

**CONTRACT MODIFICATION NO. 1
BETWEEN THE CITY OF COLUMBUS,
DEPARTMENT OF FINANCE AND MANAGEMENT,
AND CARGILL, INC.**

This contract modification is entered into by and between the City of Columbus and the Deicing Technology Business Unit of Cargill, Inc., 24950 Country Club Blvd., Suite 450, North Olmsted, Ohio 44070 pursuant to the terms for modification contained in the original agreement, as authorized by City Council under ordinance number 1713-2006, passed on October 23, 2006, and executed by the parties on October 26, 2006.

WITNESSETH THAT:

Whereas, the parties executed a Contract for the purchase of Highway Road Salt on October 26, 2006; and

Whereas, the parties have a dispute about the per tonnage price of an order for salt placed by the City on or about September 11, 2008; and

Whereas, the parties have negotiated a discounted price in order to settle the dispute; and

Whereas, this modification has been authorized by Ordinance No. _____, passed by Columbus City Council on _____; and

Whereas, it is in the best interest of both parties to modify said contract; now, therefore;

THE PARTIES MUTUALLY AGREE THAT:

1. All terms and conditions of the Contract executed on October 26, 2006, are incorporated herein, shall remain in full force and effect, except as amended herein, and shall constitute the entire agreement between the parties for the specified services.
2. Paragraph 3.1.2, **Pricing**, of the Specifications which are part of the original agreement shall be amended as follows:

The price shall be \$54 per ton, up to the maximum amount listed below. For orders above the maximum amount, which are subject to availability, the price shall be \$58.42/ton. Payment of the purchase price is subject to City Council authorization and future appropriation and certification of funds, provided that the price per ton shall not change unless the parties first shall mutually agree in writing..

3. Paragraph 3.1.3, **Quantity Estimate/Guarantee**, of the Specifications which are part of the original agreement shall be amended as follows:

The City will order and Cargill will supply a minimum of 16,000 tons between the date of this modification and July 31, 2009. The City shall have the option to order, and Cargill shall supply, up to four thousand additional tons for a maximum amount of 20,000 tons of salt. All orders for road salt under this modification shall be placed by July 31, 2009, provided, however, that if the City has not ordered the minimum quantity by that date, Cargill shall store the remaining unordered minimum quantity of salt at a cost of \$5 per ton per month and invoice the City on a monthly basis for such services until the City is able to accept delivery, or for a maximum of ninety (90) days, whichever occurs first. The orders and payment therefor, including any storage charges, are subject to City Council authorization and future appropriation and certification of funds, provided that the quantity shall not change unless the parties first shall mutually agree in writing.

4. The parties agree that this modification is in mutual consideration of, and shall constitute, a full and complete compromise and release of all claims which the parties have or may have with respect to the obligations of the parties regarding the quantities and pricing for the City's purchase of salt under this Contract.

5. The parties agree to maintain the Claims in confidence, and will not disclose them to any third part without first obtaining prior written permission from the other party, except that either party may make disclosures under the compulsion of legal or administrative process (including but not limited to "Open Records"- and "Freedom of Information Act"-type laws), subject to the condition that within a reasonable time after receipt of such requests for information, the party served therewith shall give notice of such requests to the other party to this Agreement.

IN WITNESS WHEREOF, the parties have executed this Contract Modification this _____ day of _____ 2008.

CITY OF COLUMBUS

CARGILL, INC.
Deicing Technology Business Unit

By: _____
Joel Taylor, Director
Department of Finance and Management

By: _____

Date: _____

APPROVE AS TO FORM:

City Attorney

Date