



Department of Administration
Purchasing Division
2019 Washington Street East
Post Office Box 50130
Charleston, WV 25305-0130

State of West Virginia Master Agreement

Order Date: 10-17-2022

CORRECT ORDER NUMBER MUST
APPEAR ON ALL PACKAGES, INVOICES,
AND SHIPPING PAPERS. QUESTIONS
CONCERNING THIS ORDER SHOULD BE
DIRECTED TO THE DEPARTMENT
CONTACT.

Order Number:	CMA 0803 0066 DOT6623C006B 1	Procurement Folder:	1122038
Document Name:	SODIUM CHLORIDE - ORG. PF: 1087735	Reason for Modification:	
Document Description:	SODIUM CHLORIDE - ORG. PF: 1087735		
Procurement Type:	Central Master Agreement		
Buyer Name:			
Telephone:			
Email:			
Shipping Method:	Best Way	Effective Start Date:	2022-10-20
Free on Board:	FOB Dest, Freight Prepaid	Effective End Date:	2023-10-19

VENDOR	DEPARTMENT CONTACT																				
Vendor Customer Code: 000000183941 CARGILL INC DEICING TECHNOLOGY BUSINESS UNIT 24950 COUNTRY CLUB BLVD #450 NORTH OLMSTED OH 44070 US Vendor Contact Phone: 800-600-7258 Extension: Discount Details: <table><thead><tr><th></th><th>Discount Allowed</th><th>Discount Percentage</th><th>Discount Days</th></tr></thead><tbody><tr><td>#1</td><td>No</td><td>0.0000</td><td>0</td></tr><tr><td>#2</td><td>No</td><td></td><td></td></tr><tr><td>#3</td><td>No</td><td></td><td></td></tr><tr><td>#4</td><td>No</td><td></td><td></td></tr></tbody></table>		Discount Allowed	Discount Percentage	Discount Days	#1	No	0.0000	0	#2	No			#3	No			#4	No			Requestor Name: Martha A Gibson Requestor Phone: (304) 558-9495 Requestor Email: marty.a.gibson@wv.gov 23 FILE LOCATION _____
	Discount Allowed	Discount Percentage	Discount Days																		
#1	No	0.0000	0																		
#2	No																				
#3	No																				
#4	No																				

INVOICE TO	SHIP TO
VARIOUS AGENCY LOCATIONS AS INDICATED BY ORDER No City WV 99999 US	STATE OF WEST VIRGINIA VARIOUS LOCATIONS AS INDICATED BY ORDER No City WV 99999 US

Purchasing Division's File Copy Total Order Amount: Open End

ENTERED

JE 10/17/22
PURCHASING DIVISION AUTHORIZATION
DATE: *Day Day* 10-18-22
ELECTRONIC SIGNATURE ON FILE

ATTORNEY GENERAL APPROVAL AS TO FORM
DATE: *John S. Green*
ELECTRONIC SIGNATURE ON FILE

ENCUMBRANCE CERTIFICATION
DATE: *Beverly Tolson* 10-26-2022
ELECTRONIC SIGNATURE ON FILE

Extended Description:

THE VENDOR, CARGILL INC. DEICING TECHNOLOGY, AGREES TO ENTER WITH THE AGENCY, WEST VIRGINIA DIVISION OF HIGHWAYS, INTO AN OPEN-END CONTRACT FOR SODIUM CHLORIDE (ROADWAY SALT) PER THE SPECIFICATIONS, TERMS AND CONDITIONS, BID REQUIREMENTS, AND THE VENDOR'S BID DATED 09/14/2022, INCORPORATED HEREIN BY REFERENCE, AND MADE A PART OF HEREOF.

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
1	46161506			EA	0.000000
	Service From	Service To			

Commodity Line Description: SODIUM CHLORIDE - ROADWAY SALT

Extended Description:

SODIUM CHLORIDE - ROADWAY SALT - PER THE ATTACHED PRICING PAGES

GENERAL TERMS AND CONDITIONS:

1. CONTRACTUAL AGREEMENT: Issuance of an Award Document signed by the Purchasing Division Director, or his designee, and approved as to form by the Attorney General's office constitutes acceptance by the State of this Contract made by and between the State of West Virginia and the Vendor. Vendor's signature on its bid, or on the Contract if the Contract is not the result of a bid solicitation, signifies Vendor's agreement to be bound by and accept the terms and conditions contained in this Contract.

2. DEFINITIONS: As used in this Solicitation/Contract, the following terms shall have the meanings attributed to them below. Additional definitions may be found in the specifications included with this Solicitation/Contract.

2.1. "Agency" or "Agencies" means the agency, board, commission, or other entity of the State of West Virginia that is identified on the first page of the Solicitation or any other public entity seeking to procure goods or services under this Contract.

2.2. "Bid" or "Proposal" means the vendors submitted response to this solicitation.

2.3. "Contract" means the binding agreement that is entered into between the State and the Vendor to provide the goods or services requested in the Solicitation.

2.4. "Director" means the Director of the West Virginia Department of Administration, Purchasing Division.

2.5. "Purchasing Division" means the West Virginia Department of Administration, Purchasing Division.

2.6. "Award Document" means the document signed by the Agency and the Purchasing Division, and approved as to form by the Attorney General, that identifies the Vendor as the contract holder.

2.7. "Solicitation" means the official notice of an opportunity to supply the State with goods or services that is published by the Purchasing Division.

2.8. "State" means the State of West Virginia and/or any of its agencies, commissions, boards, etc. as context requires.

2.9. "Vendor" or "Vendors" means any entity submitting a bid in response to the Solicitation, the entity that has been selected as the lowest responsible bidder, or the entity that has been awarded the Contract as context requires.

3. CONTRACT TERM; RENEWAL; EXTENSION: The term of this Contract shall be determined in accordance with the category that has been identified as applicable to this Contract below:

☒ **Term Contract**

Initial Contract Term: The Initial Contract Term will be for a period of one year upon approval. The Initial Contract Term becomes effective on the effective start date listed on the first page of this Contract, identified as the State of West Virginia contract cover page containing the signatures of the Purchasing Division, Attorney General, and Encumbrance clerk (or another page identified as _____), and the Initial Contract Term ends on the effective end date also shown on the first page of this Contract.

Renewal Term: This Contract may be renewed upon the mutual written consent of the Agency, and the Vendor, with approval of the Purchasing Division and the Attorney General's office (Attorney General approval is as to form only). Any request for renewal should be delivered to the Agency and then submitted to the Purchasing Division thirty (30) days prior to the expiration date of the initial contract term or appropriate renewal term. A Contract renewal shall be in accordance with the terms and conditions of the original contract. Unless otherwise specified below, renewal of this Contract is limited to THREE successive one (1) year periods or multiple renewal periods of less than one year, provided that the multiple renewal periods do not exceed the total number of months available in all renewal years combined. Automatic renewal of this Contract is prohibited. Renewals must be approved by the Vendor, Agency, Purchasing Division and Attorney General's office (Attorney General approval is as to form only)

☐ **Alternate Renewal Term** – This contract may be renewed for _____ successive _____ year periods or shorter periods provided that they do not exceed the total number of months contained in all available renewals. Automatic renewal of this Contract is prohibited. Renewals must be approved by the Vendor, Agency, Purchasing Division and Attorney General's office (Attorney General approval is as to form only)

Delivery Order Limitations: In the event that this contract permits delivery orders, a delivery order may only be issued during the time this Contract is in effect. Any delivery order issued within one year of the expiration of this Contract shall be effective for one year from the date the delivery order is issued. No delivery order may be extended beyond one year after this Contract has expired.

☐ **Fixed Period Contract:** This Contract becomes effective upon Vendor's receipt of the notice to proceed and must be completed within _____ days.

☐ **Fixed Period Contract with Renewals:** This Contract becomes effective upon Vendor's receipt of the notice to proceed and part of the Contract more fully described in the attached specifications must be completed within _____ days. Upon completion of the work covered by the preceding sentence, the vendor agrees that:

☐ the contract will continue for _____ years;

☐ the contract may be renewed for _____ successive _____ year periods or shorter periods provided that they do not exceed the total number of months contained in all available renewals. Automatic renewal of this Contract is prohibited. Renewals must be approved by the Vendor, Agency, Purchasing Division and Attorney General's Office (Attorney General approval is as to form only).

☐ **One-Time Purchase:** The term of this Contract shall run from the issuance of the Award Document until all of the goods contracted for have been delivered, but in no event will this Contract extend for more than one fiscal year.

☐ **Construction/Project Oversight:** This Contract becomes effective on the effective start date listed on the first page of this Contract, identified as the State of West Virginia contract cover page containing the signatures of the Purchasing Division, Attorney General, and Encumbrance clerk (or another page identified as _____), and continues until the project for which the vendor is providing oversight is complete.

☐ **Other:** Contract Term specified in _____

4. AUTHORITY TO PROCEED: Vendor is authorized to begin performance of this contract on the date of encumbrance listed on the front page of the Award Document unless either the box for "Fixed Period Contract" or "Fixed Period Contract with Renewals" has been checked in Section 3 above. If either "Fixed Period Contract" or "Fixed Period Contract with Renewals" has been checked, Vendor must not begin work until it receives a separate notice to proceed from the State. The notice to proceed will then be incorporated into the Contract via change order to memorialize the official date that work commenced.

5. QUANTITIES: The quantities required under this Contract shall be determined in accordance with the category that has been identified as applicable to this Contract below.

☒ **Open End Contract:** Quantities listed in this Solicitation/Award Document are approximations only, based on estimates supplied by the Agency. It is understood and agreed that the Contract shall cover the quantities actually ordered for delivery during the term of the Contract, whether more or less than the quantities shown.

☐ **Service:** The scope of the service to be provided will be more clearly defined in the specifications included herewith.

☐ **Combined Service and Goods:** The scope of the service and deliverable goods to be provided will be more clearly defined in the specifications included herewith.

☐ **One-Time Purchase:** This Contract is for the purchase of a set quantity of goods that are identified in the specifications included herewith. Once those items have been delivered, no additional goods may be procured under this Contract without an appropriate change order approved by the Vendor, Agency, Purchasing Division, and Attorney General's office.

6. EMERGENCY PURCHASES: The Purchasing Division Director may authorize the Agency to purchase goods or services in the open market that Vendor would otherwise provide under this Contract if those goods or services are for immediate or expedited delivery in an emergency. Emergencies shall include, but are not limited to, delays in transportation or an unanticipated increase in the volume of work. An emergency purchase in the open market, approved by the Purchasing Division Director, shall not constitute of breach of this Contract and shall not entitle the Vendor to any form of compensation or damages. This provision does not excuse the State from fulfilling its obligations under a One-Time Purchase contract.

7. REQUIRED DOCUMENTS: All of the items checked in this section must be provided to the Purchasing Division by the Vendor as specified:

☐ **BID BOND (Construction Only):** Pursuant to the requirements contained in W. Va. Code § 5-22-1(c), All Vendors submitting a bid on a construction project shall furnish a valid bid bond in the amount of five percent (5%) of the total amount of the bid protecting the State of West Virginia. The bid bond must be submitted with the bid.

☐ **PERFORMANCE BOND:** The apparent successful Vendor shall provide a performance bond in the amount of 100% of the contract. The performance bond must be received by the Purchasing Division prior to Contract award.

☐ **LABOR/MATERIAL PAYMENT BOND:** The apparent successful Vendor shall provide a labor/material payment bond in the amount of 100% of the Contract value. The labor/material payment bond must be delivered to the Purchasing Division prior to Contract award.

In lieu of the Bid Bond, Performance Bond, and Labor/Material Payment Bond, the Vendor may provide certified checks, cashier's checks, or irrevocable letters of credit. Any certified check, cashier's check, or irrevocable letter of credit provided in lieu of a bond must be of the same amount and delivered on the same schedule as the bond it replaces. A letter of credit submitted in lieu of a performance and labor/material payment bond will only be allowed for projects under \$100,000. Personal or business checks are not acceptable. Notwithstanding the foregoing, West Virginia Code § 5-22-1 (d) mandates that a vendor provide a performance and labor/material payment bond for construction projects. Accordingly, substitutions for the performance and labor/material payment bonds for construction projects is not permitted.

☐ **MAINTENANCE BOND:** The apparent successful Vendor shall provide a two (2) year maintenance bond covering the roofing system. The maintenance bond must be issued and delivered to the Purchasing Division prior to Contract award.

☐ **LICENSE(S) / CERTIFICATIONS / PERMITS:** In addition to anything required under the Section of the General Terms and Conditions entitled Licensing, the apparent successful Vendor shall furnish proof of the following licenses, certifications, and/or permits upon request and in a form acceptable to the State. The request may be prior to or after contract award at the State's sole discretion.

☐☐☐☐

The apparent successful Vendor shall also furnish proof of any additional licenses or certifications contained in the specifications regardless of whether or not that requirement is listed above.

8. INSURANCE: The apparent successful Vendor shall furnish proof of the insurance identified by a checkmark below and must include the State as an additional insured on each policy prior to Contract award. The insurance coverages identified below must be maintained throughout the life of this contract. Thirty (30) days prior to the expiration of the insurance policies, Vendor shall provide the Agency with proof that the insurance mandated herein has been continued. Vendor must also provide Agency with immediate notice of any changes in its insurance policies, including but not limited to, policy cancelation, policy reduction, or change in insurers. The apparent successful Vendor shall also furnish proof of any additional insurance requirements contained in the specifications prior to Contract award regardless of whether that insurance requirement is listed in this section.

Vendor must maintain:

☒ **Commercial General Liability Insurance** in at least an amount of: \$1,000,000.00 per occurrence.

☒ **Automobile Liability Insurance** in at least an amount of: \$1,000,000.00 per occurrence.

☐ **Professional/Malpractice/Errors and Omission Insurance** in at least an amount of: _____ per occurrence. Notwithstanding the forgoing, Vendor's are not required to list the State as an additional insured for this type of policy.

☐ **Commercial Crime and Third Party Fidelity Insurance** in an amount of: _____ per occurrence.

☐ **Cyber Liability Insurance** in an amount of: _____ per occurrence.

☐ **Builders Risk Insurance** in an amount equal to 100% of the amount of the Contract.

☐ **Pollution Insurance** in an amount of: _____ per occurrence.

☐ **Aircraft Liability** in an amount of: _____ per occurrence.

☒ **State of West Virginia must be listed as additional Insured on Insurance Certificate. Certificate holder should read as follows:**

☒ State of WV
1900 Kanawha Blvd. E., Bldg.5
Charleston, WV 25305

☐

☐

Notwithstanding anything contained in this section to the contrary, the Director of the Purchasing Division reserves the right to waive the requirement that the State be named as an additional insured on one or more of the Vendor's insurance policies if the Director finds that doing so is in the State's best interest.

9. WORKERS' COMPENSATION INSURANCE: Vendor shall comply with laws relating to workers compensation, shall maintain workers' compensation insurance when required, and shall furnish proof of workers' compensation insurance upon request.

10. [Reserved]

11. LIQUIDATED DAMAGES: This clause shall in no way be considered exclusive and shall not limit the State or Agency's right to pursue any other available remedy. Vendor shall pay liquidated damages in the amount specified below or as described in the specifications:

☐ _____ for _____.

☒ Liquidated Damages Contained in the Specifications.

☐ Liquidated Damages Are Not Included in this Contract.

12. ACCEPTANCE: Vendor's signature on its bid, or on the certification and signature page, constitutes an offer to the State that cannot be unilaterally withdrawn, signifies that the product or service proposed by vendor meets the mandatory requirements contained in the Solicitation for that product or service, unless otherwise indicated, and signifies acceptance of the terms and conditions contained in the Solicitation unless otherwise indicated.

13. PRICING: The pricing set forth herein is firm for the life of the Contract, unless specified elsewhere within this Solicitation/Contract by the State. A Vendor's inclusion of price adjustment provisions in its bid, without an express authorization from the State in the Solicitation to do so, may result in bid disqualification. Notwithstanding the foregoing, Vendor must extend any publicly advertised sale price to the State and invoice at the lower of the contract price or the publicly advertised sale price.

14. PAYMENT IN ARREARS: Payments for goods/services will be made in arrears only upon receipt of a proper invoice, detailing the goods/services provided or receipt of the goods/services, whichever is later. Notwithstanding the foregoing, payments for software maintenance, licenses, or subscriptions may be paid annually in advance.

15. PAYMENT METHODS: Vendor must accept payment by electronic funds transfer and P-Card. (The State of West Virginia's Purchasing Card program, administered under contract by a banking institution, processes payment for goods and services through state designated credit cards.)

16. TAXES: The Vendor shall pay any applicable sales, use, personal property or any other taxes arising out of this Contract and the transactions contemplated thereby. The State of West Virginia is exempt from federal and state taxes and will not pay or reimburse such taxes.

17. ADDITIONAL FEES: Vendor is not permitted to charge additional fees or assess additional charges that were not either expressly provided for in the solicitation published by the State of West Virginia, included in the Contract, or included in the unit price or lump sum bid amount that Vendor is required by the solicitation to provide. Including such fees or charges as notes to the solicitation may result in rejection of vendor's bid. Requesting such fees or charges be paid after the contract has been awarded may result in cancellation of the contract.

18. FUNDING: This Contract shall continue for the term stated herein, contingent upon funds being appropriated by the Legislature or otherwise being made available. In the event funds are not appropriated or otherwise made available, this Contract becomes void and of no effect beginning on July 1 of the fiscal year for which funding has not been appropriated or otherwise made available. If that occurs, the State may notify the Vendor that an alternative source of funding has been obtained and thereby avoid the automatic termination. Non-appropriation or non-funding shall not be considered an event of default.

19. CANCELLATION: The Purchasing Division Director reserves the right to cancel this Contract immediately upon written notice to the vendor if the materials or workmanship supplied do not conform to the specifications contained in the Contract. The Purchasing Division Director may also cancel any purchase or Contract upon 30 days written notice to the Vendor in accordance with West Virginia Code of State Rules § 148-1-5.2.b.

20. TIME: Time is of the essence regarding all matters of time and performance in this Contract.

21. APPLICABLE LAW: This Contract is governed by and interpreted under West Virginia law without giving effect to its choice of law principles. Any information provided in specification manuals, or any other source, verbal or written, which contradicts or violates the West Virginia Constitution, West Virginia Code, or West Virginia Code of State Rules is void and of no effect.

22. COMPLIANCE WITH LAWS: Vendor shall comply with all applicable federal, state, and local laws, regulations and ordinances. By submitting a bid, Vendor acknowledges that it has reviewed, understands, and will comply with all applicable laws, regulations, and ordinances.

SUBCONTRACTOR COMPLIANCE: Vendor shall notify all subcontractors providing commodities or services related to this Contract that as subcontractors, they too are required to comply with all applicable laws, regulations, and ordinances. Notification under this provision must occur prior to the performance of any work under the contract by the subcontractor.

23. ARBITRATION: Any references made to arbitration contained in this Contract, Vendor's bid, or in any American Institute of Architects documents pertaining to this Contract are hereby deleted, void, and of no effect.

24. MODIFICATIONS: This writing is the parties' final expression of intent. Notwithstanding anything contained in this Contract to the contrary no modification of this Contract shall be binding without mutual written consent of the Agency, and the Vendor, with approval of the Purchasing Division and the Attorney General's office (Attorney General approval is as to form only). Any change to existing contracts that adds work or changes contract cost, and were not included in the original contract, must be approved by the Purchasing Division and the Attorney General's Office (as to form) prior to the implementation of the change or commencement of work affected by the change.

25. WAIVER: The failure of either party to insist upon a strict performance of any of the terms or provision of this Contract, or to exercise any option, right, or remedy herein contained, shall not be construed as a waiver or a relinquishment for the future of such term, provision, option, right, or remedy, but the same shall continue in full force and effect. Any waiver must be expressly stated in writing and signed by the waiving party.

26. SUBSEQUENT FORMS: The terms and conditions contained in this Contract shall supersede any and all subsequent terms and conditions which may appear on any form documents submitted by Vendor to the Agency or Purchasing Division such as price lists, order forms, invoices, sales agreements, or maintenance agreements, and includes internet websites or other electronic documents. Acceptance or use of Vendor's forms does not constitute acceptance of the terms and conditions contained thereon.

27. ASSIGNMENT: Neither this Contract nor any monies due, or to become due hereunder, may be assigned by the Vendor without the express written consent of the Agency, the Purchasing Division, the Attorney General's office (as to form only), and any other government agency or office that may be required to approve such assignments.

28. WARRANTY: The Vendor expressly warrants that the goods and/or services covered by this Contract will: (a) conform to the specifications, drawings, samples, or other description furnished or specified by the Agency; (b) be merchantable and fit for the purpose intended; and (c) be free from defect in material and workmanship.

29. STATE EMPLOYEES: State employees are not permitted to utilize this Contract for personal use and the Vendor is prohibited from permitting or facilitating the same.

30. PRIVACY, SECURITY, AND CONFIDENTIALITY: The Vendor agrees that it will not disclose to anyone, directly or indirectly, any such personally identifiable information or other confidential information gained from the Agency, unless the individual who is the subject of the information consents to the disclosure in writing or the disclosure is made pursuant to the Agency's policies, procedures, and rules. Vendor further agrees to comply with the Confidentiality Policies and Information Security Accountability Requirements, set forth in <http://www.state.wv.us/admin/purchase/privacy/default.html>.

31. YOUR SUBMISSION IS A PUBLIC DOCUMENT: Vendor's entire response to the Solicitation and the resulting Contract are public documents. As public documents, they will be disclosed to the public following the bid/proposal opening or award of the contract, as required by the competitive bidding laws of West Virginia Code §§ 5A-3-1 et seq., 5-22-1 et seq., and 5G-1-1 et seq. and the Freedom of Information Act West Virginia Code §§ 29B-1-1 et seq.

DO NOT SUBMIT MATERIAL YOU CONSIDER TO BE CONFIDENTIAL, A TRADE SECRET, OR OTHERWISE NOT SUBJECT TO PUBLIC DISCLOSURE.

Submission of any bid, proposal, or other document to the Purchasing Division constitutes your explicit consent to the subsequent public disclosure of the bid, proposal, or document. The Purchasing Division will disclose any document labeled "confidential," "proprietary," "trade secret," "private," or labeled with any other claim against public disclosure of the documents, to include any "trade secrets" as defined by West Virginia Code § 47-22-1 et seq. All submissions are subject to public disclosure without notice.

32. LICENSING: In accordance with West Virginia Code of State Rules § 148-1-6.1.e, Vendor must be licensed and in good standing in accordance with any and all state and local laws and requirements by any state or local agency of West Virginia, including, but not limited to, the West Virginia Secretary of State's Office, the West Virginia Tax Department, West Virginia Insurance Commission, or any other state agency or political subdivision. Obligations related to political subdivisions may include, but are not limited to, business licensing, business and occupation taxes, inspection compliance, permitting, etc. Upon request, the Vendor must provide all necessary releases to obtain information to enable the Purchasing Division Director or the Agency to verify that the Vendor is licensed and in good standing with the above entities.

SUBCONTRACTOR COMPLIANCE: Vendor shall notify all subcontractors providing commodities or services related to this Contract that as subcontractors, they too are required to be licensed, in good standing, and up-to-date on all state and local obligations as described in this section. Obligations related to political subdivisions may include, but are not limited to, business licensing, business and occupation taxes, inspection compliance, permitting, etc. Notification under this provision must occur prior to the performance of any work under the contract by the subcontractor.

33. ANTITRUST: In submitting a bid to, signing a contract with, or accepting a Award Document from any agency of the State of West Virginia, the Vendor agrees to convey, sell, assign, or transfer to the State of West Virginia all rights, title, and interest in and to all causes of action it may now or hereafter acquire under the antitrust laws of the United States and the State of West Virginia for price fixing and/or unreasonable restraints of trade relating to the particular commodities or services purchased or acquired by the State of West Virginia. Such assignment shall be made and become effective at the time the purchasing agency tenders the initial payment to Vendor.

34. VENDOR CERTIFICATIONS: By signing its bid or entering into this Contract, Vendor certifies (1) that its bid or offer was made without prior understanding, agreement, or connection with any corporation, firm, limited liability company, partnership, person or entity submitting a bid or offer for the same material, supplies, equipment or services; (2) that its bid or offer is in all respects fair and without collusion or fraud; (3) that this Contract is accepted or entered into without any prior understanding, agreement, or connection to any other entity that could be considered a violation of law; and (4) that it has reviewed this Solicitation in its entirety; understands the requirements, terms and conditions, and other information contained herein.

Vendor's signature on its bid or offer also affirms that neither it nor its representatives have any interest, nor shall acquire any interest, direct or indirect, which would compromise the performance of its services hereunder. Any such interests shall be promptly presented in detail to the Agency. The individual signing this bid or offer on behalf of Vendor certifies that he or she is authorized by the Vendor to execute this bid or offer or any documents related thereto on Vendor's behalf; that he or she is authorized to bind the Vendor in a contractual relationship; and that, to the best of his or her knowledge, the Vendor has properly registered with any State agency that may require registration.

35. VENDOR RELATIONSHIP: The relationship of the Vendor to the State shall be that of an independent contractor and no principal-agent relationship or employer-employee relationship is contemplated or created by this Contract. The Vendor as an independent contractor is solely liable for the acts and omissions of its employees and agents. Vendor shall be responsible for selecting, supervising, and compensating any and all individuals employed pursuant to the terms of this Solicitation and resulting contract. Neither the Vendor, nor any employees or subcontractors of the Vendor, shall be deemed to be employees of the State for any purpose whatsoever. Vendor shall be exclusively responsible for payment of employees and contractors for all wages and salaries, taxes, withholding payments, penalties, fees, fringe benefits, professional liability insurance premiums, contributions to insurance and pension, or other deferred compensation plans, including but not limited to, Workers' Compensation and Social Security obligations, licensing fees, etc. and the filing of all necessary documents, forms, and returns pertinent to all of the foregoing.

Vendor shall hold harmless the State, and shall provide the State and Agency with a defense against any and all claims including, but not limited to, the foregoing payments, withholdings, contributions, taxes, Social Security taxes, and employer income tax returns.

36. INDEMNIFICATION: The Vendor agrees to indemnify, defend, and hold harmless the State and the Agency, their officers, and employees from and against: (1) Any claims or losses for services rendered by any subcontractor, person, or firm performing or supplying services, materials, or supplies in connection with the performance of the Contract; (2) Any claims or losses resulting to any person or entity injured or damaged by the Vendor, its officers, employees, or subcontractors by the publication, translation, reproduction, delivery, performance, use, or disposition of any data used under the Contract in a manner not authorized by the Contract, or by Federal or State statutes or regulations; and (3) Any failure of the Vendor, its officers, employees, or subcontractors to observe State and Federal laws including, but not limited to, labor and wage and hour laws.

37. NO DEBT CERTIFICATION: In accordance with West Virginia Code §§ 5A-3-10a and 5-22-1(i), the State is prohibited from awarding a contract to any bidder that owes a debt to the State or a political subdivision of the State. By submitting a bid, or entering into a contract with the State, Vendor is affirming that (1) for construction contracts, the Vendor is not in default on any monetary obligation owed to the state or a political subdivision of the state, and (2) for all other contracts, neither the Vendor nor any related party owe a debt as defined above, and neither the Vendor nor any related party are in employer default as defined in the statute cited above unless the debt or employer default is permitted under the statute.

38. CONFLICT OF INTEREST: Vendor, its officers or members or employees, shall not presently have or acquire an interest, direct or indirect, which would conflict with or compromise the performance of its obligations hereunder. Vendor shall periodically inquire of its officers, members and employees to ensure that a conflict of interest does not arise. Any conflict of interest discovered shall be promptly presented in detail to the Agency.

39. REPORTS: Vendor shall provide the Agency and/or the Purchasing Division with the following reports identified by a checked box below:

☐ Such reports as the Agency and/or the Purchasing Division may request. Requested reports may include, but are not limited to, quantities purchased, agencies utilizing the contract, total contract expenditures by agency, etc.

☐ Quarterly reports detailing the total quantity of purchases in units and dollars, along with a listing of purchases by agency. Quarterly reports should be delivered to the Purchasing Division via email at purchasing.division@wv.gov.

40. BACKGROUND CHECK: In accordance with W. Va. Code § 15-2D-3, the State reserves the right to prohibit a service provider's employees from accessing sensitive or critical information or to be present at the Capitol complex based upon results addressed from a criminal background check. Service providers should contact the West Virginia Division of Protective Services by phone at (304) 558-9911 for more information.

41. PREFERENCE FOR USE OF DOMESTIC STEEL PRODUCTS: Except when authorized by the Director of the Purchasing Division pursuant to W. Va. Code § 5A-3-56, no contractor may use or supply steel products for a State Contract Project other than those steel products made in the United States. A contractor who uses steel products in violation of this section may be subject to civil penalties pursuant to W. Va. Code § 5A-3-56. As used in this section:

- a. "State Contract Project" means any erection or construction of, or any addition to, alteration of or other improvement to any building or structure, including, but not limited to, roads or highways, or the installation of any heating or cooling or ventilating plants or other equipment, or the supply of and materials for such projects, pursuant to a contract with the State of West Virginia for which bids were solicited on or after June 6, 2001.
- b. "Steel Products" means products rolled, formed, shaped, drawn, extruded, forged, cast, fabricated or otherwise similarly processed, or processed by a combination of two or more or such operations, from steel made by the open hearth, basic oxygen, electric furnace, Bessemer or other steel making process.
- c. The Purchasing Division Director may, in writing, authorize the use of foreign steel products if:
 1. The cost for each contract item used does not exceed one tenth of one percent (.1%) of the total contract cost or two thousand five hundred dollars (\$2,500.00), whichever is greater. For the purposes of this section, the cost is the value of the steel product as delivered to the project; or
 2. The Director of the Purchasing Division determines that specified steel materials are not produced in the United States in sufficient quantity or otherwise are not reasonably available to meet contract requirements.

42. PREFERENCE FOR USE OF DOMESTIC ALUMINUM, GLASS, AND STEEL: In Accordance with W. Va. Code § 5-19-1 et seq., and W. Va. CSR § 148-10-1 et seq., for every contract or subcontract, subject to the limitations contained herein, for the construction, reconstruction, alteration, repair, improvement or maintenance of public works or for the purchase of any item of machinery or equipment to be used at sites of public works, only domestic aluminum, glass or steel products shall be supplied unless the spending officer determines, in writing, after the receipt of offers or bids, (1) that the cost of domestic aluminum, glass or steel products is unreasonable or inconsistent with the public interest of the State of West Virginia, (2) that domestic aluminum, glass or steel products are not produced in sufficient quantities to meet the contract requirements, or (3) the available domestic aluminum, glass, or steel do not meet the contract specifications. This provision only applies to public works contracts awarded in an amount more than fifty thousand dollars (\$50,000) or public works contracts that require more than ten thousand pounds of steel products.

The cost of domestic aluminum, glass, or steel products may be unreasonable if the cost is more than twenty percent (20%) of the bid or offered price for foreign made aluminum, glass, or steel products. If the domestic aluminum, glass or steel products to be supplied or produced in a "substantial labor surplus area", as defined by the United States Department of Labor, the cost of domestic aluminum, glass, or steel products may be unreasonable if the cost is more than thirty percent (30%) of the bid or offered price for foreign made aluminum, glass, or steel

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products. This preference shall be applied to an item of machinery or equipment, as indicated above, when the item is a single unit of equipment or machinery manufactured primarily of aluminum, glass or steel, is part of a public works contract and has the sole purpose or of being a permanent part of a single public works project. This provision does not apply to equipment or machinery purchased by a spending unit for use by that spending unit and not as part of a single public works project.

All bids and offers including domestic aluminum, glass or steel products that exceed bid or offer prices including foreign aluminum, glass or steel products after application of the preferences provided in this provision may be reduced to a price equal to or lower than the lowest bid or offer price for foreign aluminum, glass or steel products plus the applicable preference. If the reduced bid or offer prices are made in writing and supersede the prior bid or offer prices, all bids or offers, including the reduced bid or offer prices, will be reevaluated in accordance with this rule.

43. INTERESTED PARTY SUPPLEMENTAL DISCLOSURE: W. Va. Code § 6D-1-2 requires that for contracts with an actual or estimated value of at least \$1 million, the Vendor must submit to the Agency a disclosure of interested parties prior to beginning work under this Contract. Additionally, the Vendor must submit a supplemental disclosure of interested parties reflecting any new or differing interested parties to the contract, which were not included in the original pre-work interested party disclosure, within 30 days following the completion or termination of the contract. A copy of that form is included with this solicitation or can be obtained from the WV Ethics Commission. This requirement does not apply to publicly traded companies listed on a national or international stock exchange. A more detailed definition of interested parties can be obtained from the form referenced above.

44. PROHIBITION AGAINST USED OR REFURBISHED: Unless expressly permitted in the solicitation published by the State, Vendor must provide new, unused commodities, and is prohibited from supplying used or refurbished commodities, in fulfilling its responsibilities under this Contract.

45. VOID CONTRACT CLAUSES – This Contract is subject to the provisions of West Virginia Code § 5A-3-62, which automatically voids certain contract clauses that violate State law.

46. ISRAEL BOYCOTT: Bidder understands and agrees that, pursuant to W. Va. Code § 5A-3-63, it is prohibited from engaging in a boycott of Israel during the term of this contract.

DESIGNATED CONTACT: Vendor appoints the individual identified in this Section as the Contract Administrator and the initial point of contact for matters relating to this Contract.

(Name, Title) Deseree Caver Customer Care Representative

(Printed Name and Title) Deseree Caver

(Address) 24950 Country Club Blvd., Suite 450

(Phone Number) / (Fax Number) 800-600-7258

(email address) salt_customerocareroadsafety@cargill.com

CERTIFICATION AND SIGNATURE: By signing below, or submitting documentation through wvOASIS, I certify that: I have reviewed this Solicitation/Contract in its entirety; that I understand the requirements, terms and conditions, and other information contained herein; that this bid, offer or proposal constitutes an offer to the State that cannot be unilaterally withdrawn; that the product or service proposed meets the mandatory requirements contained in the Solicitation/Contract for that product or service, unless otherwise stated herein; that the Vendor accepts the terms and conditions contained in the Solicitation, unless otherwise stated herein; that I am submitting this bid, offer or proposal for review and consideration; that I am authorized by the vendor to execute and submit this bid, offer, or proposal, or any documents related thereto on vendor's behalf; that I am authorized to bind the vendor in a contractual relationship; and that to the best of my knowledge, the vendor has properly registered with any State agency that may require registration.

By signing below, I further certify that I understand this Contract is subject to the provisions of West Virginia Code § 5A-3-62, which automatically voids certain contract clauses that violate State law; and that pursuant to W. Va. Code 5A-3-63, the entity entering into this contract is prohibited from engaging in a boycott against Israel.

Cargill, Incorporated-Salt Road Safety

(Company)

Deseree Caver Customer Care Representative

(Authorized Signature) (Representative Name, Title)

Deseree Caver/Customer Care Representative

(Printed Name and Title of Authorized Representative) (Date)

800-600-7258

(Phone Number) (Fax Number)

salt_customerocareroadsafety@cargill.com

(Email Address)

REQUEST FOR QUOTATION
Roadway Salt – Sodium Chloride

SPECIFICATIONS

1. **PURPOSE AND SCOPE:** The West Virginia Purchasing Division is soliciting bids on behalf of the West Virginia Division of Highways and the West Virginia Parkways Authority to establish an open-end contract for roadway salt, as needed and on a continuing basis, for use in snow removal and ice control throughout the state of West Virginia for delivery of materials by Vendor, FOB. to Agency storage locations per county as well as Agency pick up from Vendor storage sites. All responsible Vendors will be awarded a contract based on low-bid unit price per location.
2. **DEFINITIONS:** The terms listed below shall have the following meanings assigned to them throughout and for the purpose of this Solicitation. Additional definitions can be found in Section 2 of the General Terms and Conditions.
 - 2.1 **“ADO” or Agency “Delivery Order”** - A written order entered by WVDOH personnel in the wvOASIS financial system against a master agreement, authorizing quantities of commodities and/or services to be delivered in accordance with all terms, conditions, and prices stipulated in the original contract.
 - 2.2 **“AASHTO”** – The American Association of State Highway and Transportation Officials is a standard body which publishes specifications, tests protocols, and guidelines that are used in highway design and construction throughout the United States. Reference: www.transportation.org
 - 2.3 **“ASTM International” and “ASTM”** – the international standards organization that develops and publishes voluntary consensus technical standards for a wide range of materials, products, systems, and services, formerly known as the American Society for Testing and Materials. Reference: www.astm.org
 - 2.4 **“Above the Guaranteed Delivery Total”** – salt ordered in excess of 120% of the Vendor’s guaranteed delivery total awarded.
 - 2.5 **“Attachment A,” “Pricing Pages by Delivery,” and “ATT A”** – interchangeable terms referring to the schedule of prices attached hereto as Attachment A (“ATT A”) upon which Vendor should list its pricing for the delivery of Contract Items.
 - 2.6 **“Attachment B,” “Pricing Pages by Agency Pick Up” and “ATT B”** – interchangeable terms referring to the schedule of prices attached hereto as Attachment B (ATT B) upon which Vendor should list its storage site locations and pricing for WVDOH Agency pick up of roadway salt from Vendor storage site locations.
 - 2.7 **“Contract Item(s)”** – the list of items available for Vendor to provide pricing as identified in Section 3 of this Solicitation and referenced throughout.

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- 2.8 “Contractor” or “Vendor”** – interchangeable terms referring to any person or entity that submits a bid in response to the Solicitation, the entity that has been selected as the lowest responsible bidder, or the entity that has been awarded contract items through this contract.
- 2.9 “Emergency Requests”**- requests for Contract Items to be fulfilled without delay, owing to circumstances for which the WVDOH could not have reasonably expected and has been designated as such by a representative of the WVDOH.
- 2.10 “FOB” or “Free on Board”** – indicates that the price for goods includes delivery at the Vendor’s expense to a specified point, and that the Vendor retains liability for loss or damage until the goods are delivered.
- 2.11 “Free-flowing”** – easy continuous natural progression movement without stoppage.
- 2.12 “Guaranteed Acceptance Total”** - the Agency guarantees to accept 80% of the Vendor’s collective awarded salt-tonnage total (all WV counties) if delivered within the guaranteed delivery period.
- 2.13 “Guaranteed Delivery Period”** - the timeframe or date that salt delivery is due, as specified herein and/or on the ordering Agency’s Delivery Order during SRIC season, non-SRIC season, and/or identified emergencies.
- 2.14 “Guaranteed Delivery Total”** - the Vendor guarantees delivery of 120% of its collective awarded salt-tonnage (all WV counties) total, if delivered within the guaranteed delivery period.
- 2.15 “Liquidated Damages”** - monetary compensation due from the Vendor in the event the Vendor’s performance falls short of contractual stipulation or breaches the contract. Delays in the delivery of goods and/or services or quality failures or corrections by the Vendor may result in the Agency assessing charges for such deficiencies per these contract Specifications, the Standard Specs Section 108.7, as amended, and calculated from the table posted in Section 7.9.1 of these Specifications.
- 2.16 “MSDS” and “Material Safety Data Sheets”** – detailed informational documents provided by manufacturers outlining the physical and chemical properties of a product, potential physical and health hazards, and procedures for safe handling.
- 2.17 “MP”** - refers to a Materials Procedure per the Materials Control, Soils, and Testing Division of the West Virginia Division of Highways. Reference: <https://transportation.wv.gov/highways/mcst/Pages/WVDOH-Materials-Procedures.aspx>

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- 2.18** “OSHA” - Occupational Safety and Health Administration. Reference: www.osha.gov.
- 2.19** “Solicitation” – The official notice of an opportunity to supply the State with goods or services.
- 2.20** “Sodium Chloride,” “Rock Salt,” and “Roadway Salt” – the natural mined mineral used for de-icing roadways.
- 2.21** “SRIC” – Snow Removal and Ice Control.
- 2.22** “Standard Specs” – used throughout this solicitation means the West Virginia Department of Transportation, Division of Highways Standard Specifications, Roads and Bridges, most recent edition, as modified or amended by all subsequent Supplemental Specifications.
- 2.23** “USFWS” - The United States Fish and Wildlife Services: www.fws.gov/.
- 2.24** “WVDOH” or “Agency” – the West Virginia Division of Highways.
- 2.25** “WV Parkways Authority,” “Parkways,” and “Agency” – the West Virginia Parkways Authority.

3. GENERAL REQUIREMENTS:

- 3.1 Standard Specifications Roads and Bridges:** The following Standard Specs Sections shall apply, as applicable, to the administration of this contract: 101, 102, 103, 104, 105, 106, 107, 108, 109, and 110, as amended.

Materials, equipment, and performance of this contract shall conform, but not be limited to, the requirements of Sections 204, 636, and 715.2, as amended.

A hard copy of the current Standard Specs may be purchased by using the **Attachment C (ATT C) Standard Specifications Order Form**. The completed form should be submitted by email to DOTSpecifications@wv.gov or mailed to:

West Virginia Division of Highways
Technical Support Division
1334 Smith Street
Charleston, West Virginia 25301

A free electronic copy of the Standard Specs may be obtained by sourcing:
<http://transportation.wv.gov/highways/contractadmin/specifications/Pages/default.aspx>

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3.2 Documentation to be Included with the Bid: Vendors should carefully read the entire solicitation invitation. The Vendor should include as part of their bid response:

- Certification and Signature Page (within General Terms and Conditions)
- Addendum Acknowledgement Form
- Valid West Virginia Contractor's License, if applicable.
- Contract Manager Page (Section 9.4 of these Specifications)
- Valid Certificate of Insurance; and
- Any other required forms or supporting information as described herein.

Omitting any required forms, attachments, or documentation as described throughout this contract could deem a bid non-responsive and result in the disqualification of the Vendor's bid response.

3.3 Contract Items and Mandatory Requirements: Vendor shall provide Agency with the Contract Items specified herein on an open-end and continuing basis, F.O.B. destination. Contract Items must meet or exceed the mandatory requirements as shown below.

3.3.1 Sodium Chloride: Shall conform to the requirements of the most current version of ASTM D632 and ASTM E534, as amended. Vendor shall provide MSDS information to the WV Purchasing Division prior to award of a contract.

3.3.2 Anti-Clumping Material: If an anti-clumping agent will potentially be applied to salt for either delivery or pick up, the Vendor shall provide the MSDS information prior to award of a contract.

3.4 Sampling and Testing: Prior to award of this contract, the Vendor shall provide its proposed source of supply to the WVDOH, along with the supplier's certification of quality and gradation. Acceptance shall be based on suppliers' certification of quality and gradation. This information shall be directed to:

WVDOH Materials Control, Soils and Testing Division
190 Dry Branch Road
Charleston, WV 25306
Phone: 304-558-3175

The WVDOH may conduct sampling and testing at any time throughout the term of this contract to verify material quality and/or gradation.

3.4.1 Moisture Content: All material shall be covered in transit. Moisture content shall not exceed 2.0% by weight for stockpile delivery. Laboratory testing for moisture shall be administered in accordance with ASTM E534,

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as amended, at any time during the delivery. Upon visual inspection by the Agency/WVDOH District Manager or designee, any supplied sodium chloride that does not appear to meet ASTM E534 (such as material being saturated/free flowing with water) will be sampled and tested by the WVDOH. Three samples, one each from the top, middle and bottom of the load, will be pulled by Agency personnel, witnessed, and signed off on by the delivery driver. The supplier will be notified of sampling within 48 hours and will be notified of test results within seven (7) business days of completion testing. Upon testing and with each delivery, the supplier shall be responsible for the weight of water in excess of 2.0%, by deducting the excess amount from the price. Price adjustment shall be calculated as follows:

***EXAMPLE:** For a delivery of 75 tons at \$45.00/ton, if the moisture content is found to be 3.5% (1.5% greater than 2.0%), the formula shall be:

- 75 tons multiplied by \$45.00 to equal \$3,375.00 price.
- \$3,375.00 multiplied by .0150 to equal \$50.63, total price adjustment.
- \$3,375.00 minus \$50.63 to equal \$3,324.37, total adjusted price.

3.4.2 Unacceptable Material: Per visual observation, if salt is deemed unsatisfactory or not compliant with ASTM E534, at the discretion of the Agency/WVDOH District Manager or designee, the Agency reserves the right to accept or reject delivery and exercise the price adjustment formula.

If the supplier disputes the test results, they must file a complaint with the Agency/WVDOH Operations Division Director for review and final decision within seven (7) business days of notification of the test results to the supplier.

3.4.2.1 Delivery of salt deemed by the Agency as unacceptable such as large unusable chunks, loads mixed with foreign material (i.e., dark colored contaminants, charcoal, cinders, or debris) will be rejected immediately. Salt that does not meet the above specified conditions at the time of the delivery will not be accepted by the Agency. Any rejected deliveries will be removed by the Vendor at no cost to the Agency.

3.4.3 Emergency Requests: Emergency requests, as ordered by a WVDOH District Engineer or their designee, shall be initiated within forty-eight (48) hours from when the Delivery Order is received by Vendor. The determination of an emergency request will be in accordance with Section 2.9 of this Solicitation and shall be prominently noted on Delivery Order.

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- 4. PANDEMIC-RESPONSE SAFETY PROTOCOLS:** In addition to the Vendor's established safety protocols and the WVDOH's established safety protocols outlined in the Standard Specs, as amended, the Vendor and the Vendor's staff shall adhere to all WVDOH's pandemic-response protocols while present at the WVDOH jobsite. Vendors may obtain the WVDOH's pandemic-response protocols by contacting the WVDOH District Engineer or their designee.
- 5. CONTRACT AWARD:** The Contract is intended to provide Agencies with a purchase price per ton on Roadway Salt. A Contract shall be awarded to all qualified Vendors who provide Contract Items that meet the required specifications of this Contract.
- 5.1 Pricing Pages (ATT A and ATT B):** Vendor shall complete the Pricing Pages by placing a bid for any or all locations. Vendor shall NOT add, delete, or modify spreadsheet column and row headers, descriptions, units of measure, or estimated quantities on Pricing Pages by Delivery, ATT A, and Pricing Pages by Pick Up, ATT B. Making any such changes to the format or failure to complete ATT A and ATT B in their entirety may result in the disqualification of Vendor's bid. Vendor should type or electronically enter the information into the Pricing Pages spreadsheet to prevent errors in the evaluation. In most cases, the Vendor can request an electronic copy of the Pricing Pages spreadsheet for bid purposes by sending an email request to the following: John.W.Estep@wv.gov.
- 5.1.1 Pricing Pages by Delivery (ATT A):** Vendor shall provide its pricing for the delivery of roadway salt, FOB, to Agency storage locations as listed on the ATT A spreadsheet.
- 5.1.2 Pricing Pages by Agency Pick Up (ATT B):** Vendor shall complete ATT B by providing its pricing for the pick up of roadway salt by an Agency from a Vendor's storage location, as listed on ATT B. Vendor pricing shall include loading of WVDOH Agency vehicles by Vendor.
- 5.1.3** Vendor entries of bid prices or other notations made in wvOASIS Commodity Line Descriptions will not be considered for bid evaluation or award. Submitting Pricing Pages other than those provided with this solicitation, as described in Section 5.1, shall result in the disqualification of all Contract Items bid on the erroneous Pricing Pages.
- 5.2 Contract Award Transition:** Upon award of this contract, the WVDOH Operations Division will announce the effective date of use of this contract to the Districts and the Vendors, whether it is by the effective date, the completed and encumbered date, or an established date by the WVDOH. Upon the announced effective date of use, any Delivery Order issued prior to the award of the contract shall remain in effect and should not be cancelled until that Delivery Order is filled; however, after ten (10) working days of the Districts and Vendors notice, any

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Delivery Order that has not been completely filled by the Vendors shall NOT be completed, and a cancellation notice will be sent to that Vendor from the issuing District for cancellation of the balance of that Delivery Order only. No Delivery Orders from prior contracts should be held open by the Districts or Vendors longer than ten (10) working days after the effective date of use is announced for the new contract.

- 5.3 Cooperative Contracting:** The purchase prices on all Contract Items in this contract, available for the WVDOH and the West Virginia Parkways Authority, shall be adoptable for other public agencies upon their request. Agencies under the authority of the West Virginia Purchasing Division must receive prior approval by the Purchasing Director.

6. ORDERING AND PAYMENT:

- 6.1 Ordering:** Vendor shall accept orders through wvOASIS, regular mail, facsimile, email, or any other written forms of communication. Vendor shall maintain and keep current its phone numbers, fax number, email address, locations, and ordering/billing/ payment addresses with WVDOH and in wvOASIS. Vendor may, but is not required to, accept online orders through a secure internet ordering portal/website. If Vendor has the ability to accept online orders, it must include in its response a brief description of how Agencies may utilize the online ordering system. Vendor shall ensure that its online ordering system is properly secured prior to processing Agency orders online.
- 6.2 Delivery Order:** WVDOH will initiate a Delivery Order by identifying locations of need. The Delivery Order will be generated by a WVDOH Engineer or their designee and should be completed on a WV-39 Blanket Release Order and an ADO entered into wvOASIS. The order should detail the amount of Roadway Salt needed, the location of need, and a due date for delivery, which shall become the agreed upon delivery date. Emergencies shall be prominently noted on the Delivery Order. Once complete, the Delivery Orders shall be sent to Vendor via fax, email, or postal mail. Any verbal communications to initiate or make modifications to Delivery Order under this contract are not acceptable as a Delivery Order.
- 6.3 Payment:** Upon completion of the work indicated on the Delivery Order, Vendor shall accept payment in accordance with the payment procedures of the State of West Virginia. The State of West Virginia currently utilizes a Purchasing Card program, administered under contract by a banking institution, as well as Electronic Funds Transfer as methods to process payment for goods and services. The Vendor shall accept the State of West Virginia's Purchasing Card and Electronic Funds Transfer for payment of orders under this Contract. Electronic Funds Transfer for payment is available through the WV State Auditor's Office. The Vendor may visit

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the WV State Auditor's website (wvsao.gov) for all necessary forms and instructions. Payment method may be dictated at WVDOH's discretion.

7. PROJECT ACCEPTANCE, DELIVERY AND RETURN:

- 7.1 Project Acceptance and Written Verification of Receipt:** Upon receipt of a WVDOH Delivery Order, the Vendor shall advise the WVDOH in writing within five (5) calendar days of their acceptance or refusal of the Delivery Order. As verification of receipt, Vendor must provide written acknowledgement of any Delivery Orders and any Revisions/Modifications thereto sent by WVDOH. Failure to provide the WVDOH with written acknowledgement of any Delivery Orders/Revisions within five (5) days of the Order being sent shall be considered refusal of the Delivery Order. In the event of refusal, the WVDOH at its own discretion shall cancel the Delivery Order and may seek to obtain the goods or services from the next low bid Vendor or proceed with an Emergency Purchase from the open market.

Upon Vendor's acceptance, WVDOH should submit an ADO in wvOASIS and provide the Vendor with the ADO number for their reference.

- 7.2 Delivery:** Vendor shall deliver all orders in accordance with the above schedule and shall not hold orders until a minimum delivery quantity is met. Vendor is not authorized to deliver, nor is the Agency authorized to receive materials prior to the issuance of a Delivery Order. As directed on its Delivery Order, Vendor shall commence and fulfill orders to the Agency location(s) in increments and within the time frame specified on its Delivery Order.

In the event that the Agency sends Vendor a "bulk seasonal order" whereby the Agency is anticipating multiple, successive deliveries, the Vendor shall commence deliveries spread out over the date-span specified by the Agency and make successive deliveries until the Order is filled. Vendor shall communicate in writing to the ordering Agency, any issues or potential disruption in delivery(s). The Agency shall have the option of accepting or refusing any alternative delivery schedule proposed by the Vendor. Any delayed or failed delivery portion shall be subject to failed delivery damages, as defined in Section 7.9

- 7.2.1 Guaranteed Delivery:** It shall be further noted that the Vendor is not responsible for and shall not be penalized for delays in its delivery when caused by factors or events outside Vendor's control, including but not limited to acts or omissions of the Agency or third parties, acts of civil or military authority, civil disturbance, war, terrorism, pandemics, explosions, fire, floods, tornadoes, or other natural disasters or acts of God.

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7.2.1.1 Delivery Order Schedule: For Delivery Orders issued to the awarded Vendor from the contract's effective date, delivery shall commence immediately and be due within ten (10) calendar days of the Delivery Order date, unless otherwise directed by the Agency. The first day will be considered 12:01 AM, the morning (business day) following the Delivery Order date. An initial delivery must be made by the established initial delivery date and the remainder of the order filled with successive loads as specified by the Agency on the Delivery Order.

7.2.1.2 Emergency Delivery Orders Schedule: Per Section 2.9, emergency situations stemming from inclement weather requiring the immediate delivery of salt, upon the Vendor's receipt of the Agency's Delivery Order denoting "Emergency," the Order shall be treated as a priority and fulfilled by the Vendor without delay and as indicated by the Agency on the Delivery Order. Emergency Deliveries declared as such the Agency District Engineer/designee, shall be paid at a rate of 105% of the Vendor's awarded price

7.3 Agency Acceptance Guarantee and Vendor Delivery Guarantee: The Agency guarantees acceptance of 80% of estimated quantity awarded statewide to the Vendor. The Vendor shall guarantee delivery of up to 120% of the statewide estimated quantity awarded. All Agency Delivery Orders shall be issued, and all Vendor deliveries shall be completed prior to the contract's expiration and as identified on the Agency's Delivery Orders. To clarify, the "guarantee" shall apply to statewide (all counties) total tonnage awarded to the Vendor, and *not* the individual totals per District, County, and/or Agency Delivery/Storage Location Site.

***EXAMPLE:** If statewide total (of all counties in all Districts, all Agencies) awarded to the Vendor is 43,000 tons, the guaranteed Total shall be calculated as follows:

- 43,000 multiplied by 80% = Agency's Guaranteed Acceptance of 34,400 tons
- 43,000 multiplied by 120% = Vendor's Guaranteed Delivery of 51,600 tons

7.4 Orders Beyond 120% of Vendor's Statewide Guaranteed Delivery: Contingent upon weather conditions, the Agency reserves the right to purchase additional quantities of salt above 120% of the Vendor's awarded statewide guaranteed delivery total.

7.4.1 Pricing for Orders Beyond 120%: In the event that the Agency wishes to purchase Salt in excess of the 120% of the Vendor's statewide guaranteed delivery total, the Agency shall pay the Vendor at a rate of 110% of the Vendor's bid price for purchases and the Vendor shall guarantee completed

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delivery of such orders no later than 10 calendar days of the Delivery Order date, unless otherwise specified by the Agency on its Delivery Order.

- 7.5 Shipment Adjustments:** The Agency cannot determine nor predict the amount of snow and/or ice in one area compared to another area. As dictated by weather conditions and/or the needs of the Agency, the Agency reserves the right to direct the Vendor to alter the shipment totals between storage locations despite how they were estimated and awarded to the Vendor.
- 7.6 Vendor's to Report Agency Orders** At the point that the Vendor determines that it has received orders amounting to 80% of the estimated statewide totals, the Vendor shall notify the WVDOH Operations Division via email at DOHOperationsProcurement@wv.gov and provide reports to the Agency with the Vendor's quantities ordered and delivered statewide, broken down by ordering location (Section 9.3 also applies).
- 7.7 Vendor Shall Not Place Shipments On Hold:** In the event that total ordered from a particular District, location, or Agency exceeds 120% of the estimated total for a given District or any singular location, the Vendor shall not place any Delivery Orders on hold nor suspend any shipments if the entire total ordered has not reached 120% of the Vendors statewide awarded total, as per Section 7.4.
- 7.8 Original Delivery Tickets** for each delivered load to the Agency delivery/ storage location sites shall be provided with each delivery, and must be signed and retained by an Agency representative at the delivery/storage location site.
- 7.9 Failed Delivery and Risk of Loss:** The Agency placing the order under this Contract must be notified in writing if orders will be delayed for any reason. Any delay in delivery that could cause harm to an Agency will be grounds for cancellation of the delayed order, and/or obtaining the items ordered from a third party. The Agency placing the Delivery Order under this Contract must be notified in writing by the Vendor no later than 36 hours prior to the date from the Agency's Delivery Order. Any failure to notify, acknowledge receipt of WVDOH's written Delivery Orders/ Revisions resulting in delivery delay, or failure to start or complete the project per the WVDOH scheduled due dates may be determined by the WVDOH at its sole discretion as harmful to the Agency and as such, shall result in WVDOH's cancellation of the Delivery Order and application of Liquidated Damages.

Any Agency seeking to obtain items from a third party under this provision must first obtain approval of the Purchasing Division.

- 7.9.1 Liquidated Damages:** If the vendor's delivery of goods/services or corrections thereto exceeds the Delivery Order completion due date or timeframe, the Vendor shall agree that no extension of contract time will be

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granted unless Liquidated Damages are applied by the WVDOH in the form of an off-set reduction to the total amount of the Vendor's final invoice. The WVDOH shall calculate Liquidated Damages per project beginning on day one (1) after the WVDOH's specified Delivery Order due date and in accordance with this Section, the Contract's Terms and Conditions, Standard Specs Section 108.7, and the following Standard Specs Section Table 108.7.1 - Schedule of Liquidated Damages, as amended:

**Table 108.7.1
Schedule of Liquidated Damages**

Original Contract Amount		Daily Charges Per Calendar Day
For More Than	To and Including	
\$0	\$500,000	\$300
\$500,000	\$2,000,000	\$600
\$2,000,000	\$10,000,000	\$1,500
\$10,000,000	\$25,000,000	\$3,000
\$25,000,000		\$4,000

- 7.10 Return of Unacceptable Items:** The decision of the WVDOH District Engineer or their designee regarding materials, workmanship, quality etc., shall be final per the Standard Specs Section 105.1, as amended. If the Agency deems the Contract Items to be unacceptable, the Contract Items shall be returned to Vendor at Vendor's expense and with no restocking charge. Vendor shall either make arrangements for the return within five (5) days of being notified that Items are unacceptable, or permit the Agency to arrange for the return and reimburse Agency for delivery expenses. All returns of unacceptable items shall be F.O.B. the Agency's location. The returned product shall either be replaced, or the Agency shall receive a full credit or refund for the purchase price, at the Agency's discretion.
- 7.11 Return Due to Agency Error:** Items ordered in error by the Agency will be returned for credit within 30 days of receipt, F.O.B. Vendor's location. Vendor shall not charge a restocking fee if returned products are in a resalable condition. Items shall be deemed to be in a resalable condition if they are unused and in the original packaging. Any restocking fee for items not in a resalable condition shall be the lower of the Vendor's customary restocking fee or 5% of the total invoiced value of the returned items.

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8. VENDOR DEFAULT:

- 8.1** The following shall be considered a vendor default under this Contract.
 - 8.1.1** Failure to provide Contract Items in accordance with the requirements contained herein.
 - 8.1.2** Failure to comply with other specifications and requirements contained herein.
 - 8.1.3** Failure to comply with any laws, rules, and ordinances applicable to the Contract Services provided under this Contract.
 - 8.1.4** Failure to remedy deficient performance upon request.
- 8.2** The following remedies shall be available to Agency upon default.
 - 8.2.1** Immediate cancellation of the Contract.
 - 8.2.2** Immediate cancellation of one or more release orders issued under this Contract.
 - 8.2.3** Any other remedies available in law or equity.

9. MISCELLANEOUS:

- 9.1 No Substitutions:** Vendor shall supply only Contract Items submitted in response to the Solicitation unless a contract modification is approved in accordance with the provisions contained in this Contract.
- 9.2 Vendor Supply:** Vendor must carry sufficient inventory of the Contract Items being offered to fulfill its obligations under this Contract. By signing its bid, Vendor certifies that it can supply the Contract Items contained in its bid response.
- 9.3 Reports:** Vendor shall provide the Agency with quarterly reports, annual summaries, and/or monthly reports as requested by the Agency and/or the West Virginia Purchasing Division showing quantities, total dollar value of the Contract Items purchased, ordered, shipped & invoiced with dates in spreadsheet format as defined by the Agency. Failure to supply such reports may be grounds for cancellation of this Contract.

REQUEST FOR QUOTATION
Roadway Salt – Sodium Chloride

- 9.4 **Contract Manager:** During its performance of this Contract, Vendor must designate and maintain a primary Contract Manager responsible for overseeing Vendor's responsibilities under this Contract. The Contract Manager must be available during normal business hours to address any customer service or other issues related to this Contract. Vendor should list its Contract Manager and his or her contact information below.

Contract Manager: Deseree Caver
Telephone Number: 800-600-7258
Fax Number: N/A
Email Address: salt_customer@careroadsafety@cargill.com

Vendor shall inform the Agency in writing of any changes to the information provided above within ten (10) calendar days of such changes. Failure to comply may be grounds for cancellation of this contract.

ROADWAY SALT - SODIUM CHLORIDE
Attachment B - Pricing Pages by Pick-up

Vendor shall complete ATT B by identifying its storage site locations (physical 911 address) and provide a price per ton for roadway salt to be available for pick-up by WVDOH Agencies. Vendor pricing shall include cost of Vendor loading Agency trucks.

Vendor Storage Site Locations	Pick-up Cost per Ton
BALTIMORE	<u>\$95.00</u>
2149 South Clinton St	
Baltimore, MD 21224	

ROADWAY SALT - SODIUM CHLORIDE
Attachment A - Pricing Pages by Delivery

Vendor shall complete ATT A by providing a unit price per ton for any or all Counties listed.
The Extended Price amount for each County will autofill upon Vendor entry of its Price Per Ton. The price that populates in the Extended Price cells will be a result of the County's estimated tonnage multiplied by the Vendor's Price Per Ton bid entry.

Vendor Name Cargill, Incorporated-Salt, Road Safety

DISTRICT 4				
County	Delivery Site Location	Estimated Tonnage	Price per Ton	Extended Price
Doddridge	Greenwood			
	West Union			
Doddridge County Estimated Total		1	NO BID	#VALUE!
Harrison	Harrison Co. HQ			
	Saltwell			
	Lost Creek Substation			
	Tunnel Hill Substation			
Harrison County Estimated Total		6	NO BID	#VALUE!
Marion	Marion Co. HQ			
	Mannington Substation			
Marion County Estimated Total			\$ 107.50	\$
Monongalia	Goshen Rd. Substation			
	Monongalia Co. HQ			
	Pentress Substation			
Monongalia County Estimated Total			NO BID	#VALUE!
Preston	Bruceton Mills Substation			
	Preston Co. HQ			
	Terra Alta Substation			
	Fellowsville Substation			
	Aurora Substation			
	Cooper's Rock Substation			
Preston County Estimated Total			NO BID	#VALUE!
Taylor	Taylor Co. HQ			
Taylor County Estimated Total			\$ 101.24	\$
DISTRICT 4 ESTIMATED TOTAL				

ROADWAY SALT - SODIUM CHLORIDE
Attachment A - Pricing Pages by Delivery

Vendor shall complete ATT A by providing a unit price per ton for any or all Counties listed.

The Extended Price amount for each County will autofill upon Vendor entry of its Price Per Ton. The price that populates in the Extended Price cells will be a result of the County's estimated tonnage multiplied by the Vendor's Price Per Ton bid entry.

Vendor Name Cargill, Incorporated-Salt, Road Safety

DISTRICT 5				
County	Delivery Site Location	Estimated Tonnage	Price per Ton	Extended Price
Berkeley	Martinsburg Headquarters - 0571 Storage Bldg			
	Tabler Station - 0502 Storage Bldg			
	Berkeley County Headquarters			
	Berkeley County Estimated Total		\$ 97.21	\$
Grant	Grant Co. HQ			
	Mt. Storm Substation			
	Corridor H @ Knobley Road			
	Grant County Estimated Total		\$ 102.67	\$
Hampshire	Hampshire Co. HQ			
	Capon Bridge Substation			
	Slanesville			
	Hampshire County Estimated Total		\$ 101.43	\$
Hardy	Hardy Co. HQ			
	Baker Substation			
	Hardy County Estimated Total		\$ 107.30	\$
Jefferson	Jefferson County Headquarters - 0519 Storage Bldg			
	9/340 Expressway Headquarters - 0564 Storage Bldg			
	Jefferson County Estimated Total		\$ 94.66	\$ 282
Mineral	Mineral Co. HQ			
	Skyline Substation			
	Short Gap Substation			
	District 5 HQ			
	Mineral County Estimated Total		NO BID	#VALUE!
Morgan	Morgan Co. HQ			
	Largent Substation			
	Morgan County Estimated Total		\$ 99.52	\$
DISTRICT 5 ESTIMATED TOTAL				

ROADWAY SALT - SODIUM CHLORIDE
Attachment A - Pricing Pages by Delivery

Vendor shall complete ATT A by providing a unit price per ton for any or all Counties listed.

The Extended Price amount for each County will autofill upon Vendor entry of its Price Per Ton. The price that populates in the Extended Price cells will be a result of the County's estimated tonnage multiplied by the Vendor's Price Per Ton bid entry.

Vendor Name Cargill, Incorporated-Salt, Road Safety

DISTRICT 7				
County	Delivery Site Location	Estimated Tonnage	Price per Ton	Extended Price
Barbour	Barbour Co. HQ (000111)			
	Belington Substation (000113)			
Barbour County Estimated Total			\$ 96.77	\$
Braxton	Braxton County HQ (000444)			
	Heaters Substation (000431)			
	Coon Knob Substation (000405)			
	Burnsville Substation (000432)			
Braxton County Estimated Total			\$ 100.93	\$
Gilmer	Gilmer County HQ (001110)			
Gilmer County Estimated Total			NO BID	#VALUE!
Lewis	Lewis County HQ (002108)			
	APD (Weston Mudlick) (002187)			
Lewis County Estimated Total			\$ 103.12	\$
Upshur	Clow Lot/Upshur County HQ (004912)			
	Tennerton/Upshur County SubHQ (004903)			
	Kanawha Head			
Upshur County Estimated Total			\$ 101.61	\$
Webster	Cherry Falls			
	RT 20/Cowen Substation (005110)			
	Webster County HQ @ Bolair			
	Hacker Valley Substation (005120)			
Webster County Estimated Total			\$ 99.35	\$
DISTRICT 7 ESTIMATED TOTAL		1		

ROADWAY SALT - SODIUM CHLORIDE
Attachment A - Pricing Pages by Delivery

Vendor shall complete ATT A by providing a unit price per ton for any or all Counties listed.

The Extended Price amount for each County will autofill upon Vendor entry of its Price Per Ton. The price that populates in the Extended Price cells will be a result of the County's estimated tonnage multiplied by the Vendor's Price Per Ton bid entry.

Vendor Name Cargill, Incorporated-Salt, Road Safety

DISTRICT 8				
County	Delivery Site Location	Estimated Tonnage	Price per Ton	Extended Price
Pendleton	Franklin, 220 North			
	Judy Gap Substation			
	Brandywine Stockpile			
	Onego Stockpile			
	Franklin Rt. 220 South Lot			
Pendleton County Estimated Total			\$ 106.47	\$
Pocahontas	Pocahontas County HQ			
	Seebert Stockpile			
	Green Bank Substation			
	Bartow Lot			
	Snowshoe Stockpile			
	Slaty Fork Stockpile			
Pocahontas County Estimated Total			\$ 103.91	\$
Randolph	Randolph Co. HQ			
	Harman Substation			
	Coalton Substation			
	Valley Head Substation			
	Mill Creek Substation			
	Pickens Substation			
	Corridor H			
Randolph County Estimated Total			\$ 99.83	\$
Tucker	Tucker Co. HQ			
	Thomas Substation			
	Corrido H - Thomas			
Tucker County Estimated Total			\$ 97.99	\$
DISTRICT 8 TOTAL				

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