



DEKALB COUNTY HIGHWAY DEPARTMENT

Office of
County Engineer
1826 Barber Greene Road
DeKalb, Illinois 60115

NATHAN F. SCHWARTZ, P.E.
County Engineer

Office Phone: (815) 756-9513
Fax: (815) 756-8705

April 25, 2024

Mr. Joel Summerhill
Town of Cortland
PO Box 877
Cortland, IL 60112

Dear Mr. Summerhill,

DeKalb County currently participates in the State of Illinois procurement process to secure rock salt for the upcoming winter season, orders have been requested through this department for those that wish to participate and continue to purchase salt through the Highway Department.

Intergovernmental cooperation is in the public's best interest to protect all entities involved, an IGA is recommended and often required. We have enclosed an Intergovernmental Agreement for salt purchasing with DeKalb County/DeKalb County Highway Department which we ask for your Road District, Municipality or other entity to review, complete and return to this department for current and future salt purchasing. Please return by June 1st if possible.

If you are not the current person to authorize this IGA please pass along to the Mayor, President or Clerk.

If you have any questions, please do not hesitate to call this Department and speak with Stacy Richardson.

Very truly yours,

A handwritten signature in black ink, appearing to read "Nathan F. Schwartz", is written over the typed name.

Nathan F. Schwartz, P.E.
County Engineer

SRR/Encl

BRAD HUNOLD
Assistant County Engineer

STACY RICHARDSON
Support Services Manager

JOSH MERCHANT
Operations Manager

INTERGOVERNMENTAL AGREEMENT FOR THE PROVISION OF JOINT SALT PURCHASING FOR THE TOWN OF CORTLAND IN DEKALB COUNTY, ILLINOIS

THIS INTERGOVERNMENTAL AGREEMENT (*"the Agreement"*) is entered into by and between the County of DeKalb, a unit of local government of the State of Illinois (*"DeKalb County"*) and the Town of Cortland (*"Local Agency"*), a unit of local government of the State of Illinois.

WITNESSETH:

WHEREAS, the Constitution of the State of Illinois of 1970, Article VII, Section 10 provides that units of local government may contract or otherwise associate among themselves to obtain or share services and to exercise, combine, or transfer any power or function in any manner not prohibited by law or by ordinance and may use their credit, revenues, and other resources to pay costs related to intergovernmental activities; and

WHEREAS, Local Agency and DeKalb County are units of local government within the meaning of Article VII, Section 1 of the Illinois Constitution of 1970 who are authorized to enter into intergovernmental agreements pursuant to the Intergovernmental Cooperation Act, 5 ILCS 220/1 *et seq.*; and

WHEREAS, the Local Agency is desirous of DeKalb County's assistance to participate with the State of Illinois through the Central Management Services (CMS) solicitation for the rock salt joint purchase master contract; and

WHEREAS, DeKalb County and the Local Agency have determined that in regards to the purchasing and invoicing, DeKalb County shall handle the primary facets of the bidding and contracting process through CMS.

NOW, THEREFORE, in consideration of the premises and the mutual covenants hereafter set forth, the parties agree as follows:

Section 1. The foregoing preambles are hereby incorporated into this Agreement as if fully restated in this Section 1.

Section 2. DeKalb County's responsibilities are as follows:

- a. DeKalb County will place the initial contract order request with CMS for soliciting a contracted low bid price on a timely basis as requested by the Local Agency.
- b. DeKalb County will place delivery orders as requested from the Local Agency throughout the term of each salt season.

- c. DeKalb County will notify the Local Agency of the awarded low price given by the CMS solicitation process and ordering start date for each season.
- d. DeKalb County will oversee through CMS that the salt vendor complies with the rules and regulations directed by the State of Illinois contract.
- e. DeKalb County will pay the Vendor's invoice per the contract agreement on behalf of the Local Agency to then submit an invoice for full reimbursement to each Local Agency.
- f. Upon salt product deliveries, DeKalb County, through the DeKalb County Highway Department, shall provide the Local Agency with an invoice for full reimbursement costs to be paid by the Local Agency in a timely manner.
- g. DeKalb County shall provide no less than one invoice after the end of the winter season to the Local Agency and no more than one invoice per month during the contract period.

Section 3. The Local Agency agrees to the following:

- a. The Local Agency shall appropriate and earmark funds prior to making an initial contract order so as to have funds available upon invoicing by DeKalb County.
- b. The Local agency will receive between 80% and 120% of their initial contract order request amount.
- c. The Local Agency has the right to request the DeKalb County Highway Department invoice no less than one invoice after the end of the winter season and no more than one invoice per month during the contract period.
- d. The Local Agency shall accept the low bidder's price awarded by the CMS solicitation process.
- e. Upon receipt of invoices(s) by the DeKalb County Highway Department, the Local Agency agrees to reimburse DeKalb County for the entire Local Agency costs after receipt of an invoice for same and approval for payment through routine processing by the Local Agency at their next scheduled meeting following receipt.

Section 4. General Terms & Conditions:

- a. The failure of the Local Agency to perform, keep or observe any of the covenants, conditions, promises, agreements or obligations with respect to this Agreement, shall constitute a Default by the Local Agency hereunder. Further, in the event the Local Agency fails to timely make a scheduled payment, which the agency is required to perform under this Agreement,

DeKalb County shall notify the agency in writing and allow the agency thirty (30) days from the date of receipt of the notice to cure the default. If the default is not cured within 30 days of receipt of such notice, DeKalb County will consider the agency to be in Default under this Agreement. Upon the occurrence of a Default, DeKalb County may, by an action or proceeding at law or in equity, pursue and secure any available remedy, including but not limited to the specific performance of the agreement contained herein. The agency further agrees to reimburse DeKalb County for all attorneys' fees and costs incurred by DeKalb County related to DeKalb County's enforcement of this Agreement.

- b. The failure of DeKalb County to perform, keep or observe any of the covenants, conditions, promises, agreements or obligations with respect to this Agreement, shall constitute a Default by DeKalb County hereunder. Upon the occurrence of a Default, the agency may, by an action or proceeding at law or in equity, pursue and secure any available remedy, including but not limited to the specific performance of the agreement contained herein. DeKalb County further agrees to reimburse agency for all attorneys' fees and costs incurred by agency related to agency's enforcement of this Agreement.
- c. The Local Agency agrees to indemnify, defend and hold harmless the DeKalb County, its elected official, its duly appointed official, agents, employees and representatives, and the DeKalb County Highway Department, its duly appointed officials, agents, employees and representatives from and against any and all claims, suits, settlements, actions, losses, expenses, damages, injuries, judgments and demands arising from and relating to the Local Agency's purchase and use of rock salt on roadways and other activities as contemplated in this agreement.
- d. This Agreement and the rights of the parties hereunder may not be assigned (except by operation of law), and the terms and conditions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the parties hereto. Nothing in this Agreement, express or implied, is intended to confer upon any party, other than the parties and their respective successors or assigns, any rights, remedies, obligations or liabilities under or by reason of such agreements.
- e. All notices required or permitted hereunder shall be in writing and may be given by either (a) depositing the same in the United States mail, addressed to the party to be notified, postage prepaid and certified with the return receipt requested, (b) delivering the same in person, or (c) telecopying the same with electronic confirmation of receipt.

If to DeKalb County:

DeKalb County Engineer
1826 Barber Greene Road
DeKalb, Illinois 60115

If in regards to Section 4 of this agreement a copy shall be sent to the State's Attorney's Office at 133 W State St, Sycamore, IL 60178.

If to Local Agency: Town of Cortland
 PO Box 877
 Cortland, IL 60112

Or such address or counsel as any party hereto shall specify in writing pursuant to this Section from time to time.

- f. This Agreement shall be interpreted and enforced under the laws of the State of Illinois. Any legal proceeding related to enforcement of this Agreement shall be brought in the Circuit Court of Illinois, Twenty-Third Judicial Circuit, State of Illinois. In case any provision of this Agreement shall be declared and/or found invalid, illegal or unenforceable by a court of competent jurisdiction, such provision shall, to the extent possible, be modified by the court in such manner as to be valid, legal and enforceable so as to most nearly retain the intent of the parties, and if such modification is not possible, such provision shall be severed from this Agreement, and in either case the validity, legality, and enforceability of the remaining provisions of this Agreement shall not in any way be impaired thereby.
- g. The Local Agency and DeKalb County agree that the waiver of, or failure to enforce, any breach of this Agreement by the remaining party shall not be construed, or otherwise operate, as a waiver of any future breach of this Agreement. Further, the failure to enforce any particular breach shall not bar or prevent the remaining party from enforcing this Agreement with respect to a different breach. No endorsement or statement on any check or correspondence accompanying a check for payment shall be deemed as an accord and satisfaction and DeKalb County may accept such payment without prejudice to its rights to recover the balance of agency costs still owed.
- h. This Agreement may be executed in counterparts (including facsimile signatures), each of which shall be deemed to be an original and both of which shall constitute one and the same Agreement.
- i. This Agreement represents the entire Agreement between the parties and there are no other promises or conditions in any other Agreement whether oral or written. This Agreement supersedes any prior written or oral agreements between the parties and may not be modified except in writing acknowledged by both parties.
- j. Nothing contained in this Agreement, nor any act of DeKalb County or the Local Agency pursuant to this Agreement, shall be deemed or construed by any of the parties hereto or by third persons, to create any relationship of third-party beneficiary, principal, agent, limited or general partnership, joint venture, or any association or relationship involving DeKalb County and the Local Agency.

- k. Neither party will be responsible to the other for damage, loss, injury, or interruption of work if the damage, loss, injury, or interruption of work is caused solely by conditions that are beyond the reasonable control of the parties, and without the intentional misconduct or negligence, of that party (hereinafter referred to as a "force majeure event"). To the extent not within the control of either party, such force majeure events include: acts of God, acts of any governmental authorities, fire, explosions or other casualties, vandalism, and riots or war. A party claiming a force majeure event ("the claiming party") shall promptly notify the other party in writing, describing the nature and estimated duration of the claiming party's inability to perform due to the force majeure event. The cause of such inability to perform will be remedied by the claiming party with all reasonable dispatch.
- l. The Term of Agreement shall commence as of April 1, 2024 and remain in effect until the end of DeKalb County's contract with CMS or the final reimbursement payment is received by DeKalb County from the Local Agency, whichever is later.
- m. DeKalb County and Local Agency each hereby warrant and represent that their respective signatures set forth below have been, and are on the date of this Agreement, duly authorized by all necessary and appropriate corporate and/or governmental action to execute this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers on the date(s) below.

County of DeKalb, a unit of local
Government, of the State of Illinois

Town of Cortland, a unit of local
Government, of the State of Illinois

By: _____
DeKalb County Board Chair

By: _____
Town of Cortland Mayor

Date: _____

Date: _____

ATTEST:

ATTEST:

By: _____
DeKalb County Clerk

By: _____
Town Clerk