

SNOW REMOVAL CONTRACT

THIS SNOW REMOVAL CONTRACT ("Agreement"), is entered into this ____ day of _____, 20____, by and between _____ ("Owner"), acting by and through _____ ("Agent"), its managing agent, whose address is _____, City of _____, State of _____, and _____, whose address is _____, City of _____, State of _____, ("Contractor").

PROPERTY NAME & ADDRESS: _____
CONTRACTOR'S CONTACT NAME: _____
CONTRACTOR'S ADDRESS: _____
CONTRACTOR'S PHONE #: (____)____-____ FAX #: (____)____-____ AFTER HOURS #: (____)____-____
CONTRACTOR'S E-MAIL: _____@_____
CONTRACTOR'S TAXPAYER ID #: _____
COMMENCEMENT DATE: _____, 20____
TERMINATION DATE : _____, 20____ (subject to earlier termination as provided below).

1. Scope of Services. Contractor shall perform these services for Owner, automatically and without need for any request (the "Services"): **Salt all drive lanes, fire lanes, parking areas and sidewalks on the Property shown on Exhibit C attached hereto upon start of snow or ice accumulation. Rock salt shall be used in drive lanes, fire lanes and parking lots; calcium chloride shall be used on concrete sidewalks. Plow drive lanes, fire lanes and parking lots and plow or shovel sidewalks and paved courtyards once two (2) inches of snow or ice accumulate. Snow removal shall be pursuant to the Snow Removal Guidelines attached as Exhibit A. Contractor's unit prices for materials and hourly rates for equipment are attached as Exhibit D.**

2. Term. The term of this Agreement starts on the Commencement Date set forth above and, unless sooner terminated, ends on the Termination Date set forth above. Owner shall have the right, in its sole discretion, to terminate this Agreement on five (5) days' prior written notice to Contractor, and Contractor shall be paid for its Services to the effective date of termination. If the Property is sold or conveyed to a new owner, Owner may either assign this Agreement or terminate it without any penalty, fee, cost or payment.

3. Payment. Contractor shall submit a "time and materials" monthly invoice to Agent at the address set forth above for the amounts properly due under this Agreement. Subject to the conditions for payment and limitations on liability set forth herein, Agent shall pay Contractor, but only from funds of Owner held by Agent, within thirty (30) days after Agent's receipt of an invoice. Invoices shall include a detailed, itemized statement of all charges for which payment is sought, specifying for each date Services were rendered the amount of materials used and the unit price charged therefor, and the start and stop times for each piece of snow removal equipment used and its applicable hourly rate. If Agent contests any invoice or portion thereof, the contested part of the invoice shall not be due until the dispute has been resolved.

4. Performance. Contractor shall perform all Services diligently and in a good, professional and first class manner, using good quality materials, equipment and workmanship and sufficient trained personnel (including supervisors when appropriate) to complete the Services in a safe and timely manner which does not unduly interfere with the operation of the Property, the businesses therein and their suppliers. Contractor shall obtain and maintain, at its expense and at all times during the term of this Agreement, all necessary licenses, permits, training or other authorizations which may be necessary to perform the Services.

5. Independent Contractor. Contractor shall be an independent contractor, and all persons working under the direction of Contractor shall be employees of Contractor and not of Owner or Agent. Contractor, and not Owner or Agent, shall be liable for the payment of their wages, benefits and all taxes with respect thereto, and Contractor shall comply with all applicable federal, state and local laws, regulations, codes, rules and ordinances with respect to (a) the hiring, employment, compensation, health and safety of employees and (b) the environment. Contractor agrees that neither Owner nor Agent shall be liable for any loss of or damage to Contractor's materials or equipment located on the Property.

6. No Subcontracting or Assignment by Contractor. Contractor shall not engage subcontractors to perform Services without Agent's prior written consent. This is a personal service contract with Contractor, and as such is not assignable by Contractor, but may be assigned by Owner upon the sale or conveyance of the Property. No references in this Agreement, including in its exhibits, to subcontractors shall be construed to authorize their use without Agent's prior written consent.

7. Insurance. Throughout the term of this Agreement, Contractor shall maintain insurance in accordance with the requirements set forth separately on **Exhibit B** attached hereto (for convenient delivery to Contractor's insurance agent). Contractor shall deliver to Agent a certificate of insurance evidencing that all such coverages are in full force and effect before starting to perform Services, and if Contractor's insurance shall expire or terminate before the Termination Date, Contractor shall deliver a new certificate of insurance evidencing the new policies of insurance not less than ten (10) days before the new policies go into effect.

8. Indemnification. Contractor assumes the entire responsibility and liability for, and agrees to pay, indemnify, defend and hold harmless Owner, Agent, and their respective principals, agents, affiliates, stockholders, directors, partners, members, officers, managers, employees, trustees and beneficiaries (collectively, the "Indemnified Parties") from and against any loss, expense, liability, damage or cost (including, without limitation, judgments, attorneys' fees and costs, court costs and the cost of appellate proceedings) which any of the Indemnified Parties incur because of injury to or death of any person or on account of damage to property (including, but not limited to, damage to buildings, curbs, parking blocks, islands, sidewalks, light poles, signs, landscaping, paving or striping of the Property or equipment used in connection therewith), including the loss of use thereof, or any other claim arising out of, in connection with or as a consequence of the performance of, or the failure to perform, the Services by Contractor, its agents, employees, subcontractors or any one for whose acts Contractor may be liable with respect to the Services. Contractor, for itself and its agents, employees and subcontractors, and any party claiming through any of them, also waives all right of recovery, claim, action or cause of action against the Indemnified Parties for any matters described in the preceding sentence. This indemnity shall not be limited by any limitation on amount or type of damages, compensation or benefits payable by contract or by any federal or state law.

9. Default and Remedies. If Contractor fails to perform the Services as required by this Agreement or otherwise defaults under this Agreement, Agent, on behalf of Owner, may, in its sole discretion and in addition to any other rights at law or in equity, (1) send notice of the default to Contractor and demand strict performance of the terms of this Agreement; (2) cancel this Agreement by notice to Contractor; or (3) cure the default, without notice to Contractor, and deduct the cost to cure and any direct and consequential damages from any payment due to Contractor at the time of default or coming due thereafter; provided, if no further payments are due to Contractor, then Contractor shall, immediately on presentation of Agent's invoice, reimburse Agent or Owner for the cost of curing Contractor's default and such direct or consequential damages.

10. Exculpation of Agent and Owner. Contractor acknowledges that Agent is acting solely as the managing agent for Owner and shall not be personally responsible for the payments due by Owner and/or performance by Owner of its obligations hereunder. Contractor agrees to look solely to Owner's interest in the Property for such payment and performance and further agrees that no manager, director, member, partner, shareholder, officer, trustee, employee or agent of Owner shall be liable to Contractor beyond such interest.

11. Notices. Any notice by Contractor to Agent or Owner shall be sent or delivered in writing to Agent at the address first set forth above, and any notice by Agent to Contractor shall be sent or delivered in writing to Contractor by fax to the "Fax #" set forth above or by overnight courier service or certified mail, return receipt requested, to the "Contractor's Address" set forth above.

12. Time is of the Essence. All time limits in this Agreement and any exhibits hereto are of the essence of this Agreement.

13. Miscellaneous. No failure of Agent or Owner to enforce the terms of this Agreement shall constitute a waiver by Agent or Owner of any contractual right under this Agreement. This Agreement may only be modified by a writing signed by Agent and Contractor. The rights and duties arising under this Agreement shall be governed by the law of the state in which the Property is located. Any action against Contractor shall be brought in the state courts of the jurisdiction where the Property is located, but any action against Agent shall be brought in the Circuit Court where the property is located. If any action is brought to enforce this Agreement, the prevailing party may recover from the other party its reasonable attorneys' fees and costs in connection with such action.

CONTRACTOR:

OWNER:

(print Contractor's name)

_____,
(print Owner's name)
By: _____, its Managing Agent
(print Agent's name)

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

EXHIBITS ATTACHED:

- Exhibit A: Snow Removal Guidelines
- Exhibit B: Insurance Requirements
- Exhibit C: Plan of the Property
- Exhibit D: Contractor's Unit Prices and Hourly Rates

EXHIBIT A

SNOW REMOVAL GUIDELINES

1. Contractor shall provide its own employees, equipment, and supplies necessary to complete the Services described hereunder which include clearing all drive lanes, fire lanes, parking areas, sidewalks adjacent to buildings and public sidewalks.
2. Contractor will comply with all federal, state and local governmental laws, regulations, codes and ordinances.
3. Contractor will begin plowing at the Property as soon as the snow or ice reaches a depth of 2 inches, regardless of the time of day or night or the day of the week.
4. All work shall be completed in a workmanlike manner consistent with customary industry practices, for the amounts specified on Exhibit D.
5. Contractor shall supply and mechanically spread deicing rock salt at Contractor's own discretion. Contractor shall spread calcium chloride on concrete walkways. Calcium chloride will not harm concrete and landscaping.
6. For snowfalls of 2"-6" depth, all snow shall be plowed away from the buildings and pushed to the farthest end of the parking lot. No snow shall be piled up and stacked around light posts, or onto islands or landscaping.
7. For snowfalls of more than 6" depth, all snow shall be plowed away from the buildings. Contractor may windrow snow to each island or light post, upon request; windrows will be removed at no additional cost. Contractor will relocate snow that has accumulated during the Term, if such accumulation begins to impair access to the Property entrance, fire lanes, interior roadways or designated parking stalls.
8. Contractor shall return during the day to plow vacant parking stalls, if a majority of the parking stalls are still occupied. Contractor shall return the next day before 9 a.m. to plow as many stalls as possible.
9. All fire hydrants must be kept free from snow and easily accessible in case of emergencies.
10. When snow begins to fall with heavy and rapid accumulations shortly before or during business hours, Contractor will begin plowing the snow from the parking lot using the fastest method possible. In some cases this means windowing snow at islands or even light posts and it is understood that the snow will be removed from such places upon request. Stacking snow onto island may also be necessary, depending upon snowfall accumulation and time limitations.
11. Contractor shall not create drifts in front of dumpster enclosures, fire lanes, or entrances, on sidewalks or blocking walkways and agrees to remove Contractor-created drifts at no additional cost. If Contractor does not remove the drifts in front of the fire lanes and dumpster enclosures, Contractor agrees to pay any expenses incurred by Owner for removal of said drifts.
12. Contractor shall be responsible for damage to the Property caused by snow removal operations including, but not limited to, buildings, curbs, parking blocks, islands, sidewalks, light poles, signs, landscaping, paving or striping of the Property or equipment used in connection therewith.
13. Contractor agrees to contact the Agent's property manager if for some reason the entire Property cannot be completely plowed within four (4) hours after snow or ice has stopped falling.
14. Contractor agrees to complete the Snow Control Sheet attached for each plow and salting. To receive payment, this sheet must be attached to the invoice.
15. Contractor agrees to provide the Agent's property manager with all current after hours telephone numbers.

EXHIBIT B

INSURANCE REQUIREMENTS

During the term of this Snow Removal Contract, Contractor shall comply with the insurance provisions set forth below. The insurance specified below shall be maintained by Contractor, at its expense, and certificates thereof shall be presented to Agent in form and content satisfactory to Agent prior to commencement of the Services. The insurance is as follows:

- a. Workers' Compensation in accordance with the laws of the state in which the Property is located;
- b. Employer's liability in an amount not less than \$1,000,000.00;
- c. Comprehensive general liability on an occurrence form for (i) bodily injury and (ii) property damage with limits of at least \$1,000,000.00 combined single limit each occurrence, including but not limited to comprehensive form, premises – operation, explosion, collapse, underground hazard, products/completed operations hazard (3 year extension beyond completion of the Services), blanket contractual coverage (including coverage for the indemnity provided under this Agreement), broad form property damage, independent vendors, personal injury (employee exclusion deleted).
- d. Comprehensive Automobile Liability, comprehensive form covering owned, hired and non-owned vehicles with limits of at least \$1,000,000.00 combined single limit each occurrence.
- e. Excess liability (umbrella) insurance with limits of at least \$2,000,000.00.

The insurance specified in c through e shall include the following:

- i. Endorsements adding the following parties as additional insureds: the Owner, the Agent and their respective partners, members, managers, directors, officers, employees, agents and representatives.
- ii. Thirty (30) days' prior written notice of cancellation to the Owner and the Agent.

Owner and Agent shall have no liability or other obligation for any of the insurance, endorsements or other protection required hereunder, including premiums and other charges. The insurance provisions specified herein shall be applicable to any contractors retained by Contractor, and Contractor shall require that such insurance be maintained by all its contractors. All insurance maintained by Contractor shall provide for a waiver of any right of subrogation of the insurers against Agent and Owner.

EXHIBIT C

[REPLACE THIS PAGE WITH A PLAN OF THE PROPERTY, MARKED AS EXHIBIT C]

EXHIBIT D

[ENTER ON THIS PAGE WITH CONTRACTOR'S PRICES AND HOURLY RATES, MARKED AS EXHIBIT D]