## RESOLUTION NO. 14 - 2255

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, APPROVING THE RESORT TAX BOARD EXPENDITURE OF \$38,500 FOR HOLIDAY LIGHTS AND DECORATIONS ON HARDING AVENUE FROM 94<sup>TH</sup> STREET TO 96<sup>TH</sup> STREET FROM THE RESORT TAX FUND ACCOUNT NO. 102-8000-552-48-10; AUTHORIZING THE TOWN MANAGER TO ENTER INTO AN AGREEMENT WITH SOUTH FLORIDA LIGHTING TEAM, LLC, D/B/A/ MIAMI CHRISTMAS LIGHTS AND TOWN; AUTHORIZING THE TOWN MANAGER TO DO ALL THINGS NECESSARY TO IMPLEMENT THE TERMS OF THE CONTRACT; AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, the Town of Surfside wishes to install holiday lights and decorations along Harding Avenue from 94<sup>th</sup> Street to 96<sup>th</sup> Street; and

WHEREAS, per Town Code, Sec. 3-12. Waiver of competitive bidding procedures.

"The town commission may authorize the waiver of competitive bidding procedures upon the recommendation of the town manager that it is in the town's best interest to do so, to obtain goods and services which cannot be acquired through the normal purchasing process due to insufficient time, the nature of the goods or services, or other factors. Purchases authorized by waiver process shall be acquired after conducting a good faith review of available sources and negotiation as to price, delivery and terms."

**WHEREAS**, the Town Commission of the Town of Surfside, Florida believes it is in the Town's best interest to obtain services which cannot be acquired through the normal purchasing process due to insufficient time; and

WHEREAS, the Town Commission of the Town of Surfside, Florida believes it is in the Town's best interest to enter into an agreement with South Florida Lighting, LLC, d/b/a Miami Christmas Lights ("MCL") for the installation of holiday lights and decoration along Harding Avenue from 94<sup>th</sup> Street to 96<sup>th</sup> Street; and

WHEREAS, the Town Commission hereby amends the FY 2013-14 Budget and appropriates the amount of \$19,250.00 from the Resort Tax Fund, Account No. 102-8000-552-48-10 and further appropriates funds in the amount of \$19,250.00 from the FY 2014-15 Budget Resort Tax Fund, Account No. 102-8000-552-48-10 for a total of \$38,500.00 for holiday lights and decorations; and

**WHEREAS**, the Town Commission approves the Resort Tax Board expenditure of \$38,500.00 to MCL for holiday lights and decorations and authorizes the Town Manager to execute the attached Agreement with MCL. (See Attachment "A").

# 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.

Section2. Approval and Authorization. The Town Commission amends the FY 2013-14 Budget and appropriates the amount of \$19,250.00 from the Resort Tax Fund Account No. 102-8000-552-48-10 and further appropriates funds in the amount of \$19,250.00 from the FY 2014-15 Budget Resort Tax Fund, Account No. 102-8000-552-48-10 for a total of \$38,500.00 for holiday lights and decorations and authorizes the Town Manager to execute the attached Agreement with MCL (Attachment "A").

**Section3. Effective Date.** This Resolution shall become effective immediately upon its adoption.

PASSED AND ADOPTED this Day of August, 2014.

Motion by Gommissioner Tourgeman, second by Commissioner Cohen.

FINAL VOTE ON ADOPTION

Commissioner Barry Cohen Commissioner Michael Karukin Commissioner Marta Olchyk Vice Mayor Eli Tourgeman Mayor Daniel Dietch

Daniel Dietch, Mayor

ATTEST:

Sandra Novoa, CMC Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

Linda Miller, Town Attorney



# TOWN OF SURFSIDE AGREEMENT WITH SOUTH FLORIDA LIGHTING TEAM, LLC, d/b/a/ MIAMI CHRISTMAS LIGHTS

THIS CONTRACTUAL AGREEMENT (hereinafter referred to as the "Agreement") made this \_\_\_\_\_ day of \_\_\_\_\_, 2014, ("Effective Date") by and between the TOWN OF SURFSIDE, Florida, (hereinafter referred to as "Town"), and SOUTH FLORIDA LIGHTING TEAM, LLC, d/b/a/ MIAMI CHRISTMAS LIGHTS, a corporation authorized to do business in the State of Florida (hereinafter referred to as "Contractor") whose FEI/EIN # is 900423544. The Term of this Agreement is for 12 months with an Option ("Term"). All services provided are subject to the terms and conditions below and on the attached Scope of Work or Services ("Services") attached in Exhibit "A". By signing this Agreement, Town hereby authorizes Contractor to provide the Services listed herein and on any and all attachments. The Agreement shall be effective on the Effective Date.

#### **RECITALS**

WHEREAS, Contractor is a qualified seasonal décor firm; and

WHEREAS, the Town wishes to install holiday decorations and lights along Harding Avenue between 96<sup>th</sup> and 94<sup>th</sup> Streets as well as other tasks ("Services") as more specifically described in Exhibit "A," attached hereto and made a part hereof; and

WHEREAS, the Contractor is qualified, willing and able to provide the desired Services on the terms and conditions set forth herein; and

WHEREAS, the Town desires to enter into an Agreement with Contractor to provide the Services in an amount of Thirty Eight Thousand Five Hundred Dollars (\$38,500.00), as more particularly described in attached Exhibit "A".

**NOW THEREFORE**, in consideration of the premises and the mutual covenants herein name, the parties agree as follows:

- 1. **RECITALS**. The Recitals set forth above are hereby incorporated into this Agreement and made a part of hereof for reference.
- 2. <u>SERVICES</u>. Contractor shall install, and maintain holiday decorations along Harding Avenue between 96<sup>th</sup> and 94<sup>th</sup> Streets by November 21, 2014, and remove the holiday decorations and lights by February 16, 2015 unless requested by the Town otherwise and perform all other Services, as provided in Exhibit "A", which is attached hereto and incorporated herein by reference.

- 3. <u>TERM OF THE AGREEMENT</u>. This AGREEMENT shall have an initial term of one (1) year (the "TERM") beginning on the latest date that TOWN last ordered service starts. TOWN shall have a one (1) year Renewal Option (a "Renewal Term"), unless terminated in accordance with the remaining terms of this Agreement. If the TOWN opts to extend for one year, at the end of the Renewal Term, TOWN will have another one (1) year Renewal Option ("Second Renewal Term"). At the end of the Second Renewal Term, the contract will automatically terminates unless the Parties enter into another agreement or extension.
- 4. <u>COMPENSATION</u>. The Town agrees to pay the Contractor a total amount not to exceed Thirty Eight Thousand Five Hundred Dollars (\$38,500.00) to perform the Services. The Town agrees to pay 50% (\$19,250.00) when the contract is executed and the remaining 50% (\$19,250.00) will be paid on or about November 21, 2014 when all the holiday decorations and lights have been installed. However, 20% (\$7,700.00) of the total amount will be withheld by Town until Contractor removes all holiday decorations and lights by February 16, 2015 unless requested by the Town otherwise. Payment to Contractor for services and tasks under this Agreement shall be in accordance with this Agreement and under the following conditions:
  - a. <u>Disbursements</u>. There are no reimbursable expenses associated with this contract.
  - b. <u>Payment Schedule</u>. Invoices received from the Contractor pursuant to this Agreement will be reviewed by the Director of Tourism, Economic Development & Community Services. If Services have been rendered in conformity with the Agreement, the invoice will be sent to the Finance Department for payment. Invoices must reference the contract number assigned hereto. Invoices will be paid in accordance with the State of Florida Prompt Payment Act.
  - c. Availability of Funds. The Town's performance and obligation to pay under this Agreement is contingent upon Town Commission amending the 2013-14 FY Budget and appropriate the amount of \$19,500.00 from the Resort Tax Fund, Account Number 102-8000-552-48-10 and further appropriate funds in the amount of \$19,500.00 in the 2014-15 FY Budget Resort Tax Fund, Account number 102-8000-552-48-10 for a total of \$38,500.00 for holiday lights and decorations.
  - d. <u>Final Invoice</u>. In order for both parties herein to close their books and records, the Contractor will clearly state "final invoice" on the Contractor's final/last billing to the Town. This certifies that all services have been properly performed and all charges and costs have been invoiced to the Town. Since this account will thereupon be closed, any other additional charges, if not properly included on this final invoice, are waived by the Contractor.

Contractor shall make no other charges to the Town for supplies, labor, taxes, licenses, permits, overhead or any other expenses or costs unless any such expense or cost is incurred by Contractor with the prior written approval of the Town. If the Town disputes any charges on the invoices, it may make payment of the uncontested amounts and withhold payment on the

contested amounts until they are resolved by agreement with Contractor. Contractor shall not pledge the Town's credit or make it a guarantor of payment or surety for any contract, debt, obligation, judgment, lien, or any form of indebtedness. The Contractor further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Agreement.

- 5. <u>INSURANCE.</u> Contractor shall, at its sole cost and expense, during the period of any work being performed under this Agreement, procure and maintain the following minimum insurance coverage to protect the Town and Contractor against all loss, claims, damage and liabilities caused by Contractor, its agents or employees, as indicated below:
  - Comprehensive General liability insurance, including broad form contractual liability coverage for all operations, including, but not limited to, contractual, products, and completed operations, personal injury and property damage liability with minimum limits of One Million Dollars (\$1,000,000) per occurrence.
  - Worker's Compensation and employer's liability coverage, as required pursuant to Florida law.

Insurance required of the Contractor shall be primary to, and not contribute with, any insurance or self-insurance maintained by the Town. Such insurance shall not diminish Contractor's indemnification and obligations hereunder. The insurance policy shall be issued by companies authorized to do business under the laws of the State of Florida and acceptable to the Town with a minimum A.M. Best rating of A-Excellent. Before any work under this Agreement is performed, and at any time upon request, Contractor shall furnish to the Town certificates of insurance evidencing the minimum required coverage and shall be appropriately endorsed for contractual liability, with the Town named as additional insured. All policies shall contain a waiver of subrogation endorsement. All policies and certificates shall be in forms and issued by insurance companies acceptable to the Town Manager or his designee. All insurance policies and certificates of insurance shall provide that the policies may not be canceled or altered without thirty (30) days prior written notice to the Town. The Town reserves the right from time to time to change the insurance coverage and limits of liability required to be maintained by Contractor hereunder. Contractor shall also require and ensure that each of its sub-contractors providing services hereunder (if any) procures and maintains, until the completion of the services, insurance of the types and to the limits specified herein. ANY EXCEPTIONS TO THE INSURANCE REQUIREMENTS IN THIS SECTION MUST BE APPROVED IN WRITING BY THE TOWN.

#### 6. TERMINATION AND REMEDIES FOR BREACH.

A. <u>Termination for Cause</u>. If, through any cause within reasonable control, the Contractor shall fails or refuses to fulfill in a timely manner or otherwise violate any of the covenants, agreements or stipulations material to this Agreement, the Town shall have the right to terminate the Services then remaining to be performed. Prior to the exercise of its option to terminate for cause, the Town shall notify the Contractor of its violation of the particular terms of the Agreement and grant Contractor three (3) days to cure such default. If the default remains

uncured after three (3) days the Town may terminate this Agreement, and the Town shall receive a complete refund from the Contractor or in an amount equal to the actual cost of a third party to cure such failure, whichever is greater. Notwithstanding the foregoing, the Contractor shall not be relieved of liability to the Town for damages sustained by it by virtue of a breach of the Agreement by Contractor and the Town may reasonably withhold payment to Contractor for the purposes of set-off until such time as the exact amount of damages due the Town from the Contractor is determined. Additionally, the Contractor shall be required to indemnify the Town for all costs incurred by the Town to re-procure and hire a third party to complete the Services described in this Agreement. Further the Town will be entitled to liquidate damages discussed in paragraph 10.

- B. <u>Termination for Convenience of Town</u>. Town may, for its convenience and without cause, terminate the Services then remaining to be performed at any time by giving Contractor five (5) days written notice. Town shall pay for services rendered as of the date of termination.
- C. <u>Termination for Insolvency</u>. The Town also reserves the right to terminate the remaining Services to be performed in the event the Contractor is placed either in voluntary or involuntary bankruptcy or makes any assignment for the benefit of creditors.
- 7. **LIQUIDATED DAMAGES.** Time is of the essence in this Agreement. Notwithstanding any other Section in this Agreement, in the event the Contractor fails to install the holiday lights and decorations along Harding Avenue between 96<sup>th</sup> and 94<sup>th</sup> Streets by November 21, 2014, and in the absence of any extended calendar days extension granted by the Town Manager or his designee, the Contractor shall be required to return the 50% deposit paid by the Town, i.e. \$19,250.00 (Nineteen thousand two hundred fifty dollars) and shall be required to pay the Town \$10,000.00 (ten thousand dollars) as liquidated damages to the Town, such amount being the actual cash value agreed upon by the Parties as the loss to Town resulting from Contractor's delay in not having the holiday lights and decorations installed by November 21, 2014. Additionally, in such an event, the Contractor shall be required to indemnify the Town for all costs incurred by the Town to re-procure and hire a third party to complete the Services described in this Agreement, and Contractor shall assume complete financial responsibility for any costs the Town may incur as a result of the Contractor's failure to install the holiday lights and decorations by November 21, 2014.
- 8. <u>DEFECTS IN WORKMANSHIP AND INSTALLATION.</u> Contractor warrants that it will promptly correct any defects related to the performance of its Services under this Agreement. The Contractor's obligations shall include, but not be limited to, repairing or replacing the defective workmanship and/or installation of holiday lights and decorations at Heritage Park. In such an event, the Town shall provide Contractor with written notice thereof specifying the defect, and Contractor shall have no later than 24 (twenty four) hours to correct the defect. In the event Contractor fails to correct the defect within this 24 hour period after being notified by the Town, and in the absence of any extended calendar days extension granted by the Town Manager or his designee, then the Contractor shall be required to pay a liquidated

damage penalty of \$100.00 (One Hundred Dollars) for each calendar day beyond the 24 (twenty four) hours deadline, continuing to the time at which the defects are corrected. Such amount is the actual cash value agreed upon as the loss to Town resulting from Contractor's delay.

- 9. <u>ASSIGNMENTS, TRANSFERS, SUBCONTRACTING</u>. The Contractor shall not subcontract, assign or transfer any work under this Agreement without the express, prior written consent of the Town. Should the Contractor subcontract any Services under this Agreement, it shall be done with continued liability for the Contractor. The Contractor shall remain responsible for Services, responsibilities and liabilities of any person or entity acting under Contractor.
- 10. TIME OF COMPLETION AND WITHHOLDING OF FINAL PAYMENT. The Services to be rendered by the Contractor shall be commenced upon execution of this Agreement and shall be completed no later than November 21, 2014, and all holiday lights and decorations shall be removed by February 16, 2015 unless requested by the Town otherwise. A reasonable extension of time shall be granted in the event the work of the Contractor is delayed or prevented by the Town or by circumstances beyond the reasonable control of the Contractor including weather conditions or acts of God, which render the performance of the Contractor's duty impracticable. Additionally, the Town shall also be entitled to withhold 20% (\$7,700.00) of the total Compensation to be paid to Contractor until all holiday decorations and lights are removed.
- 11. <u>AUTHORITY TO PRACTICE.</u> Contractor hereby represents and warrants that it has and will continue to maintain all licenses and approvals required conducting its business and that it will at all times conduct its business activities in a reputable manner. Proof of such licenses and approvals shall be submitted to the Town prior to commencement of work under this Agreement.
- 12. **CONFIDENTIAL INFORMATION**. The Contractor shall not, either during the term of this Agreement or any time for a period of ten (10) years subsequent to that date upon which the Contractor shall leave the employment of the Town for any reason whatsoever, disclose to any person or entity, other than in the discharge of the duties of the Contractor under this Agreement, any information which the Town designates in writing as "confidential." As a violation by the Contractor of the provisions of this Section could cause irreparable injury to the Town and there is no adequate remedy at law for such violation, the Town shall have the right, in addition to any other remedies available to it at law or in equity, to enjoin the Contractor in a court of equity for violating such provisions. However, Contractor understands the Town is subject to Florida's Public Records Act, Chapter 119, Florida Statute and that such books, records, documents and data maintained by the Town are public records unless expressly exempted by general law.
- 13. **NOTICES**. All notices and other communications required or permitted to be given under this Agreement by either party to the other shall be in writing and shall be sent (except as otherwise provided herein) (i) by certified or registered mail, first class postage prepaid, return receipt requested, (ii) by guaranteed overnight delivery by a nationally recognized courier service, or (iii) by facsimile with confirmation receipt (with a copy simultaneously sent by

certified or registered mail, first class postage prepaid, return receipt requested or by overnight delivery by traditionally recognized courier service), addressed to such party as follows:

If to the Town:	Michael P. Crotty	With a copy to:
	Town Manager	Duncan Tavares
	Town of Surfside	Director of Tourism, Economic
	9293 Harding Avenue	Development & Community Service
	Surfside, Florida 33154	Town of Surfside
	Tel: (305) 731-3914	9293 Harding Avenue
		Surfside, Florida 33154
		Tel: (305) 864-0722
If to the	South Florida Lighting Team,	
Contractor:	LLC, d/b/a Miami Christmas	
	Lights	
	Mr. Kurt Stange	
	1330 West Avenue, Suite 2012	
	Miami Beach, FL 33139	
	Tel: 305-432-2225	

- 14. GOVERNING LAW. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. Any claim, objection, or dispute arising out of the terms of this Agreement shall be litigated in Miami-Dade County, Florida. Any and all disputes between Contractor and Town that arise under or in connection with this Agreement which cannot be resolved through good faith negotiation shall be submitted to binding arbitration, to be conducted in Miami-Dade County, Florida in accordance with the American Arbitration Association Arbitration Rules.
- 15. <u>ATTORNEY'S FEES</u>. If this matter is placed in the hands of an attorney for collection, or in the event suit or action is instituted by the Town to enforce any of the terms or conditions of this Agreement, Contractor shall pay to the Town, in such suit or action in both trial court and appellate court, the Town's costs together with the Town's reasonable attorney's fees for the anticipated cost of collection and judgment enforcement.
- 16. NON-DISCRIMINATION. The Contractor agrees to comply with all local and state civil rights ordinances and with Title VI of the Civil Rights Act of 1984 as amended, Title VIII of the Civil Rights Act of 1968 as amended, Title 1 of the Housing and Community Development Act of 1974 as amended, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and with Executive Order 11248 as amended by Executive Orders 11375 and 12086. The Contractor will not discriminate against any employee or applicant for employment because of race, color, creed, religion, ancestry, national origin, sex, disability or other handicap, age, marital/familial status, or status with regard to public assistance. The Contractor will take affirmative action to insure that all employment practices are free from such discrimination. Such employment practices include but are not limited to the following: hiring, upgrading,

demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Town setting forth the provisions of this non-discrimination clause. The Contractor agrees to comply with any Federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 708), which prohibits discrimination against the handicapped in any Federally assisted program.

- 17. **CONFLICT OF INTEREST.** The Contractor agrees to adhere to and be governed by the Miami-Dade County Conflict of Interest Ordinance Section 2-11.1, as amended; and by the Town's Ordinance Article VII Code of Ethics, which are incorporated by reference herein as if fully set forth herein, in connection with the Agreement conditions hereunder. The Contractor covenants that it presently has no interest and shall not acquire any interest, directly or indirectly which should conflict in any manner or degree with the performance of the Services. The Contractor further covenants that in the performance of this Agreement, no person having any such interest shall knowingly be employed by the Contractor. The Contractor guarantees that he/she has not offered or given to any member of, delegate to the Congress of the United States, any or part of this contract or to any benefit arising therefrom.
- 18. MOST FAVORED NATION. Contractor agrees that if, after the Effective Date of this Agreement, it enters into another agreement for the same or substantially similar scope of services with another local government in Florida which contains a term or condition, including fees, charges or costs, that are more favorable than the terms in the Agreement, Town may provide Contractor with written notice explaining how the new agreement is for the same or substantially similar services and how the new agreement contains terms or conditions that are more favorable than the terms in the Agreement, and requesting to negotiate an amendment to the Agreement (a "New Agreement Notice"). The parties shall act in good faith to negotiate an amendment to the Agreement that addresses, in a manner that is fair and equitable to both parties, the matters raised by the Town in the New Agreement Notice. If the parties fail to reach agreement upon an amendment within thirty (30) days of the New Agreement Notice, then the Town shall have the right to terminate this Agreement without penalty or early termination fee, subject to the terms and conditions herein, by providing thirty (30) days advance written notice to Contractor, such notice to be given no later than sixty (60) days from the New Agreement Notice.
- 19. **FORCE MAJEURE.** Neither party will be liable to the other or be deemed to be in breach of this Agreement for any failure or delay in rendering performance arising out of causes beyond its reasonable control and without its fault of negligence. Such causes may include, but are not limited to, acts of God or the public enemy, terrorism, significant fires, floods, earthquakes, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather, or governmental authorities approval delays which are not caused by any act or omission by Contractor. The party whose performance is affected shall request an extension of time to perform its obligations stated in this Agreement by notifying the party, which it is obligated within ten (10) days following the event. If the notified party agrees that the event was the cause of the delay, the time to perform the obligations stated in this Agreement shall be

extended by the number of days of delay caused by the event. If the required notice is not given by the delayed party, no time extension shall be granted.

- 20. **HOLD HARMLESS AND INDEMNIFICATION.** For other good and valuable consideration the receipt and adequacy of which is hereby acknowledged, Contractor agrees to indemnify, defend and hold harmless, the Town, its officers, agents, and employees from, and against any and all claims, actions, liabilities, losses and expenses including, but not limited to, attorney's fees for personal, economic or bodily injury, wrongful death, loss of or damage to property, at law or in equity, which may arise or may be alleged to have risen from the negligent acts, errors, omissions or other wrongful conduct of the Contractor, agents or other personnel entity acting under Contractor's control in connection with the Contractor's performance of services under this Agreement and to that extent the Contractor shall pay such claims and losses and shall pay all such costs and judgments which may issue from any lawsuit arising from such claims and losses including wrongful termination or allegations of discrimination or harassment, and shall pay all costs and attorney's fees expended by the Town in defense of such claims and losses including appeals. That the aforesaid hold-harmless agreement by Contractor shall apply to all damages and claims for damages of every kind suffered, or alleged to have been suffered, by reason of any of the aforesaid operations of Contractor or any agent or employee of Contractor regardless of whether or not such insurance policies shall have been determined to be applicable to any of such damages or claims for damages.
- 21. **SOVEREIGN IMMUNITY.** 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.
- 22. <u>INDEPENDENT CONTRACTOR RELATIONSHIP</u>. The Contractor is an independent contractor and shall be treated as such for all purposes. Nothing contained in this Agreement or any action of the parties shall be construed to constitute or to render the Contractor an employee, partner, agent, shareholder, officer or in any other capacity other than as an independent contractor other than those obligations which have been or shall have been undertaken by the Town. Contractor shall be responsible for any and all of its own expenses in performing its duties as contemplated under this Agreement. The Town shall not be responsible for any expense incurred by the Contractor. The Town shall have no duty to withhold any Federal income taxes or pay Social Security services and that such obligations shall be that of the Contractor, other than those set forth in this Agreement. Contractor shall furnish its own transportation, office and other supplies as it determines necessary in carrying out its duties under this Agreement.
- 23. <u>COMPLIANCE WITH LAW.</u> Contractor shall comply with all laws, regulations and ordinances of any federal, state, or local governmental authority having jurisdiction with respect to this Agreement ("Applicable Laws") and shall obtain and maintain any and all material permits, licenses, approvals and consents necessary for the lawful conduct of the activities contemplated under this Agreement.

#### 24. **MISCELLANEOUS**.

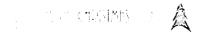
- A. In the event any provision of this Agreement is found to be void and unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall nevertheless be binding upon the parties with the same effect as though the void or unenforceable provisions had been severed and deleted.
- B. This Agreement may be executed in multiple identical counterparts, each of which shall be deemed an original for all purposes.
- C. This Agreement shall constitute the entire agreement between the parties with respect to the subject matter hereof, and it shall supersede all previous and contemporaneous oral and written negotiations, commitments, agreements and understandings relating hereto.
- D. Any modification of this Agreement shall be effective only if in writing and signed by the parties to this Agreement.
- E. No waiver of any provision of this Agreement shall be valid or enforceable unless such waiver is in writing and signed by the party granting such waiver.
- 25. <u>AMENDMENT.</u> Any modification of this Agreement shall be effective only if in writing and signed by the parties to this Agreement. No waiver of any provision of this Agreement shall be valid or enforceable unless such waiver is in writing and signed by the party granting such waiver.
- 26. **SEVERABILITY.** The Parties to this Agreement expressly agree that it is not their intention to violate any public policy, statutory or common law rules, regulations, or decisions of any governmental or regulatory body, If any provision of this Agreement is judicially or administratively interpreted or construed as being in violation of any such policy, rule, regulation, or decision, the provision, sections, sentence, word, clause, or combination thereof causing such violation will be inoperative (and in lieu thereof there will be inserted such provision, section, sentence, word, clause, or combination thereof as may be valid and consistent with the intent of the Parties under this Agreement) and the remainder of this Agreement, as amended, will remain binding upon the Parties, unless the inoperative provision would cause enforcement of the remainder of this Agreement to be inequitable under the circumstances.
- 27. **ENTIRE AGREEMENT**. The terms and conditions contained herein supersede all prior oral and written representations and understandings between us, including prior iterations and versions of the Agreement, and constitute the entire Agreement between us concerning the subject matter of this Agreement. This Agreement shall not be modified or amended except in writing signed by authorized representatives of both of us.

IN WITNESS WHEREOF, the parties, intending to be legally bound, hereby have executed this Agreement as of the date set forth.

# TOWN OF SURFSIDE A Florida Municipal Corporation,

BY: Michael P. Crotty, Town Manager	Date
BY:  Mr. Kurt Stange  Owner/President  SOUTH FLORIDA LIGHTING TEAM, LLC  d/b/a MIAMI CHRISTIMAS LIGHTS	Date
Attest: Sandra Novoa, CMC, Town Clerk	Date
APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE TOWN OF SURFSIDE ONLY:	
BY:Linda Miller, Town Attorney	Date





July 08, 2014

Miami Christmas Lights 1330 West Ave - Suite 2012 Miami Beach FL 33139 Ph: 305.432.2225

Dear Duncan,

Thank you for allowing Miami Christmas Lights to provide a no obligation proposal for your holiday lighting project. Ilook forward to working together and know you will enjoy our professional holiday decorating service. Our company strives to exceed our customers' expectations and build long-term client relationships.

Our team understands how stressful the holidays can be and focuses on making your holiday preparation as simple as possible. We provide all lights, materials and products used in your display to eliminate the extra work and hassle of buying or retrieving the decorations yourself. Sit back, relax and watch us transform your location into a holiday masterpiece.

Miami Christmas Lights design artists are the best in the business. We have built a completely custom holiday light display that will set your property apart from your neighbors. Many people can hang lights, but the true value in hiring Miami Christmas Lights is our expert design staff, top of the line products and exceptional installation team!

We know you expect the best! That is why Miami Christmas Lights only uses top of the line, commercial grade lightsand décor on our projects. From years of experience, we have found that investing in the best products produces the best displays with little to no maintenance issues. We have the best reputation in the business and intend to work even harder, improving our service each day. When you hire Miami Christmas Lights, you are getting the most reputable company in the business that will ensure your display is nothing short of spectacular!

Thanks again for the opportunity to work with you. We will do everything in our power to ensure we exceed your expectations and make this the easiest, brightest, most beautiful holiday season ever!

Sincerely.

M Randy Meyerson

**Director of Sales & Marketing** 

C: 786.587.5022 O: 305.432.2225



#### MIAMI CHRISTMAS LIGHTS COMPANY OVERVIEW

Miami Christmas Lights is South Florida's premier holiday décor company servicing commercial, municipal and residential properties throughout South Florida. Since our inception in 2008, Miami Christmas Lights has been elevating the holiday décor service experience by developing unique displays, manufacturing custom décor, installing the displays quickly and properly, maintaining each display with our proactive maintenance program, removing the décor promptly after the season, refurbishing all décor to "like-new" condition and storing the décor in our secure warehouse. We pride ourselves in taking over all holiday display activities and alleviating our customers of any and all responsibilities so they are able to focus on other tasks during the busy holiday season.

Due to our boutique-like corporate structure and individual customer account management approach, Miami Christmas Lights has achieved triple digit growth every year since inception. As the experts in our industry, we truly understand our clients' exact needs, and assist them in creating the most phenomenal holiday display while staying within their budget. Our customer satisfaction is the highest in the area, evidenced by our above average rate of returning customers. We invest in only the best products on the market in an effort to ensure that our installations look magnificent and as a result, we are always successful in exceeding our customers' expectations.

What Makes Miami Christmas Lights Different?

Industry Experts Miami Christmas Lights is always the first to learn about new products and technology by regularly attending holiday décor and technology conferences around the world. With the introduction of affordable LED lighting, the holiday décor industry is continuously developing innovative products and technologies, which were unavailable in the past. We have a thorough understanding of these new products and make recommendations based on our customer's needs and desires to ensure their display is elegant, unique and state of the art.

**Professional** We are well renowned for our company's high standard of professionalism. Our entire team, from CEO to our installation crews, all go through vigorous training to ensure their work product is of the highest standards our company requires and our customers expect. All office employees are on call 24 hours a day, 7 days a week to provide the most enjoyable customer experience. For each account, we dedicate an account management team to guarantee that we exceed our customers' expectations. Our installation teams are well trained and are required to be in company uniform at all times while on a job. Our teams are extremely effective in making certain our work is done right, and in the least intrusive manner possible. We routinely work in 3 – 8 hr shifts, in order to complete the project in the most efficient and convenient way possible.

Innovative Miami Christmas Lights has the can-do-it-all attitude. No project is too large for us to implement and execute. We have designed, fabricated, installed, maintained and removed the largest wreath in the Southern United States. We have local access to and relationships with structural engineers, welders, and fabricators for quick emergency products. We also specialize in incorporating technology into our décor by creating custom Ipad Apps, iPhone controlled C7 LED RGB lights, and music synchronized displays. With the introduction of LED lights, various new and exciting applications relating to holiday décor have come to fruition.

**Environmental, Community and Charity Projects** In November of 2011, Miami Christmas Lights developed a one of a kind unique holiday community and charity project called "Heart of the Holidays". We work with local charities to develop programs and décor to promote awareness and raise money for an assortment of worthy causes. For example, we work closely with elementary through high school students in the Miami area to create custom recycled banner art work, illuminated recycled ornaments and other recycled décor to display on these projects. Using the students' creations, we have been able to raise tens of thousands of dollars to support local charities, while creating awareness to the local community, school and student partners. These charitable activities are a true example of the holiday spirit and we are thankful that we are able to help bring our local community together for a larger cause.

Installation Miami Christmas Lights has created an unparalleled training program, whereby each of our team members must complete prior to performing any installation. This training program allows us to state with confidence that we have the best and most professional installation team in the South Florida area. Additionally, we have a continuing training program that each of our team members must participate in throughout the holiday season. Each Miami Christmas Lights team member is an expert in electricity and is trained to balance the electrical load between all available power sources on a display. We also seal each electrical socket with special grease to minimize the opportunity for GFI's to trip. All of our team members have been trained on any and all equipment required to complete the installation and hold required certificates. Miami Christmas Lights understands that if our installation is perfect, there will be significantly less maintenance throughout the season.



Maintenance Miami Christmas Lights approach to maintenance is unique to our industry. We have created and implemented a proactive maintenance program that continuously checks each installation to ensure all décor is functioning properly. Our team monitors each display daily to ensure everything is working correctly. In the event a maintenance issue is noticed, our 24 hour and 7 day a week team is ready at all times to handle and address any problem. Maintenance requests can be reported to maintenance@miamichristasmlgihts.com or by phone at 305.432.2225.

Restoration Our company standard is perfection at any and all stages of the project at hand. If a product is not in likenew condition, we will not install it. Upon removal of all products from our clients' properties, we will then begin our meticulous and systematic inspection of all décor. First, our team washes each product with a cleaning solution for preservation. Next, we determine whether any of the products requires sanding and repainting. After the product has undergone the refurbishment process, we conduct thorough testing of each and every light and replace as required to ensure the decoration is ready and suitable for the next upcoming season. If there is ever an unusual circumstance that would prevent us from properly refurbishing the décor, our clients are alerted immediately to evaluate the best course of action. Miami Christmas Lights initiates this labor intensive refurbishment process immediately subsequent to removal and is completed in May of each year, well in advance of the following year's installation. Finally, once the restoration is complete, our electronic inventory system is updated and a summary is sent to our client for review and approval.

**Storage** Miami Christmas Lights stores all items indoors at our secure warehouse located at 274 NE 67th Ave Miami FL 33138. We have a 16 camera remote captured surveillance system, gated parking lot, security system, and reinforced doors to ensure the safe storage of all décor. All product is wrapped in a protective plastic or cloth covering to ensure the longevity of the product and like-new condition while in storage. Each customer has a labeled section of the warehouse for organization and accessibility. By storing the products in this state of the art manner, Miami Christmas Lights can guarantee the prolonged existence of its' décor.

**Focus** Miami Christmas Lights provides, as its sole business, design, fabrication, installation, maintenance, removal and storage of holiday décor services. Our entire business model is focused on the service model eliminating other distracting departments. Our corporate culture is groomed as a customer service company, whom happens to service the holiday décor industry. Customer satisfaction is not only our sole focus of business, but we guarantee it. We will not rest until each display is perfect and our customers are 100% satisfied.



#### MIAMI CHRISTMAS LIGHTS REFERENCES

Foram Group - 600 Brickell World Center

Project Descriptions: Miami Christmas Lights created an extremely unique project for 600 Brickell World Plaza. Being one of only 7 platinum LEAD certified buildings in the world upon



completion, 600 Brickell had a vision to create an environmental "Rockefeller Center" display for the community here in Miami. Miami Christmas Lights listened to the needs of the client and created a unique display that included the custom manufacturing of a 40 foot wreath, the largest wreath in the southeastern U.S., which is hung over 12 stories high on the face of the buildina. Miami Christmas lights also created a custom "Heart of the Holidays" program that worked with local elementary through high school students to recycled develop handmade ornaments that reflected the the themes of local charity partners. Miami Christmas Lights and 600 Brickell were able to raise donations to support the local charities as well as a custom lpad app that displayed pictures of the students with their ornaments and information promoting both the

Among other things included in the project, Miami Christmas Lights also created an alpine themed trellis display, wrapped more than 30 royal palm trees with fronds and 30 oak trees with snowfall

lights, designed, manufactured and installed 9-9 foot Deer Greeters, 24' Christmas Tree, 6' Menorah, projected animated building and created an Ipad photo station linked with facebook so visitors could take and share photos with facebook.

Miami Christmas Lights installs the project in less than 6 days by utilizing extremely well trained and organized installation teams which rotate shifts work constantly for 24 hours each day until the project is complete.



We insist the installation is done in such a manner to minimize the impact on the building and its tenants. Once the installation is complete, Miami Christmas Lights maintains the display by continually monitoring it and servicing any items immediately. We believe our reputation is



attached to each display we create and displays want to ensure our something not only our clients are proud of, but we are as a company as well. If maintenance issue communicated to us by our clients, Miami Christmas Lights has a 24 hr, 7 day a week service to handle all

Once the season is over. Miami Christmas Lights removes all décor from the property in 48 hours. Again, we are able to accomplish this very quick removal time by utilizing our extremely professional, well train removal teams that work 3 shifts to remove the décor

After the removal is complete, all décor is transported back to our secure warehouse to be immediately reviewed, refurbished and maintained. All items thorough receive a rinse with cleansing solution to ensure the décor is ready for the next season. All lights are tested and replaced as needed while

resurfacing and painting is done as needed to ensure the products are in "like-new" condition for the following season. All maintenance is started immediately after removal and typically completed by May 1st. We understand the extreme expectation of our clients and hold ourselves to even higher standard. If the product does not return to a "like-new" condition due to uncontrollable events, Miami Christmas Lights always recommends the décor be replaced for the following season.

The overall project has been extremely successful and a 6 year contract is in place Miami Christmas Lights Brickell. The display is so immaculate that it is often featured on national TV during the Miami Heat home Christmas basketball game as well as the Orange Bowl and National Championship games that are hosted in Miami, Miami Christmas Lights meticulously maintains and services 600 Brickell and is able to exceed their expectations each season. Our boutique, customer centric focus provides personal service to accounts within a much larger company.





#### Continuum South Beach

Project Description: Miami Christmas Lights was hired to design, install and maintain the Continuum South Beach holiday light program. The Continuum had worked with numerous other vendors over the past several years and each time was disappointed with their performance. Finally, they contacted Miami Christmas Lights who listened to their needs, design and installed a custom program that exceeded their expectations.

Miami Christmas Lights installed over 100,000 commercial grade injection mold 5MM LED lights on the property on over 125 trees. Miami Christmas Lights was able to exceed the Continuum South Beach's expectations through its proactive maintenance programs which monitored the lights twice a week to catch any maintenance issues before the Continuum did. We also sealed each connection with proprietary salt and water repellant grease to minimize GFI tripping and keep the holiday display illuminated continuously.



Due to Miami Christmas Lights' impeccable service. Continuum South Beach extended the contract to keep the lights on their property until June 1st. On the removal date, Miami Christmas Lights worked closely with The Continuum South Beach remove the lights in the fastest possible the way at convenient time of day. We are no stranger to working three shifts a day to remove the lights as fast as possible. Once all décor removed from a client's property, Miami Christmas Lights

immediately begins to review and service all products to ensure like-new condition for the following season. We cycle out all product within three years, to ensure our display are always functioning and look immaculate.

Due to the service Miami Christmas Lights has provided to The Continuum South Beach, they have already extended their agreement for several more years of service with Miami Christmas Lights.

#### Aventura Mall

Project Description: Aventura Mall, the third largest shopping center in the United States, called Miami Christmas Lights to help them design a holiday display that would highlight the malls high-end clientele while attracting new customers to the shopping center. The project included the entire perimeter of the mall as well as the actual buildings. To make the project even more difficult, power was not installed anywhere on the property before the conception began.



Miami Christmas Lights was excited at this extreme and unique challenge! Our team rushed into action to learn what was important to Aventura Mall in order to design the best possible holiday project. We presented countless new technologies for interactive display that fit the direction given by the client. Our design team created multiple themes and rendered drawings of the property to ensure we exceeded our client's expectations.



When the project was finally selected. Miami Christmas Lights had the daunting task of installing over 11,000 strings of Christmas lights on over 470 trees working around the clock with several teams for a month straight. We utilized all of our resources to ensure the project was done on schedule and ready to go as the requested. client had We continually maintained the property sending a team of personnel every night to ensure the display was no

The project was so exceptional that local TV station Channel 7 sent a reporter to interview both the mall and our company. Thousands of customers flooded the mall to see the lights causing traffic jams as they stared in awe.

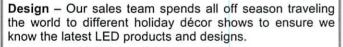
Aventura Mall was overwhelmingly pleased with the design, service and outcome of the project.



#### THE MIAMI CHRISTMAS LIGHTS PROMISE

Miami Christmas Lights knows that there are other options for holiday décor. Below are our promises to ensure you know that when you hire Miami Christmas Lights, you are getting the best in the business!





We promise to design an elegant, creative display that will create a "Wow" effect for your property!



**Service** – Miami Christmas Lights strives to exceed your expectations at every opportunity. Our friendly team will do everything we can to ensure you have an enjoyably holiday experience!

We promise to provide the best holiday decor service. Our team is available to help you with whatever you require, 24 hours a day.



Miami Christmas Lights



The Competition



Miami Christmas Lights



The Competition

**Display** – Miami Christmas Lights focuses on making each display magical. We do not "limit" the amount of lights we install on a display, but rather use the necessary amount to ensure it looks spectacular! We invest in each client to build long-term satisfied customers.

We promise to install the display correctly the first time and do everything in our power to exceed your expectation.

**Products** – Miami Christmas Lights only uses the BEST commercial grade LED products on the market. Our investment in our customers and these high quality 5MM injection mold LED lights ensures a remarkable display without eliminating all the headaches.

We promise to always use the best commercial grade LED products to ensure your design is spectacular!



## TOWN OF SURFSIDE HOLIDAY LIGHT INSTALLATION





#### AREAS TO ILLUMINATE

#### 96th St & Harding Ave to 95th st



Wrap 35' Medjool palm with Warm White 5 MM LED lights - At the turnoff from 96th St and Harding Ave



Wrap 10' Sabal palm with Warm White 5 MM LED lights - In the Pocket Parks at the beginning of Harding Ave by 96th St



Wrap 15' Sabal palm with Warm White 5 MM LED lights - In the Pocket parks on Harding Ave between 96th St and 95th St



Wrap 15' Medjool palm with Warm White 5 MM LED lights - On Harding Ave between 96th St and 95th Sts

#### 95th St & Harding Ave to 94th st



Wrap 15' Sabal palm with Warm White 5 MM LED lights - In the Pocket Parks on Harding Ave between 95th St and 94th St



Wrap 15' Medjool palm with Warm White 5 MM LED lights - On Harding Ave between 95th St and 94th St



### **PRODUCT PICTURES**





#### **ESTIMATE**

Customer Information	Quote Information	
Town of Surfside	Order Number: 14 - 229	
Duncan Tavares	Proposal Date: 2014-07-01	
9293 Harding Ave	Contract Term: 2016	
Surfside, FL 33154	Install Date: 2014-10-13*	
Ph: 305.864.0722	Deposit Amount Due: \$19239.25	
Em: dtavares@townofsurfsidefl.gov	Deposit Method: Check	

Item	Qty	Price	Total
96th St & Harding Ave to 95th st			
Medjool 35' 5MM-WW - At the turnoff from 96th St and Harding Ave		\$575.00	\$1,150.00
Crown 18" WW - For the Medjool Palms At the turnoff from 96th St and Harding Ave	2	\$300.00	\$600.00
Sabal 10' 5MM-WW - In the Pocket Parks at the beginning of Harding Ave by 96th St	2	\$175.00	\$350.00
Crown 12" WW - For the Sable Palm trees In the Pocket Parks at the beginning of Harding Ave by 96th St	2	\$100.00	\$200.00
Sabal 15' 5MM-WW - In the Pocket parks on Harding Ave between 96th St and 95th St	11	\$225.00	\$2,475.00
Crown 12" WW - For the Sabal Palm trees In the Pocket parks on Harding Ave between 96th St and 95th St	, 11	\$100.00	\$1,100.00
Medjool 15' 5MM-WW - On Harding Ave between 96th St and 95th Sts	37	\$225.00	\$8,325.00
Crown 18" WW - For the Medjool Palm trees On Harding Ave between 96th St and 95th Sts	37	\$300.00	\$11,100.00
95th St & Harding Ave to 94th st			
Sabal 15' 5MM-WW - In the Pocket Parks on Harding Ave between 95th St and 94th St	10	\$225.00	\$2,250.00
Crown 12" WW - For the Sabal Palm trees In the Pocket Parks on Harding Ave between 95th St and 94th St	10	\$100.00	\$1,000.00
Medjool 15' 5MM-WW - On Harding Ave between 95th St and 94th St	35	\$225.00	\$7,875.00
Crown 18" WW - For the Medjool Palm trees On Harding Ave between 95th St and 94th St	35	\$300.00	\$10,500.00
Equip - 50' Tow	1	\$1,250.00	\$1,250.00
		Sub Total	\$46,925.00
18% Discount u	18% Discount upon signing 3 year contract		
	DEPOSIT A	MOUNT DUE	\$19,239.25

Notes Power

96th St & Harding Ave to 95th st - 44.8 amps; 95th St & Harding Ave to 94th st - 38.5 amps; Total: 83.3 amps

TBD

Insurance

Miami Christmas Lights carries \$3,000,000/\$4,000,000 commercial liability and \$1,000,000 workers compensation insurance. For copies of either policy, please ask your sales representative.

Terms and conditions

By my signature below, I certify that I have read and agree to the provisions set forth in this invoice and to the Miami Christmas Lights Standard Terms and Conditions posted at

www.miamichristmaslights.com/termsandconditions which are incorporated by reference herein. A deposit of 50% of the total invoice is required to reserve the installation time slot. Miami Christmas Lights will not begin any work until deposit is received. Agreement expires 2016 after season.

Name:	Signature:	Date:
	Oignature.	Duic.



#### CUSTOMER CHECKLIST

#### **▼** Power

MCL requires Customer to supply sufficient power with outlets in adequate locations for the Decorations. We are unable to determine the load currently existing on the applicable circuits and suggest Customer has an electrician inspect their system to ensure adequate power prior to installation. MCL will provide total power required for the project in our proposal for Customer's convenience. MCL also requires Customer to identify and show the location of Customer's circuit breaker (and timer controls if applicable) prior to installation. MCL also requires access to these two items during installation.

#### **▼** Tree/Hedge Trimming

MCL requires all trees and hedges to be trimmed prior to the installation date reflected in the Invoice. Cut cords from trimming will be charged to Customer. Please advise your landscape crew of the lights to ensure no issues.

#### ✓ Lights and products

The Work includes all lights, extension cords, timers and decorations (the Decorations) for Customers' displays. After the season, MCL shall remove the lights and other Decorations from the Property. All Decorations remain the property of MCL.

#### ✓ Preventative Bubble Covers and GFI Outlets

All outlets should be equipped with an oversized bubble cover to prevent moisture from tripping the GFI. If the entire display connected to a single outlet is off, it is most likely caused by a "tripped" GFI or circuit. Customer is responsible for first resetting the GFI or circuit before requesting a maintenance specialist. Note: Power must be coming to the outlet to reset a GFI. If the outlet is on a timer, it cannot be reset until power is restored to the outlet.

#### ✓ Maintenance

In the event that lights malfunction and a maintenance issue arises; MCL has a 72 hour repair service. We will come to your location and fix or replace the broken item as quickly as possible. Please note: we are not responsible for lights that have been cut, damaged or destroyed by lawn crews. This is outside of our maintenance warranty and will be billed to Customer. Please alert your landscaper of the holiday lights on your property.

#### ✓ Sprinkler Systems

Please adjust your sprinkler system to operate only when the lights are off. If the sprinklers shower the lights in waterthe GFI may "trip" and cause problems to the display. We recommend using your sprinkler system starting at 9 am.

#### √ Removal

At Customer's request, MCL will come back and unplug the holiday lights on any date after December 25th. Removal of the lights and Decorations will start on January 2nd and will continue until January 31st. MCL will remove Customer's lights based on their geographic location and cannot guarantee a removal date. Please review all Terms and Conditions for service at <a href="https://www.miamichristmaslights.com/termsandconditions">www.miamichristmaslights.com/termsandconditions</a>.



#### **NEXT STEP**

#### Dear Duncan,

Thank you again for allowing Miami Christmas Lights to present a proposal for your holiday light project. I know you will not be disappointed with our service, and we will exceed your expectations. Our company strives on building long term clients by providing the best holiday lighting design and installation service in the industry.

We are very close to finalizing your project. Please review the above proposal and let me know if we need to add or remove anything. To lock your installation date into our calendar, which is filling up quickly, we need the following:

- · Signed quote from proposal package
- 50% deposit which can be taken over the phone or by mail

If there is anything I can assist with to help move the project forward, please do not hesitate to ask. I am here to assistin any way I can. Again thank you for your time. I and the entire Miami Christmas Lights team look forward to working with you!

Sincerely,

M Randy Meyerson

Director of Sales & Marketing

C: 786.587.5022 O: 305.432.2225

