, CUYAHOGA COUNTY, STATE OF OHIO:

SECTION 1. That, the Mayor be and is hereby authorized and directed to enter into a Joint Purchase Agreement with the Village of Bentleyville for the joint purchase and operation of an asphalt roller. A draft of the Joint Purchase Agreement is appended hereto and incorporated herein by reference, provided that such agreement shall be amended as determined necessary by the Director of Law to protect the interests of the Village of Chagrin Falls. The Mayor may execute such further documentation and perform such additional actions as may be necessary to accomplish the purposes of the Joint Purchase Agreement.

SECTION 2. That, the Mayor be and is hereby authorized and directed to purchase an asphalt roller through the State of Ohio cooperative purchasing program.

SECTION 3. That actions of this Council concerning and relating to the passage of this

ORDINANCE NO.: 2011- 28
INTRODUCED BY: MR. PATTON

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legislation were adopted in lawful meetings of this Council and that all deliberations of this Council and of any of its committees that resulted in such formal action were in compliance with all legal requirements, including Chapter 114 of the Codified Ordinances of the Village of Chagrin Falls.

SECTION 4. That in accordance with Section 113.01 of the Codified Ordinances of the Village of Chagrin Falls, public notice of this Ordinance shall be given by posting a copy thereof for not less than fifteen (15) days in the Village Hall.

SECTION 5. That this Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health and safety of this Village and for the further reason that this Ordinance must be immediately effective so that the Village may enter into the Joint Purchase Agreement with the Village of Bentleyville for the purchase and operation of an asphalt roller prior to the spring and summer road construction season and thereby enable the Village to timely perform road maintenance as may be necessary to protect the public health, safety and welfare; wherefore, provided it receives the requisite number of affirmative votes of all members elected to Council, this Ordinance shall be in full force and effect from and immediately upon its passage by this Council and approval by the Mayor; otherwise, it shall take effect and be in force after the earliest period allowed by law.

PASSED: May 9, 2011



Council President

Submitted to the Mayor for
his approval on this
10 day of May, 2011

Approved by the Mayor
May 10, 2011



Mayor

I hereby certify that Ordinance No. 2011- 28 was duly enacted on the 9 day of
May, 2011, by the Council of the Village of Chagrin Falls and posted in accordance
with Section 113.01 of the Codified Ordinances of the Village of Chagrin Falls.



Clerk of Council

**JOINT PURCHASE AGREEMENT
VILLAGE OF CHAGRIN FALLS AND VILLAGE OF BENTLEYVILLE
for Joint Purchase/Operation of Asphalt Roller**

PARTIES

This Agreement is entered into pursuant to Ohio Law between the Village of Chagrin Falls (Chagrin) and the Village of Bentleyville (Bentleyville), both Ohio municipal corporations within Cuyahoga County, Ohio. Chagrin and Bentleyville may be referred to herein individually and collectively as "Village," "Villages," and/or "parties."

PURPOSE

The purpose of this agreement is to define the process by which an asphalt roller will be jointly acquired, operated, and financed by the municipalities to facilitate cost savings and efficiencies not available to each Village acting individually.

AGREEMENT

Now, therefore, in consideration of the mutual undertakings herein expressed, Chagrin and Bentleyville agree as follows:

1. Purchase Process

Chagrin will oversee the purchase of the asphalt roller and a trailer in consultation with Bentleyville. The following provisions shall guide the purchase:

- a. A 2011OMAG Model BW900-50 Tandem-drum Vibratory Roller with standard equipment. In accordance with the State of Ohio's Cooperative Purchasing program, the purchase price of the roller shall be \$14,650.
- b. The trailer shall be a CRONKHITE Model 510 tilt-bed trailer with electric brakes, and the purchase price, in accordance with the State of Ohio's Cooperative Purchasing program, shall be \$2,900.
- c. The Village Councils of both Bentleyville and Chagrin are approving the purchase of the asphalt roller by their approval of this agreement.
- d. The asphalt roller shall be purchased as soon as practical with the goal of having it available for operation by no later than June 1, 2011. Chagrin shall purchase and take title to the roller.

2. Operations and Maintenance

- a. The sweeper will be housed primarily in Chagrin. When in use at Bentleyville, Bentleyville shall provide suitable, indoor protection for the roller.
- b. Each Village will be responsible for the cleaning and daily maintenance while in its use and any costs and liabilities associated with same. The fuel tank shall be filled upon completion of work by each Village and prior to delivery to the other Village.

c. The Service Director for each Village shall jointly establish a daily schedule for the operator(s) of the roller to follow to ensure the roller is properly maintained.

d. Chagrin will be responsible for all maintenance of the roller beyond that needed for daily operation. Chagrin will follow the maintenance guidelines established for the roller by the manufacturer and provide documentation of same. Chagrin shall bill Bentleyville for one-half of the cost of the maintenance. Should Bentleyville be aware of any maintenance or repairs needed on the roller beyond daily maintenance, they shall promptly inform Chagrin of same. In no event shall either Village operate the roller if maintenance or repairs are needed that could result in damage to the roller or injury to the operator or bystanders.

e. Each Village shall designate at least one person to be trained on the operation and maintenance of the roller from the vendor/manufacturer. Any new operator shall be properly trained by their respective Village. In no event shall an employee operate the roller who has not been properly trained. Each Village shall document the training received by each employee.

f. The Service Directors of each Village shall jointly establish a schedule of use for the coming year by April 15th. Each Village shall have priority of usage for one half of each month. Chagrin shall have first right to the roller in May and Bentleyville will have the first right to the roller in June. In odd numbered years, Chagrin will have usage of the roller the first half of July. In even numbered years, Bentleyville will have usage of the roller for the first half of July.

g. Nothing in this agreement shall be construed as or interpreted as preventing the respective Service Directors from modifying these arrangements when they deem it mutually beneficial. Furthermore, each Village will cooperate with the other to accommodate special or emergency needs that could not reasonably have been anticipated.

h. Chagrin shall insure the asphalt roller through its normal insurer. Should the roller be damaged as a result of negligence on the part of the operator, then the Village whose operator caused the negligent act shall be responsible for the costs to repair said damage. Should a negligent act of Bentleyville result in an insurance claim, then Bentleyville shall be responsible for reimbursing Chagrin for any additional costs incurred as a result of the insurance claim based on calculations provided by the carrier documenting the additional cost.

3. Financial Relationship and Responsibilities

a. Chagrin shall issue the full payment for the asphalt roller based on the terms of purchase. Bentleyville shall remit its share of the purchase price within thirty (30) days of Chagrin's remittance to the vendor. Chagrin shall provide copies of all invoices or other records deemed necessary by Bentleyville relative to the purchase.

b. The cost of acquisition shall be divided equally.

c. Annual Final Costs. Chagrin will be responsible for primary maintenance and will establish track costs associated with the operation of the roller. Costs to be included in the operation account will

be oil, repair costs, replacement parts, supplies, and labor related to the maintenance/repair of the roller, staff time expended for maintenance activities not associated with daily operations charged at hourly rates with benefits, insurance, contracted maintenance, cleaning, etc. To the extent that Bentleyville incurs these costs in association with its usage of the roller, they shall provide copies of invoices documenting said expenses; the total of which shall also be accounted for in the final allocation of costs. The final allocation of costs shall be based upon a proration of hours of use by each Village, including travel time, as documented by the roller's hour meter. These costs will be prorated between the Villages based on hours of use including travel time. In consideration of Chagrin's advancing of the majority of costs for operation and maintenance, Bentleyville shall be responsible for travel from and to Bentleyville when they utilize the roller. Both Villages pledge to cooperate in good faith to resolve any logistical issues associated with this provision and will endeavor to manage expenses in a cost effective manner. Chagrin shall calculate final annual costs each calendar year and shall provide Bentleyville with a statement of final costs on or before February 1st of each year for the prior calendar year. Bentleyville agrees to pay the final costs on or before March 1st of each year. In the event that Bentleyville fails to do so, Chagrin reserves the right to deny Bentleyville access to the roller until such time as payment is made to Chagrin.

EMPLOYEE RESPONSIBILITY.

No person engaged in the work to be performed by Chagrin shall be considered an employee of Bentleyville for any purpose, including Worker's Compensation, nor shall any claim arise out of such usage be deemed to arise out of an employment relationship. Any claims made by any third party as a consequence of any act or omission on the part of said Chagrin employees while so engaged on any of the work contemplated herein shall not be the obligation or responsibility of Bentleyville.

No person engaged in the work to be performed by Bentleyville shall be considered an employee of Chagrin for any purpose, including Worker's Compensation, nor shall any claim arise out of such usage be deemed to arise out of an employment relationship. Any claims made by any third party as a consequence of any act or omission on the part of said Bentleyville employees while so engaged on any of the work contemplated herein shall not be the obligation or responsibility of Chagrin.

DISPUTE RESOLUTION

Any dispute that can not be resolved by the Service Directors under this Agreement shall first be discussed between the Mayor and Village Administrator of each respective Village within ten (10) days of written notice from one Village to the other. This Agreement shall be deemed made and entered into in the State of Ohio and shall be governed by and construed in accordance with the laws of Ohio. Any controversy or claim, whether based upon Agreement, statute, tort, fraud, misrepresentation or other legal theory, related directly or indirectly to this Agreement, whether between the parties, or of either of the parties' employees, agents or affiliated businesses, will be resolved in the appropriate court in Cuyahoga County, Ohio.

DURATION OF AGREEMENT

This Agreement shall continue for a ten year initial term and shall renew annually thereafter for the usable life of the roller. Either party may terminate this agreement after the initial term with 12 months written notice to the other. The Village cancelling this agreement shall be paid its share of the depreciated value of roller as determined by a qualified appraiser, mutually agreed to by each

Village, at the effective date of cancellation. Each Village agrees that, at the end of the useful life of the roller, the roller may be traded in and a new roller purchased in accordance with the terms and conditions of this Agreement and any amendments thereto. In the alternative, each Village agrees that the roller may be auctioned or sold in a similar open manner agreed to by each Village and the proceeds from such action or sale will be split equally between Chagrin and Bentleyville.

SUCCESSORS BOUND

This Agreement shall be binding upon and inure to the benefit of any successor governmental subdivision of the parties.

COMPLETENESS OF THE AGREEMENT

This document contains all the terms and conditions of this Agreement, and any alterations or variations of the terms of this Agreement shall be invalid unless made in writing and signed by the parties. There are no other understandings, representations or agreements, written or oral, not incorporated herein. If any part of this Agreement is declared null and void by law, the remaining paragraphs of said Agreement shall be valid.

NOTICES

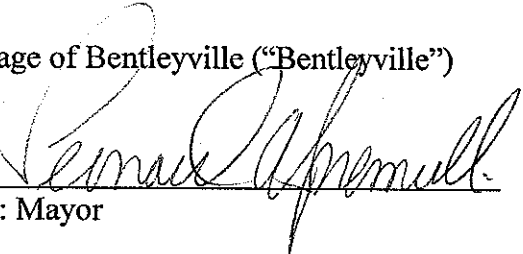
Whenever it shall be required or permitted by this Agreement that notice or demand be given or served by either party to or on the other party, such notice or demand shall be delivered personally or mailed by United States mail to the addresses hereinafter set forth by certified mail. Such notice or demand shall be deemed timely given when delivered personally or when deposited in the mail in accordance with the above. The addresses of the parties hereto for such mail purposes are as follows, until written notice of such address has been given:

Village Administrator
Village of Chagrin Falls
21 W. Washington Street
Chagrin Falls. OH 44022

Mayor
Village of Bentleyville
6253 Chagrin River Road
Chagrin Falls. OH 44022

IN WITNESS WHEREOF, Bentleyville and Chagrin have caused this Agreement to be executed by authority of their respective Village councils.

Village of Bentleyville ("Bentleyville")

BY: 
IT's: Mayor

Pursuant to Council authorization granted at Council meeting held on the 18 day of May, 2011.

Approved as to form:

Kenneth A. Schuman
Law Director
Village of Bentleyville

VILLAGE OF BENTLEYVILLE FINANCIAL CERTIFICATION

I, Bernice Schreiber FISCAL OFFICER of the Village of Bentleyville, Ohio hereby certify that the funds necessary to pay the obligation of the foregoing contract in this fiscal year have been appropriated and are unencumbered and are either in the treasury or in the process of collection.

May 18, 2011

Name: Bernice Schreiber

Title: FISCAL OFFICER
Village of Bentleyville, Ohio

Village of Chagrin Falls ("Chagrin")

BY: Thomas Brick
Thomas Brick, Mayor

Pursuant to Council authorization granted at Council meeting held on the 9 day of May 2011.

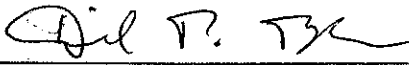
Approved as to form:

Stephen L. Byron
Stephen L. Byron, Law Director
Village of Chagrin Falls

VILLAGE OF CHAGRIN FALLS FINANCIAL CERTIFICATION

I, David Bloom, Finance Director of the Village of Chagrin Falls, Ohio hereby certify that the funds necessary to pay the obligation of the foregoing contract in this fiscal year have been appropriated and are unencumbered and are either in the treasury or in the process of collection.

5/24/11, 2011



David Bloom, Finance Director
Village of Chagrin Falls, Ohio