

INTERGOVERNMENTAL COOPERATION AGREEMENT

THIS INTERGOVERNMENTAL COOPERATION AGREEMENT, effective this ____ day of _____, 2020, is made and entered into by and between **MARION TOWNSHIP, BERKS COUNTY, PENNSYLVANIA**, a municipal corporation organized and existing pursuant to the Pennsylvania Second Class Township Code, 53 P.S. §65101 *et seq.*, with a mailing address of 420 Water Street, Stouchsburg, Pennsylvania 19567 ("Marion"); and

TULPEHOCKEN TOWNSHIP, BERKS COUNTY, PENNSYLVANIA, a municipal corporation organized and existing pursuant to the Pennsylvania Second Class Township Code, 53 P.S. §65101 *et seq.*, with a mailing address of 22 Rehrersburg Road, Rehrersburg, Pennsylvania 19550 ("Tulpehocken").

BACKGROUND

Marion and Tulpehocken have agreed that Marion shall be authorized to store for municipal use up to three (3) loads of road de-icing salt (equaling approximately twenty-three (23) to twenty-five (25) tons per load), or a greater quantity upon agreement between the parties, at the salt storage shed owned by Tulpehocken located behind the Tulpehocken Township Municipal Building, 22 Rehrersburg Road, Rehrersburg, Pennsylvania 19550.

As required by the Pennsylvania Intergovernmental Cooperation Act, 53 Pa.C.S.A. §2301, *et seq.*, and the Pennsylvania Second Class Township Code, 53 P.S. §65101, *et seq.*, Marion adopted Resolution No. 2020-_____ on _____, 2020 and Tulpehocken adopted Resolution No. 2020-9 on July 8, 2020, authorizing Marion and Tulpehocken to enter into this Agreement establishing their mutual understanding regarding the storage of road de-icing salt at the salt storage shed owned by Tulpehocken.

NOW, THEREFORE, in consideration of the terms and conditions set forth in this Agreement, the sufficiency of which is acknowledged by each of the parties hereto, **AND INTENDING TO BE LEGALLY BOUND HEREBY**, the parties herewith agree as follows:

1. The parties hereto acknowledge and agree that the Background sections set forth above are accurate and constitute an integral part of this Agreement and are incorporated herein by reference thereto.
2. Marion shall be authorized to store for municipal use up three (3) loads of road de-icing salt (equaling approximately twenty-three (23) to twenty-five (25) tons per load), or a greater quantity upon agreement between the parties (the "Salt"), in the salt storage shed (the "Salt Shed") owned by Tulpehocken located behind the Tulpehocken Township Municipal Building, 22 Rehrersburg Road, Rehrersburg, Pennsylvania 19550 (the "Property").
3. Marion shall not be charged an annual fee for the use of the Salt Shed.
4. Marion's Road Master shall advise Tulpehocken's Road Master, in writing via email, within twenty-four (24) hours of any deposit of Salt into the Salt Shed or within twenty-four (24) hours of unloading Salt from the Salt Shed onto Marion's or Marion's agents' vehicles.

5. The Salt stored at the Salt Shed is for municipal use only, and shall not be used for any other purpose.

6. Tulpehocken shall, at its sole cost and expense, provide and maintain in force during the term of this Agreement comprehensive public liability insurance protecting Marion and Tulpehocken against damage to any person or property occurring in, on or about the Property which covers the storage and loading activities outlined in this Agreement. Such policy or policies of insurance shall name both Marion and Tulpehocken as named insureds, as their interests may appear. Tulpehocken shall furnish Marion with certificates of insurance evidencing the foregoing insurance coverage naming Marion as additional insured.

7. Tulpehocken shall defend, indemnify and hold harmless Marion, its elected and appointed officials, employees, servants, agents and representatives, and their respective heirs, representatives, successors and assigns of and from any and all damages, losses, liabilities, costs and expenses of any nature, including but not limited to reasonable attorneys' and other professional fees, suffered or incurred which in whole or in part arise out of or pertain to or are asserted by reason of any failure or alleged failure by Tulpehocken to perform any duties or obligations under this Agreement. The provisions of this Section shall survive the termination of this Agreement.

8. Marion shall defend, indemnify and hold harmless Tulpehocken, its elected and appointed officials, employees, servants, agents and representatives, and their respective heirs, representatives, successors and assigns of and from any and all damages, losses, liabilities, costs and expenses of any nature, including but not limited to reasonable attorneys' and other professional fees, suffered or incurred which in whole or in part arise out of or pertain to or are asserted by reason of any failure or alleged failure by Marion to perform any duties or obligations under this Agreement. The provisions of this Section shall survive the termination of this Agreement.

9. Marion's employees and agents accessing the Salt Shed shall abide by all traffic and safety regulations while on the Property, and this Agreement shall be terminable immediately if, in the discretion of Tulpehocken, Marion's employees or agents are acting in a manner which endangers the health or safety of persons, or poses an unacceptable risk of damage to Tulpehocken's property or the property of third parties.

10. So long as both parties to this Agreement fully perform all of the terms and conditions of this Agreement, then this Agreement shall automatically renew for one (1) year terms subject to the same terms and conditions set forth in this Agreement, unless either party hereto shall, at least ninety (90) days prior to the expiration of the then current term, notify, in writing, the other party hereto that this Agreement is to terminate at the end of the then current term or that the terms of the renewal are to be changed, and if such changes are mutually agreed to, they shall be the terms of the new term, otherwise, the term shall terminate at the end of the then current term.

11. Any notice required under this Agreement shall be to the parties at the addresses listed above.

12. Time shall be of the essence of this Agreement.

13. No failure on the part of either party to this Agreement to exercise and no delay in exercising any right or remedy under this Agreement or permitted or provided by statute, at law or in equity shall operate as a waiver thereof, nor shall any single or partial exercise by either party to this Agreement of any such right or remedy preclude any other or future exercise thereof, or the exercise of any other right or remedy.

14. If any provision of this Agreement, or the application thereof to any party or circumstance, be held invalid or unenforceable, the remainder of this Agreement shall not be affected thereby and to this end, the provisions of this Agreement are declared severable.

15. This Agreement contains the entire agreement reached between the parties hereto with respect to the agreement contemplated hereby and supersedes all prior agreements, understandings, representations and warranties among the parties, and may not be amended except by written instrument executed by the parties hereto.

16. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the Commonwealth of Pennsylvania without regard to its principles of conflicts of law.

17. Each of the parties to this Agreement irrevocably and unconditionally (a) agrees that any suit arising out of this Agreement shall be brought and adjudicated in the Court of Common Pleas of Berks County, Pennsylvania, (b) submits to the exclusive jurisdiction of the said Court of Common Pleas for the purpose of any such suit, and (c) waives and agrees not to assert by way of motion, as a defense or otherwise in any such suit, any claim that such Party is not subject to the jurisdiction of the said Court of Common Pleas, that such suit is brought in an inconvenient forum or that the venue of such suit is improper.

18. This Agreement shall not be assignable by any party hereto, nor any of its duties delegated, without the prior written approval of the other party hereto.

19. This Agreement shall be binding upon the parties hereto and their respective successors and permitted assigns.

20. This Agreement may be executed in two (2) counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same agreement. Furthermore, this Agreement may be executed by the facsimile or email signature of any party hereto, it being agreed that the facsimile or email signature of any party hereto shall be deemed an original for all purposes.

INTENTIONALLY LEFT BLANK - SIGNATURES APPEAR ON FOLLOWING PAGES

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized appropriate officers and their respective seals to be affixed hereunto, on the day and year first above written.

**BOARD OF SUPERVISORS
MARION TOWNSHIP
BERKS COUNTY, PENNSYLVANIA**

Peter McCarthy, Chairman

Irene Sileski

James Brooks

Attest: _____
Susan Staaby, Secretary

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized appropriate officers and their respective seals to be affixed hereunto, on the day and year first above written.



BOARD OF SUPERVISORS OF
TULPEHOCKEN TOWNSHIP,
BERKS COUNTY, PENNSYLVANIA

Gary A. Deck

Gary A. Deck, Chairman

Lester H. Feick

Lester H. Feick, Vice Chairman

Richard A. Kramer

Richard A. Kramer

ATTEST:

Christy Flaherty

Christy Flaherty, Secretary