

## **ROUGH DRAFT** - Suggestions for Non-Transportation Contracts

The purpose of this document is solely to facilitate discussion within the Non-Traditional BMP Workgroup at its October 3, 2019 meeting. It provides suggestions for consideration on content to aid this workgroup in developing possible recommendations for the SaMS as it pertains to a contract for services to manage snow and ice on properties.

Due to the work done by Marty Hurd, Fairfax County, he found the majority of items he recommends for the workgroup's consideration are identified in an existing contract template developed by an Advisory Committee convened by the [City of Edina, Minnesota](#) (titled the "[Model and Snow & Ice Management Contract](#)" template, dated November 1, 2018 and updated November 15, 2018). The below outline is intended only to identify the main items of that contract for the workgroup's discussion, will draw from the [Explanatory Memorandum](#) (dated November 2, 2018 and updated November 15, 2018) for that contract template (revisions and presentation of the content will be forthcoming following the Oct. 3<sup>rd</sup> meeting).

### Background:

- Types of Contracts: Snow and Ice management on properties (i.e. non-transportation)
- Audience: Service Providers, Property Managers/Owners
- Propose to center recommendations around "elements" or "components" to include in such contracts due to difficulties in developing singular contract language that serves a variety of situations and operations.

### Intent of Recommendation:

- Protect both property manager/owner and service provider from liability risks by identifying intent to use best practices, role of informed contractor judgement based upon training, and due care is demonstrated by that judgement.
- Identifies mutual intent of property manager/owner and service provider to use BMPs, and doing so will not reduce effectiveness or safety.
- Defines BMPs to provide mutual understanding and reasons for using those.

### Suggested Elements:

- Pricing and Payment section:
  - Recommend identify price impact for using BMPs.
- BMPs:
  - Identify intent of using BMPs, what those are and that implementing is not intended to reduce effectiveness and safety.
  - Template contract recommends identifying it as an approach to acknowledge role of contractor judgement due to site-specific circumstances.
- Training:

- Documented contractor training to demonstrate judgment is informed to achieve effectiveness and safety.
  - Recommend specific contract identify who is trained. Leave flexibility to the service provider as to how that is addressed as multiple ways are possible.
- Documentation:
  - Contractor can show they fulfilled contract terms by using BMPs.
  - Demonstrates how informed judgment was applied based upon site conditions and their response.
  - Not required to be provided, but available on request by property manager/owner and in cases of any claim.
- Site Assessment:
  - Recommend property manager/owner and service provider conduct a site assessment to provide mutual understanding of expectations.
  - Identify storm drains and other areas of potential concern (responsibility of property management/owner to identify).
- Due Care
  - Aims to provide liability protection for services provided using the BMPs in accordance the contract.