

ORIGINAL

# Building Maintenance Systems, Inc.

P.O. Box 3303 Barrington, IL 60011  
(847) 381-6201

September 15, 2011

Proposal J11-165

Dana Point Condominium Association  
1519 E. Central Road  
Arlington Heights, IL 60005

*RE: Dana Point Condominium Association Snowplowing*

Building Maintenance Systems, Inc. (BMS) proposes a three season contract for snowplowing of the property located in Arlington Heights, IL.

## **Summary of operations**

BMS will snowplow, your property when snowfall has accumulated to an average depth of 2 inch as measured at your site. Official measurements will be taken by BMS field personal during snow events and solely relied upon for billing purposes of this contract. A snow event shall be defined as a snowfall from beginning to end does not stop for 12 hours or more at any one time. If snowfall stops for less then 12 hours it will be deemed one ongoing event.

## **Dates of operational service**

Starting November 15, 2012, continuing through April 15, 2013, recommencing November 15, 2013, continuing through April 15, 2014, recommencing November 15, 2014, continuing through April 2015.

## **Summary of invoicing and payment**

Work will be completed in a workman like manner for the sum of \$26,000.00 for the 2012 - 2013 seasons, and \$26,000.00 for the 2013 - 2014, and \$26,000 for the 2014 - 2015 seasons, payable as follows:

|                              |                              |                              |
|------------------------------|------------------------------|------------------------------|
| \$5,200.00 November 15, 2012 | \$5,200.00 November 15, 2013 | \$5,200.00 November 15, 2014 |
| \$5,200.00 December 15, 2012 | \$5,200.00 December 15, 2013 | \$5,200.00 December 15, 2014 |
| \$5,200.00 January 15, 2013  | \$5,200.00 January 15, 2014  | \$5,200.00 January 15, 2015  |
| \$5,200.00 February 15, 2013 | \$5,200.00 February 15, 2014 | \$5,200.00 February 15, 2015 |
| \$5,200.00 March 15, 2013    | \$5,200.00 March 15, 2014    | \$5,200.00 March 15, 2015    |

## **Invoicing**

We will invoice you weekly for salting and any other additional requested services performed. We will invoice you monthly for the following month's contract fee. Payment is due within 30 days of billing.

### **Hourly and Additional services**

- A. Hourly truck rate for snowplowing is \$125.00 per hour. (2-hour min.)
- B. Hourly rate for chipping of ice, labor or shoveling is \$39.00 per man-hour. (2-hour min.)
- C. Hourly rate for a snowblower up to 24" wide is \$18.00 per hour (2-hour min.) or up to 48" wide is \$24 per hour (2-hour min.)
- D. Hourly rate for hauling and or relocation of snow utilizing a small dump truck with 3-yard tipper is \$125.00 per hour. (2-hour min.)
- E. Hourly rate for hauling and or relocation of snow utilizing a "Bobcat" style small front-end loader is \$125.00 per hour. (2-hour min.)
- F. Road salt application will be done on a per call basis for the fee of \$180.00 per ton applied.
- G. Magic Salt roadway application will be done on a per call basis for the fee of \$235.00 per ton applied.
- H. Magic Salt walkway application will be done on a per call basis for the fee of \$38.50 per 50-pounds applied.
- I. Calcium chloride application will be done on a per call basis for the fee of \$38.50 per 50-pounds applied.
- J. Magic -0 Liquid is available on a per application pricing on a per call basis.

### **Snow Plowing**

BMS will snow plow or salt the garage ramps, as first priority, then roadways and guest parking spots within the common area of your property. Snow plowing operations will commence as outlined below.

Snowplowing prior to a 2-inch snowfall will be on a time and materials basis with written or verbal approval of the property Management Company or authorized member of the association's board. If total snowfall for the season exceeds 45 inches or 10 snowplowings are provided, subsequent snowplowing and walkway snow control will be on a time and material basis.

### **Shoveling**

Snow shoveling of entrance and common walkways of your property is included. Operations will commence as outlined below.

### **Snowfall forecasted to be 2 to 4 inches**

Plowing and shoveling operations will begin within 2 hours of the accumulation of 2-inches of snowfall. All plowing and shoveling operations will be completed as soon as reasonably possible, generally within 4 to 6 hours after operations have commenced.

### **Snowfall forecasted to be 5 to 8 inches**

BMS will assess anticipated rates of snowfall and determine an appropriate response with management. All plowing and shoveling operations will be completed as soon as reasonably possible, generally within 6 to 9 hours after operations have commenced and snowfall has ended.

### **Snowfall forecasted to be 9 inches or more**

Extreme weather conditions such as blizzard, icing or prolonged duration of snowfall exceeding 12 hours will be handled to the best capabilities of the BMS equipment and employees.

**Snowfall forecasted to be 9 inches or more, continued**

Equipment and manpower required due to extreme weather conditions will be billed on a time and material basis.

**Blowing or Drifting Snow**

Plowing of blowing or drifting snow within 12 hours of the end of a plowable snowfall will be performed at no charge. After 12 hours of the end of the snowfall services will be billed on a time and material basis.

**Re-plowing**

Additional plowing required after plow operations have been completed and employees and equipment have left the premises due to village plows plowing snow into driveways or parked vehicles, will be billed on a time and materials basis with management approval.

**Drive Ways and Parking Areas**

Roadways and parking areas will be back dragged or plowed side to side. BMS will not be responsible for plowing roadways with parked vehicles, or parking areas with parked vehicles. BMS will make reasonable attempts to clear, and make a second pass through the entire property to make a final check and to re-plow any driveways or parking areas that previously contained parked vehicles.

**Ice control agents**

Road salt, Magic -0 Liquid or Magic Salt will be used for ice control on all driveways and roads. Magic Salt will be used as ice control on all common area public walkways. Applied amounts are approximate and will only be applied at the association's direction and discretion.

**Property Damage**

All landscape damage must be reported to BMS prior to April 30<sup>th</sup>. Damage claims received after April 30<sup>th</sup> will not be accepted by BMS unless previously reported. BMS will not assume liability for damages caused by or resulting from damages done to any type of underground, buried, or exposed objects, including gas and water lines, invisible dog fences, dog chains, dog stakes, electric wires, cable television wires, telephone wires, hoses, and the like in the work area. BMS will not be liable for damage caused by ice melting compounds, which are used properly in conjunction with the terms of this contract at the Association's or property manager's request. BMS will not be liable or responsible for damages to concrete, asphalt, or seal-coating resulting from normal operations. BMS shall have the right to correct any or all damages at its discretion. BMS will not be held responsible for damages or costs associated with repairs that BMS is willing to perform unless BMS has expressed in writing that repairs should be performed by another contractor or service provider.

**Inspection**

Prior to and after each snowplowing season, BMS shall walk through the property with a member of the board, or their appointed agent. The purpose of this is to determine what damage are preexisting, what damage is new and the appropriate measures to resolve such issues. (Such as lawn damage)



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### Forum

Each party agrees that any suit, action or proceeding brought by such party against any other party in connection with or arising from this contract shall be brought solely in the Circuit Court of Cook County, Illinois, and each party consents to the jurisdiction and venue of such court.

### Waiver

Each party agrees in connection with any suit, action, or proceeding arising out of this contract to waive their right to a jury trial, as well as waive the right to mandatory arbitration under 735 ILCS 5/2-1001A et seq.

### Attorney's Fees

In the event any action, suit or other proceeding is instituted or commenced to remedy, prevent or obtain relief from the breach of this contract, BMS shall be entitled to recover from the other party all of BMS's reasonable attorney's fees and expenses incurred or suffered in such action, suit or proceeding including any and all appeals and petitions there from.

### Severability

If any term of this contract is held by a court of competent jurisdiction to be invalid, void or unenforceable, then the remainder of the terms contained herein shall remain in full force and effect, and shall in no way be affected, impaired, or invalidated.

### Entire Agreement

This constitutes the entire agreement of the parties hereto with respect to the matters addressed herein. Any amendment, cancellation, revocation or other modification of the terms of this contract must be in writing and must be signed by all of the parties.

## ACCEPTANCE OF PROPOSAL

The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above. A service charge of 2% per month will be applied to all past due balances. BMS reserves the right to withhold services if payments are delinquent. BMS shall be the exclusive provider of services listed above for the term of this contract. If this contract is made an addendum to, schedule of, or subject to a rider or exhibit of any other contract, to the extent that any terms and/or conditions conflict, the provisions set forth herein shall control. Either party may cancel this contract for cause at any time with a thirty day written notice. **This contract does not automatically renew.** Work will be performed in a workman like manner within normal industry standards. Any alteration or deviation from the above specifications involving extra costs will be executed upon written or verbal change orders and will become a billable extra charge over and above the original price. This offer is valid for 60 days from the date of the proposal after which it may be withdrawn at the sole discretion of BMS.

DATE 10/11/11

SIGNATURE   
Authorized Agent

DATE 11/14/11

SIGNATURE   
Building Maintenance Systems, Inc.

## **RIDER**

This Rider dated the 14 day of Nov., 2011, is made to the Snow Plowing Agreement dated the August 5, 2011, by and between The Dana Point Condominium Association ("Association") and Building Maintenance Systems Incorporated ("BMS" or "Contractor"). The terms and conditions of this Rider shall supersede any contradictory terms and conditions contained in the Agreement.

NOW, THEREFORE, the parties hereto agree as follows:

1. On Page 3 of the Agreement, under the section entitled "Property Damage", the last sentence shall be deleted and not replaced.

2. On Page 4, the section entitled "Attorney's Fees" shall be deleted in its entirety and replaced with the following:

In the event any actions, suit or other proceeding is instituted or commenced to remedy, prevent or obtain relief from the breach of this Contract, the non-defaulting party shall be entitled to recover from the defaulting party all of their reasonable attorney's fees and expenses incurred or suffered in such action from a suit or proceeding including any and all appeals and petitions therefrom.

3. On Page 4 of the Agreement, under the section entitled "Acceptance of Proposal", the second to last sentence shall be amended by deleting the phrase "or verbal", which shall not be replaced.

4. Contractor agrees that at or before the time that work is commenced hereunder, Contractor shall promptly take out, and keep in force at all times for the duration of the work to be performed hereunder, policies of insurance as indicated in the Certificate of Insurance as required by the Association. Contractor shall supply to the Association copies of current certificates of insurance procured and supplied by itself as required under the Agreement.

5. All Contracts of insurance shall provide for 14 days' advanced written notice to the Association of any termination or cancellation thereof.

6. It is understood and agreed that Contractor's failure to provide the insurance protection required by this Agreement shall not relieve the Contractor of the obligation to defend and indemnify the Association against any claim or loss which otherwise should have been covered by the insurance required by this Agreement. No work shall be performed by the Contractor, and no payments will be made by the Association to the Contractor prior to the receipt of a properly executed Certificate of Insurance as required herein.

7. To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Association its managing agent from and against all claims, damages, losses, judgments, executions and expenses, (hereinafter "claimed") arising out of or resulting from the performance or non-performance of the work caused by any negligent act of the Contractor, anyone directly or indirectly employed by any of them.

8. Time is of the essence in this Agreement.

DANA POINT CONDOMINIUM  
ASSOCIATION

BUILDING MAINTENANCE  
SYSTEMS, INC.

By: Angela L. L.  
Its: President

By: [Signature]  
Its: President