

RESOLUTION NO. 11- 2018

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA SELECTING INTERACTIVE SERVICES NETWORK, INC., TO PERFORM PHONE REPLACEMENT SERVICES IN RESPONSE TO RFP NO. 11-01; AUTHORIZING THE TOWN MANAGER OR HIS/HER DESIGNEE TO ENTER INTO A CONTRACT CONTAINED IN EXHIBIT "A" WITH SAID TELEPHONE SERVICE COMPANY; FURTHER AUTHORIZING THE TOWN MANAGER TO DO ALL THINGS NECESSARY TO EFFECTUATE THIS RESOLUTION; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town Administration advertised a Request for Proposal (RFP) to obtain bids for a turnkey voice over internet protocol (VOIP) phone system installed at Town facilities and the Town received four (4) responses which have been reviewed by staff; and

**WHEREAS**, Interactive Services Network, Inc. (ISN), submitted the sole bid package which was found to be complete, thorough and demonstrative of ISN's ability to install a centralized VOIP phone system capable of meeting anticipated growth needs of the Town; and

**WHEREAS**, the Town wishes to enter into a contract with the selected company for the purpose of installing a VOIP phone system; and

**WHEREAS**, it is in the best interests of the Town to approve the Contract amendment in substantially the same form as attached with ISN to install a VOIP phone system at the Town's Facilities and to operate that system for seven years so long as the firm meets all contractual requests.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AS FOLLOWS:**

**Section 1. Recitals.** The above recitals are true and correct and incorporated into this Resolution by this reference.

**Section 2. Approval.** The Town Commission hereby approves the contract between Interactive Services Network, Inc., as the VOIP phone system installer for the phone system, and the Town attached hereto as Exhibit "A."

**Section 3. Authorization of Town Officials.** The Town Manager and Town Attorney are hereby authorized to take all steps necessary to complete the execution of this contract and its construction.

**Section 4. Effective Date.** This Resolution shall take effect immediately upon adoption.

Motion by Commissioner Karukin, Second by Commissioner Kopelman.


**PASSED AND ADOPTED** this 12 day of April, 2011

FINAL VOTE ON ADOPTION

Commissioner Michael Karukin	<u>yes</u>
Commissioner Edward Kopelman	<u>yes</u>
Commissioner Marta Olchyk	<u>yes</u>
Vice Mayor Joseph Graubart	<u>yes</u>
Mayor Daniel Dietch	<u>yes</u>

  
Daniel Dietch, Mayor

**ATTEST:**



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Debra E. Eastman, MMC  
Town Clerk

**APPROVED AS TO FORM AND LEGALITY FOR THE USE  
AND BENEFIT OF THE TOWN OF SURFSIDE ONLY:**



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Lynn M. Dannheisser  
Town Attorney



## Master Service Agreement

This sets forth the terms of the Service Agreement ("Agreement") made this March 16, 2011, (the "Effective Date") by and between Interactive Services Network, Inc. ("ISN") and City of Surfside, a US Corporation. The term of this Agreement is for 36 months ("Term"). All services provided subject to the terms and conditions below and on the attached service orders.

Company Name City of Surfside	Contact Name Eric Wells	Contact Phone # (305) 861-4863	
Service Address 9293 Harding Ave	City Surfside	State FL	Zip Code 33154

By signing this Agreement, the Customer hereby authorizes ISN to provide the Services listed herein and on any/all attachments. The agreement shall be effective on the Effective Date; the Term of the Agreement shall commence upon the later of (i) installation of the initial Service or (ii) the Effective Date. In the event that Customer terminates this Agreement any time after the Effective Date but prior to the expiration of the Term, Customer shall pay ISN all sums then due and unpaid. Customer shall also be liable for an early termination charge equal to 100% of the last three months average billing multiplied by the number of months remaining under the term of the Agreement. Upon expiration of the Term, the Agreement shall renew automatically for successive renewal terms, each for a period of time equal to the original Term, unless either Party serves the other Party with written notice of such Party's intent not to renew the Agreement at least thirty (30) days prior to the expiration of the then current Term. In addition to the rates for the Service(s), Customer shall be responsible for payment of all local, state, and federal taxes, fees, and surcharges, however designated, imposed on or based upon the provision, sale or use of the Services. All bills are due and payable upon receipt, but in no case later than thirty (30) days after the invoice date. If customer's bill is not paid within thirty (30) days after the invoice date listed on the bill, Customer also shall pay ISN a monthly late charge amount equal to 1.5% of the unpaid balance due (or such lesser amount as is the maximum amount permitted under applicable law) or \$5.00, whichever is greater. Customer shall bear the risk of loss arising from any unauthorized or fraudulent usage of Services provided under this Agreement to Customer. ISN reserves the right, at its sole discretion, to suspend or terminate the Services without advance notice due to Customer's (i) failure to pay any sum due hereunder, (ii) misuse of the Services, (iii) suspected fraud or other activity by Customer that adversely affects the Services, ISN or ISN's network. ISN reserves the right to determine, at its sole discretion, what constitutes misuse of the Services and Customer agrees that ISN's determination is final and binding on Customer. ISN may require an activation fee to resume a suspended account.

The quality of service provided hereunder shall be consistent with common carrier industry standards, government regulations and sound business practices. ISN MAKES NO OTHER WARRANTIES ABOUT THE SERVICE PROVIDED HEREUNDER, EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY WARRANTY OF MERCHANT ABILITY OR FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT SHALL ISN BE LIABLE TO THE CUSTOMER FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF REVENUE, LOSS OF PROFITS, OR LOSS OF CUSTOMERS, CLIENTS OR GODDWILL ARISING IN ANY MANNER FROM THIS AGREEMENT AND/OR THE PERFORMANCE OR NONPERFORMANCE HEREUNDER.

The Service Agreement shall be interpreted, construed, and enforced in accordance with the laws of the State of Florida, without regard to its conflict of law principles. This agreement is subject to and controlled by ISN's federal and state tariffs as applicable, and/or by ISN's standard terms and conditions of service and the service specific terms and conditions as located at <http://www.instelcom.com> as such tariffs and terms may be modified from time to time and all of which are hereby expressly incorporated by reference.

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Accepted By Customer	Authorized by ISN
Signature: _____	Signature: <u><i>[Handwritten Signature]</i></u>
Print Name: _____	Print Name: <u>Jarathen Lieberman</u>
Title: _____	Title: <u>President &amp; CEO</u>
Date: _____	Date: <u>3/24/11</u>

## ADDENDUM

The following terms and conditions are incorporated into and form a part of the Master Service Agreement ("Agreement") dated this \_\_\_\_ day of \_\_\_\_\_, 2011, between Interactive Services Network, Inc. ("ISN"), and the Town of Surfside, a Florida municipal corporation located in Miami-Dade County, (hereinafter referred to as the "Town" or "Customer").

Addendum Controlling. In the event there is a conflict between the terms and conditions of the Addendum and of the Master Service Agreement, ISN's standard terms and conditions, or any attachments, exhibits or amendments thereto and this Addendum, this Addendum shall control.

The following language will be added to the Agreement as between ISN and the Town as page 2:

1. Nothing in this agreement shall be deemed or otherwise interpreted as waiving the Town's sovereign immunity protections existing under the laws of the State of Florida, or as increasing the limits of liability as set forth in Section 768.28, Florida Statutes.
2. The Town Manager may, at any time, for convenience of the Town and for no cause, cancel the Agreement by giving ISN ninety (90) days prior written notice by certified mail, return receipt requested, which may be confirmed by an e mail or fax receipt, of the Town's cancellation which will be effective ninety (90) days from the date of such notice. ISN will be paid its actual fees and charges under the Service Agreement and shall have no other recourse against the Town besides seeking payment of its actual fees and charges through the effective date of cancellation.
3. The Town as a municipal corporation will never pay an early termination charge, or similar penalty or imposition, or a monthly late charge under any circumstances. ISN's sole remedy for payments it claims are due are to receive simple interest at the rate of twelve (12%) per cent per annum on the unpaid balance in accordance with the applicable provisions of the *Local Government Prompt Payment Act*, Chapter 218, Part VII, Fla. Stat. ( 2010), as amended.
4. Venue for any litigation between the parties shall be in Miami-Dade County, Florida. Each party shall bear their own respective attorney's fees.
5. The Agreement, as it may be renewed, will not be renewed for more than two (2) successive terms of three (3) years each. The total term of the Agreement, inclusive of any renewals, shall not exceed nine (9) years.
6. ISN will hold harmless, indemnify and defend the Town from any actions, claims, liabilities, suits or damages arising out of ISN's negligent actions or omissions under this Agreement including, without limitation, fraudulent actions, patent or copyright infringement claims, unfair trade practice claims, gross negligence or willful and wanton actions or omissions of ISN.
7. Unless specifically approved otherwise, the terms of this Addendum that conflict with the Master Service Agreement, ISN's standard terms and conditions, or any other exhibits or amendments thereto will be binding upon both parties and will this Agreement will be effective once approved by the Town Commission and executed by the Town Manager.



Accepted by Town of Surfside,  
A Florida municipal Corporation,

Authorized by ISN,

SIGNATURE: \_\_\_\_\_

PRINT NAME: Roger Carlton, Town Manager

DATE: \_\_\_\_\_

SIGNATURE: 

PRINT NAME: Jonathan Weberman

TITLE: President and CEO

DATE: 3/24/11

Attest:

SIGNATURE: \_\_\_\_\_

PRINT NAME: Debra E. Eastman, Town Clerk

Approved as to Form and Legal Sufficiency:

SIGNATURE: \_\_\_\_\_

PRINT NAME: Lynn M. Dannheisser, Town Attorney

DATE: \_\_\_\_\_