

CONTRACT FOR SNOW AND ICE MANAGEMENT SERVICES

Updated November 15, 2018

This contract (“Contract”) is entered into by and between [contractor company] (“Contractor”) and [name of property owner] (“Owner”) on this [date] day of [month], [year], for [property description] (“Site”).

The following terms apply to Contractor’s use of anti-icing, de-icing, and traction enhancing materials and methods (together, “snow and ice management materials and methods”) to complete all snow and ice management services (“Services”) specified in the Scope of Work (Exhibit A).

1. DESCRIPTION OF SERVICES

- a. Contractor will provide the management, supervision, workforce, equipment, and supplies necessary to provide the Services expected to commence on or about [month, day, year] in conformance with the Level of Service Agreement (Exhibit B).
- b. Contractor will exercise judgment as to snow and ice management materials and methods, including when application of materials is appropriate, choice of material, method of application and application rates. In making these decisions, Contractor in its judgment will consider, among other things, weather conditions, traction needs, cost, and damage to surfaces, infrastructure and vegetation from de-icing materials.**
- c. Snow and ice management materials contribute pollutants including sand and chlorides to the environment. Chloride accumulates in the environment, and high chloride levels: (a) are harmful to fish and other freshwater aquatic life; (b) may impair groundwater and drinking water supplies; and (c) may cause injury to infrastructure and vehicles, plants, soil, pets and wildlife. Sand may affect surface water habitat and may increase public cost by accumulating in downstream conveyances and basins. Chemicals and nutrients from other de-icing materials also negatively impact the environment.**
- d. In recognition of these concerns, Contractor provides the Services relying on Best Practices described in section 5.**
- e. Contractor and Owner intend that the Services provide for reduced environmental and property damage impact from de-icing activities while achieving the same level of service and effectiveness for safe movement of persons and vehicles that would be achieved without use of the approach described in section 5. Contractor and Owner will agree on a Level of Service**

based on a site assessment. Contractor and Owner rely on the authority and findings of the resources described in section 5, and on the Contractor's Smart Salting training and certification in Best Practices, for their conclusion that the use of Best Practices under this Contract will achieve equivalent service and effectiveness.

2. PRICING AND PAYMENT

Contractor's pricing for the Services reflects Contractor's use of Best Practices. Contractor and Owner will discuss the elements of this Contract prior to a pricing determination.

a. PRICING

- i. Per visit charge [if relevant]:
- ii. Per application charge: Contractor bills Owner for application of salt and other deicing materials based on usage of those materials which may not be used during every site visit.

b. PAYMENT

- i. Payment for Services is due to Contractor [payment schedule].
- ii. Pricing terms for the Services are as follows: [insert]
- iii. **The following is an itemized description of the price increases and decreases associated with the use of Best Practices: [insert]**

3. SERVICE TERM

Contractor will provide all management, supervision, labor, equipment, materials, tools and supplies to provide the Services from [dates of service].

4. SNOW REMOVAL

a. TRIGGER DEPTH

b. PLOWING/SHOVELING

c. BLIZZARDS, HEAVY SNOW, WIND

5. USE OF BEST PRACTICES TO LIMIT ENVIRONMENTAL IMPACT AND VEGETATION/STRUCTURE DAMAGE

a. BEST PRACTICES STANDARD

- i. Contractor relies on Best Practices which include the following:**
 - Responsible application of appropriate material at the proper amount and rate;
 - Employment of the correct procedure(s) for the temperature and conditions;
 - Accurate, regular record keeping and data recordation;
 - Responsible storage of deicing materials, salt, and snow;
 - Regular calibration of equipment; at a minimum once annually;**as more fully explained in these resources and updates to these resources:**
 - Minnesota Pollution Control Agency Smart Salting Level 1 and Level 2 certification, training materials, and resources;
 - Winter Parking Lot and Sidewalk Maintenance Manual (Minnesota Pollution Control Agency, 2015);
 - Minnesota Snow and Ice Control Field Handbook for Snowplow Operators (MnDOT, 2012);
 - Smart Salting Assessment Tool (SSAt) (Minnesota Pollution Control Agency);
 - Snow and Ice Management Association's Best Practices Checklist;**that together outline an approach to de-icing intended to reduce the use of chloride-containing de-icing materials, and reduce the discharge of chlorides and solid materials from the Site, in order to limit off-site environmental impacts and surfaces and infrastructure damage on and off-site from the de-icing activity, and that together are referred to in this contract as "Best Practices."**
- ii. Contractor will perform the Services in accordance with Best Practices. In performing the Services, Contractor will use its experience, training and professional judgment to incorporate Best Practices to the fullest extent appropriate under site conditions and weather circumstances. Contractor and Owner intend that the Services provide for reduced environmental and property damage from de-icing activities while achieving equivalent safety and level of service outcomes to those that would be achieved without utilizing Best Practices.**
- iii. In incorporating Best Practices, Contractor will maintain compliance with ADA compliance requirements. Contractor will perform the Services so that, in its judgment, effectiveness in addressing slippery conditions is not reduced from that which would be achieved absent the use of Best Practices.**

b. CONTRACTOR TRAINING

- i. A delivery of Services that involves a deicing decision or action will be reviewed by a Contractor representative who has current certification in lower salt-use strategy training from the Minnesota Pollution Control Agency Level 1 Smart Salting certification program. Contractor is Minnesota Pollution Control Agency Level 2 Smart Salting certified and its certification is current. A list of currently certified contractors is available on the Minnesota Pollution Control Agency Smart Salting training website.**
- ii. Contractor will provide Owner with information about the Minnesota Pollution Control Agency's Smart Salting certification list on which Contractor is included as a currently certified contractor.**

c. DOCUMENTATION

- i. In addition to other documentation requirements of this contract, Contractor will document its de-icing operations so as to demonstrate use of Best Practices. This includes time; area serviced; Services provided; de-icing materials used; application rate or quantity; and storm event pavement temperature and precipitation rate.**
- ii. Contractor will calibrate de-icer delivery equipment at a minimum of once per year, and provide calibration records on Owner's request.**

d. OWNER'S OBLIGATIONS

- i. Before November 1 of the contract year, Owner will give Contractor a Site map indicating locations of Site storm drains, and Site locations where water collects or discharges from downspouts or surfaces onto the Site surface.**
- ii. Owner will inspect Site lighting on a regular basis between November 1 and April 30, and will replace non-functioning lighting within a week of inspection.**
- iii. On its own discovery or at Contractor's request, Owner promptly will place signage of appropriate size and visibility to warn of localized conditions that are susceptible to becoming or remaining more slippery than the Site as a whole.**
- iv. On learning of same, Owner promptly will inform Contractor in writing of slip and fall, vehicle accident or other occurrence of injury or property damage in which slipperiness may have been a factor.**
- v. Owner acknowledges that salt and de-icing materials can result in damage to on- and off-site property, surfaces, and infrastructure.**

e. COMMUNICATION

- i. Each party will provide the other with contact names and telephone numbers of one or more authorized representatives who will be official contacts regarding the Services.
- ii. Contractor will maintain a service call record that will remain available to Owner for review at any time.

6. DUTY OF CARE

- a. Contractor will perform the Services with due care and in accordance with training obtained under paragraph 5.b, above.
- b. Notwithstanding paragraph 1.e, above, a determination that the Services, incorporating Best Practices, were less effective for the safe movement of persons and vehicles than if Best Practices had not been used, does not mean that Contractor or Owner failed to exercise due care.**
- c. Contractor will seek to minimize noise in performing the Services but is not responsible for eliminating noise associated with performance of the Services.
- d. Contractor will not perform Services where, in its judgment, damage to vehicles parked within the area to be serviced may result. Contractor is not responsible for snow and ice conditions on portions of the Site that could not be serviced due to the presence of vehicles or structures preventing adequate access.
- e. Owner recognizes that Contractor exercises judgment as to ice management materials and methods, including when application of material is appropriate, choice of material, method of application and application rates. In making these decisions, Contractor in its judgment considers, among other things, weather conditions, traction needs, cost and damage from materials to surfaces, infrastructure, and vegetation. The Contract states Owner's recognition that snow removal and ice management services will not necessarily result in bare pavement or sidewalks.**
- f. Owner will not claim that Contractor has violated or breached this contract by giving consideration to pollutant or public infrastructure impacts in its ice management materials and methods, unless Contractor has deviated substantially from Best Practices. In any claim, dispute or proceeding concerning damage or injury to Owner or any third party, Owner will not claim that Contractor has violated a duty of care or any other applicable legal standard by giving consideration to pollutant or public surfaces and**

infrastructure impacts in its ice management materials and methods, unless Contractor has deviated substantially from Best Practices.

7. CONTRACT TERM

The term of this Contract will be for [length of contract term].

8. SUBCONTRACTORS

Contractor may subcontract services it is obligated to supply, and is responsible for the acts and omissions of employees, subcontractors and individuals employed by subcontractors. Nothing in this Contract creates a contractual relationship between any subcontractor and Owner.

9. PERFORMANCE

Time is of the essence in performance of Services in conformance the Service Level Agreement. Contractor is not liable for delay caused by Owner or its agents, labor disputes, Acts of God, or federal, state or local law.

10. INDEMNIFICATION

Contractor will indemnify Owner, and its officers and employees, and hold them harmless, with respect to all claims, liabilities, damages and costs whatsoever for death or bodily injury, or property damage, arising out of Contractor's, or a subcontractor's, performance of the Services, including its incorporation of Best Practices, except to the extent due to Owner's failure to perform an obligation under this contract, or Owner's negligent or willful act.

11. INSURANCE

- a. At all times during the performance of the Services, Contractor will have and keep in force the following insurance coverages:
 - i. Commercial general liability (CGL): \$2.0 million each occurrence and aggregate, covering work and completed operations. The certificate will confirm contract liability coverage before any subcontractor is used.
 - ii. Automobile liability: combined single limit each occurrence coverage for bodily injury and property damage covering all vehicles, \$2.0 million.
- b. By means of endorsement or otherwise, Contractor will adequately demonstrate to Owner coverage for death, injury and property damage claims associated with the

Services sufficiently broad as to encompass all claims for which Contractor is responsible under this contract.

- c. Insurance coverage will be on an occurrence basis. Owner's deductible under either policy may not exceed \$XXXX. By the effective date of the contract, Contractor will supply to Owner a certificate of insurance showing the required coverages. The certificate will name Owner as a holder and an additional insured under the CGL (Contractor's work and completed operations) and automotive policies with primary coverage on a non-contributory basis, and will state that Owner will receive written notice under the same terms as Contractor before cancellation, non-renewal, or a change in the liability limit of any described policy. On request, Contractor promptly will supply Owner an endorsement establishing Owner coverage as an additional insured as required above.

12. GOVERNING LAW

Contractor will carefully observe all locally prescribed safety regulations, laws, and practices in performance of the Services. Both parties will fully comply with all Federal, State, Local, and city laws, regulations and ordinances. The law of the State of Minnesota governs the parties to this Contract.

13. SEVERABILITY

Should any of the provisions in this Contract be found invalid, illegal, or unenforceable, such a determination will not affect any other provision in this Contract.

14. TERMINATION

Owner may terminate this Contract for cause by providing Contractor written notice to terminate with at least 30-day notice. Contractor may terminate this agreement for cause by providing Owner with written notice to terminate with at least 30-day notice. After termination, Contractor has no further obligation to provide the Services. Termination by Contractor does not affect any remedy or remedies for payment to which Contractor is legally entitled. Owner will pay all costs and expenses including reasonable attorney's fees incurred or expended by Contractor to collect sums due from Owner and to otherwise enforce the provisions of this Contract. Upon termination, Contractor will adjust the final billing to Owner to reflect all unpaid costs.

15. ENTIRE AGREEMENT

This Contract, including all exhibits and amendments signed and incorporated herein, constitute the entire agreement between the parties and supersede any and all other agreements, either oral or in writing. By signing below, each part acknowledges that they have read and understand this Contract to constitute the entire agreement between the parties. Any changes to this Contract are not binding unless they are in writing and signed by both parties hereto.

IN WITNESS WHEREOF, the parties have caused this contract to be executed by their duly authorized officers on the dates set forth below.

[Contractor company name]

[Owner name]

By: _____

By: _____

Its: _____

Its: _____

Date: _____

Date: _____

EXHIBIT A
SCOPE OF WORK

EXHIBIT B
LEVEL OF SERVICE AGREEMENT