

**FIRST AMENDMENT
TO
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE TOWN OF FOUNTAIN HILLS
AND
CREDIT MANAGEMENT GROUP, L.L.C.**

THIS FIRST AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT (this "First Amendment") is made as of September 15, 2011, between the TOWN OF FOUNTAIN HILLS, an Arizona municipal corporation (the "Town") and CREDIT MANAGEMENT GROUP, L.L.C., an Arizona limited liability company d/b/a Christmas Light Decorators (the "Contractor").

RECITALS

A. The Town and the Contractor entered into a Professional Services Agreement dated September 4, 2008 for the installation and removal of holiday lights in designated areas within Fountain Hills (the "Agreement").

B. The Town has determined that it is necessary to extend the Agreement with the Contractor for the installation and removal of holiday lights in designated areas within Fountain Hills (the "Services").

C. The Town and the Contractor desire to enter into this First Amendment to (i) extend the term of the Agreement, (ii) modify the scope of work of the Agreement, (iii) provide for compensation to the Contractor for same and (iv) add additional provisions required by Arizona law.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated herein by reference, the following mutual covenants and conditions, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Town and the Contractor hereby agree to amend the Agreement as follows:

1. Term of Agreement. The term of the Agreement is extended and shall remain in full force and effect until September 15, 2012.

2. Scope of Work. Contractor shall provide the Services as set forth in the Scope of Work, attached hereto as Exhibit A and incorporated herein by reference.

3. Compensation. The Town shall pay Contractor a price of \$34,917.76 for the Services as set forth in the Scope of Work, attached hereto as Exhibit A.

4. Records and Audit Rights. Contractor's and its subcontractor's books, records, correspondence, accounting procedures and practices, and any other supporting evidence relating

to this Agreement, including the papers of any Contractor and its subcontractors' employees who perform any work or Services pursuant to this Agreement to ensure that the Contractor and its subcontractors are complying with the warranty under section 5 below (all the foregoing hereinafter referred to as "Records"), shall be open to inspection and subject to audit and/or reproduction during normal working hours by the Town, to the extent necessary to adequately permit (A) evaluation and verification of any invoices, payments or claims based on Contractor's and its subcontractors' actual costs (including direct and indirect costs and overhead allocations) incurred, or units expended directly in the performance of work under this Agreement and (B) evaluation of the Contractor's and its subcontractors' compliance with the Arizona employer sanctions laws referenced in section 5 below. To the extent necessary for the Town to audit Records as set forth in this subsection, Contractor and its subcontractors hereby waive any rights to keep such Records confidential. For the purpose of evaluating or verifying such actual or claimed costs or units expended, the Town shall have access to said Records, even if located at its subcontractors' facilities, from the effective date of this Agreement for the duration of the work and until three years after the date of final payment by the Town to Contractor pursuant to this Agreement. Contractor and its subcontractors shall provide the Town with adequate and appropriate workspace so that the Town can conduct audits in compliance with the provisions of this subsection. The Town shall give Contractor or its subcontractors reasonable advance notice of intended audits. Contractor shall require its subcontractors to comply with the provisions of this subsection by insertion of the requirements hereof in any subcontract pursuant to this Agreement

5. E-verify Requirements. To the extent applicable under ARIZ. REV. STAT. § 41-4401, the Contractor and its subcontractors warrant compliance with all federal immigration laws and regulations that relate to their employees and compliance with the E-verify requirements under ARIZ. REV. STAT. § 23-214(A). Contractor's or its subcontractor's failure to comply with such warranty shall be deemed a material breach of this Agreement and may result in the termination of this Agreement by the Town.

6. Scrutinized Business Operations. Pursuant to ARIZ. REV. STAT. §§ 35-391.06 and 35-393.06, the Contractor certifies that it does not have scrutinized business operations in Sudan or Iran. For the purpose of this subsection the term "scrutinized business operations" shall have the meanings set forth in ARIZ. REV. STAT. § 35-391 or 35-393, as applicable. If the Town determines that the Contractor submitted a false certification, the Town may impose remedies as provided by law including terminating this Agreement.

7. Agreement Subject to Appropriation. This Agreement is subject to the provisions of ARIZ. CONST. Art. IX, § 5 and ARIZ. REV. STAT. § 42-17106. The provisions of this Agreement for payment of funds by the Town shall be effective when funds are appropriated for purposes of this Agreement and are actually available for payment. The Town shall be the sole judge and authority in determining the availability of funds under this Agreement and the Town shall keep the Contractor fully informed as to the availability of funds for the Agreement. The obligation of the Town to make any payment pursuant to this Agreement is a current expense of the Town, payable exclusively from such annual appropriations, and is not a general obligation or indebtedness of the Town. If the Town Council fails to appropriate money sufficient to pay the amounts as set forth in this Agreement during any immediately succeeding fiscal year, this

Agreement shall terminate at the end of then-current fiscal year and the Town and the Contractor shall be relieved of any subsequent obligation under this Agreement.

8. Effect of Amendment. In all other respects, the Agreement is affirmed and ratified and, except as expressly modified herein, all terms and conditions of the Agreement shall remain in full force and effect

9. Non-Default. By executing this First Amendment, the Contractor affirmatively asserts that (i) the Town is not currently in default, nor has been in default at any time prior to this First Amendment, under any of the terms or conditions of the Agreement and (ii) any and all claims, known and unknown, relating to the Agreement and existing on or before the date of this First Amendment are forever waived.

10. Conflict of Interest. This First Amendment and the Agreement may be cancelled pursuant to ARIZ. REV. STAT. § 38-511.

IN WITNESS WHEREOF, the parties hereto have executed this instrument as of the date and year first set forth above.

[SIGNATURES ON THE FOLLOWING PAGES]

"Town"

TOWN OF FOUNTAIN HILLS, an Arizona
municipal corporation

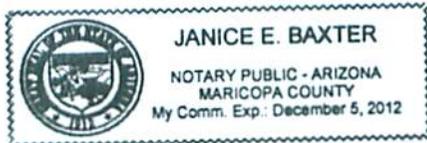
J. A. Ghetti
Julie Ghetti, Interim Town Manager

ATTEST:

Bevelyn J. Bender
Bevelyn J. Bender, Town Clerk

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

This instrument was acknowledged before me on September 19, 2011,
by Julie Ghetti, the Interim Town Manager of the TOWN OF FOUNTAIN HILLS, an Arizona
municipal corporation, on behalf of the Town of Fountain Hills.



(affix notary seal here)

Janice E. Baxter
Notary Public in and for the State of Arizona

EXHIBIT A
TO
FIRST AMENDMENT
TO
PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE TOWN OF FOUNTAIN HILLS
AND
CREDIT MANAGEMENT GROUP, L.L.C.

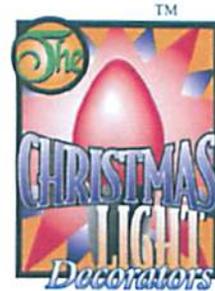
[Scope of Work]

See following pages.

**Town of Fountain Hills
Holiday Lighting 2011
Date: August 24, 2011**

Christmas Light Decorators

2450 W. Broadway Road, Suite 112, Mesa AZ 85202
Phone (480) 967-1122
Fax (480) 967-1120
www.cldaz.com
Contact: Doug Topham



A. Capabilities of Firm and Staff

Christmas Light Decorators

The History:

In 1989, The Christmas Light Decorators started professionally decorating homes in the Phoenix metro area. In 1996, the Christmas Light Decorators ventured into major commercial projects by decorating municipalities, shopping centers, and theme parks. We have decorated and illuminated the majority of Arizona's major lighted venues such as:

- **City of Tempe** – 6 years of lighting Mill Ave and Downtown Tempe. The scope of work included 7 blocks of trees (up to 35 feet tall) on both sides of Mill Avenue (approximately 105 trees). Additionally 26 trees were lighted in the Mill Avenue islands. We also lighted approximately 30 large trees (25 feet high) in the Beach Park area and erected holiday displays in the Rio Salado Parkway Area
- **Glendale Glitters** – We are on our fourth contract with the city of Glendale (our 12th year). This is one of the largest lighting events in Arizona. We decorate Murphy Park as well as the trees on Catlin Court and several blocks surrounding the park. This includes approximately 120 trees including palm, deciduous and evergreen trees. Trees range in size from small (15-20 feet) to large (up to 85 feet tall).

We also decorate 130 trees in Catlin Court in white LED lights. Due to the beauty of the job and the increase in traffic in the downtown area as a result of the lights, the lights are now maintained through the end of February.

- **City of Scottsdale** – (2002 – 2005). We decorated the downtown area including Civic Center, Old Town, 5th Ave., and Scottsdale Rd. The scope of work included pole decorations, over the street displays, holiday décor as well as tree lighting (including sixteen 90 foot palm trees on Marshall Ave). Total number of trees was over 250. Some of these installations were very challenging due to their location and the amount of traffic on Scottsdale Road.
- **City of Surprise** – In 2003, we received an emergency call from the City of Surprise. They had purchased over \$100,000 of décor from a California supplier the year before. It had been packed in a 40 foot container after takedown. They had no assembly instructions on several very complex animated displays. With only 2 weeks before the lighting, we were able to get it all installed and tested for the city.
- **City of Chandler** – In 2004, the City of Chandler decided to create a downtown lighting event to correspond with the Tumbleweed Tree. We decorate one city block with approximately 120 trees (Palms, Ash, Mesquite, and Palo Breas). The trees are lighted in the downtown area and include the old town shopping district. This is our 8th year.

- **City of Prescott** – Since 2005 we have been the decorators for the Yavapai County Courthouse and the surrounding grounds.

The company now provides services for over **320 commercial locations** in Arizona including most of the premier properties in Arizona.

Today the company has a workforce of approximately 38 full time installers. Christmas Light Decorators does not use any subcontract labor, and owns most of its own equipment.

WE ARE THE PREMIER DECORATING COMPANY

- **Most Experience** – We have 22 years experience and operate only in Arizona
- **Highest level of service** – Crews working around the clock, 24 hour response time
- **Original Designs** – Our proprietary lights are made exclusively for us. We are the only company in the United States that has LED cluster lights.
- **Streamlined installation and removal**
- **Strategic alliances** with key vendors to get the best pricing for our customers
- **Developed and designed** specific lights and products to our specifications
- **Developed solid relationships** over the last 17 years
- **Extensive experience** working in high traffic and pedestrian areas
- **Well trained employees** and effective safety and accident prevention program
- **We invented and pioneered** many unique and custom lighting styles

Company Biographies

Doug Topham, President, Doug has fifteen years experience in sales and marketing primarily in the financial service industries. As Vice President of Business Development for three Fortune 500 companies, Citicorp, Household International, and GECC, Doug has experience in all areas of sales and marketing including; goal setting and assessment, compensation programs, business start-ups, strategic sales strategy, product differentiation, and company promotion. Doug was instrumental in developing matrices for sales call effectiveness and lead generation. As Vice President of Sales and Marketing at the finance division of Scott Fetzer (a Berkshire Hathaway Company), Doug was responsible for assessing new finance products and developing risk based credit score models for "risk based pricing". Doug graduated Magna Cum Laude in Mechanical Engineering from the University of Utah and has an MBA from Arizona State University. For the past 10 years Doug has owned Credit Management Services which has provided consulting to privately held companies.

Luke Del Bianco, Sales and Marketing Manager, has been with Christmas Light Decorators for 8 years. He has supervised field crews on all of the major projects the company decorates. His dedication to providing quality work and service has established him as a cornerstone of the company. Luke has a degree in Business Administration from ASU.

Richard Ramirez, Service and Operations Manager, has been with the Christmas Light Decorators for 7 years. Richard has 16 years experience in service and operations. He has been responsible for the logistics, purchasing, service and delivery schedules at both Fertizona, Fennemore and Western Ag Enterprises Facilities. His experience ranges from automotive repair to welding and fabrication. Richard has an Agribusiness degree from ASU.

Current Program

The current program is similar to last year (same trees, different colors) as outlined on the attached map and spreadsheet. This includes lighting 32 different trees in several different lighting styles.

This also includes installing all city owned displays. This year the light displays will be grouped by theme. The themes proposed are:

- Santa and Children's Christmas
- Cowboy Christmas
- Traditional Holidays Scene (manger etc)
- Winter Wonderland

The Menorah and Star of David will be kept in their traditional place.

Pricing:

Current Program

\$19,887.22

Proposed Additions for 2011

Addition # 1

Palm tree lighting on the north side of the Avenue of the Fountains

Christmas Light Decorators is proposing to light 54 (or two out of each group of three) of the palm trees on the north side of the street in front of the merchants. The trees will be wrapped in clear mini lights.

Pricing

<u>Quantity</u>	<u>Price</u>	<u>Description</u>	<u>Total</u>
54	\$155.00	Palm Trees wrapped in clear mini lights	\$8,370.00
		Tax	189.37
		Total	\$8,559.37

Addition # 2

Upgrade lighting on trees and additional trees on the Avenue of the Fountains

Christmas Light Decorators is proposing to add 5 additional trees on the Avenue of the Fountains. (See attached map,) Four of these are large trees. This includes the big Pine tree at the east entrance to the Avenue of the Fountains.

To add motion to the current display, we will also add fader boxes to 2 existing trees and add an additional color of lights (this allows the tree to fade from one color to another).

Pricing:

Additional Trees	\$4,753.00
Tax	\$ 107.54
Total	\$4,860.54

Addition # 3

Additional Light Displays:

Christmas Light Decorators is proposing to LEASE additional displays to the Town of Fountain Hills. This will provide variety and some new displays to the traditional displays currently used by the town.

The displays will be added into the themed groups as follows:

Santa and Children's Christmas

<u>Quantity</u>	<u>Item Description</u>	<u>Price</u>
1	Christmas Tree Silhouette	\$210.00
2	Giant Crossed Candy Canes	\$420.00

Cowboy Christmas

<u>Quantity</u>	<u>Item Description</u>	<u>Price</u>
2	Saguaro Cactus with Star	\$420.00

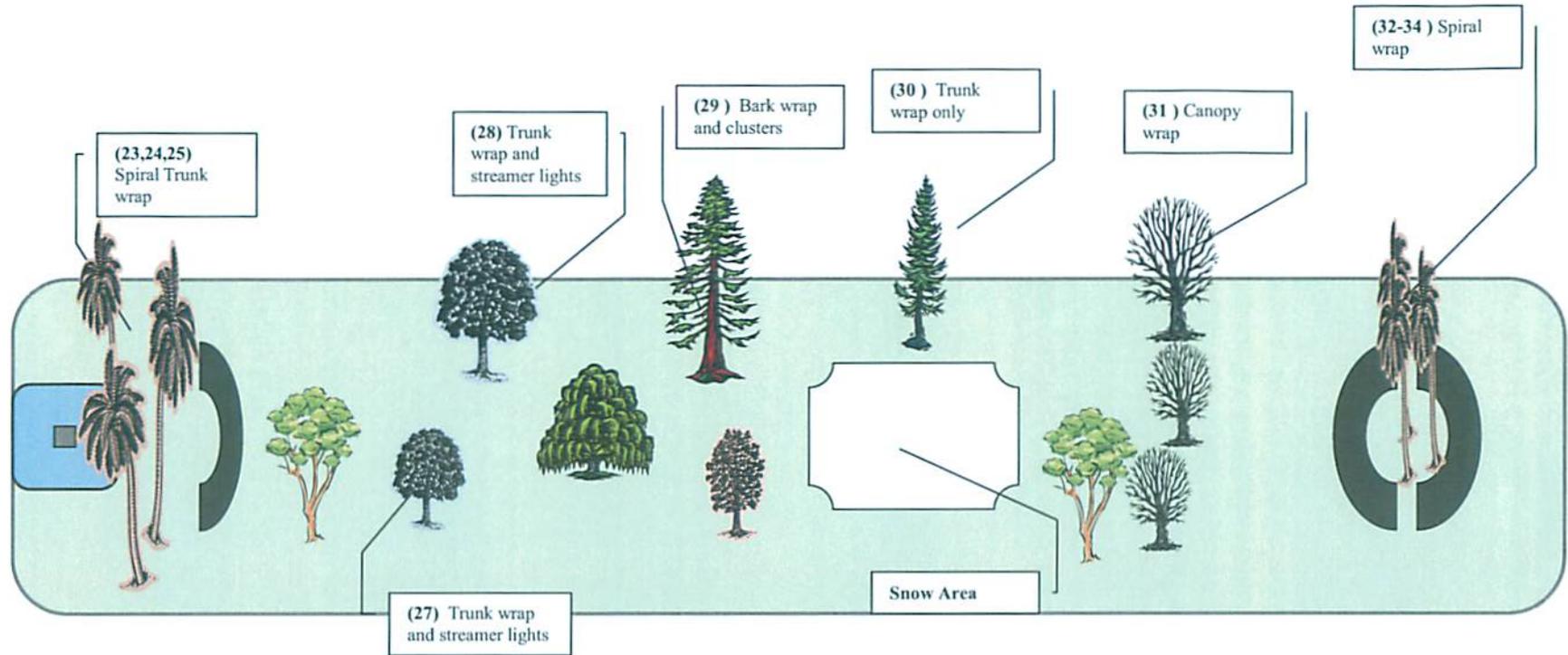
Winter Wonderland

<u>Quantity</u>	<u>Item Description</u>	<u>Price</u>
3	Ice Skating Family	\$525.00

Subtotal	\$1,575.00
Tax	\$35.63
Total	\$1,610.63

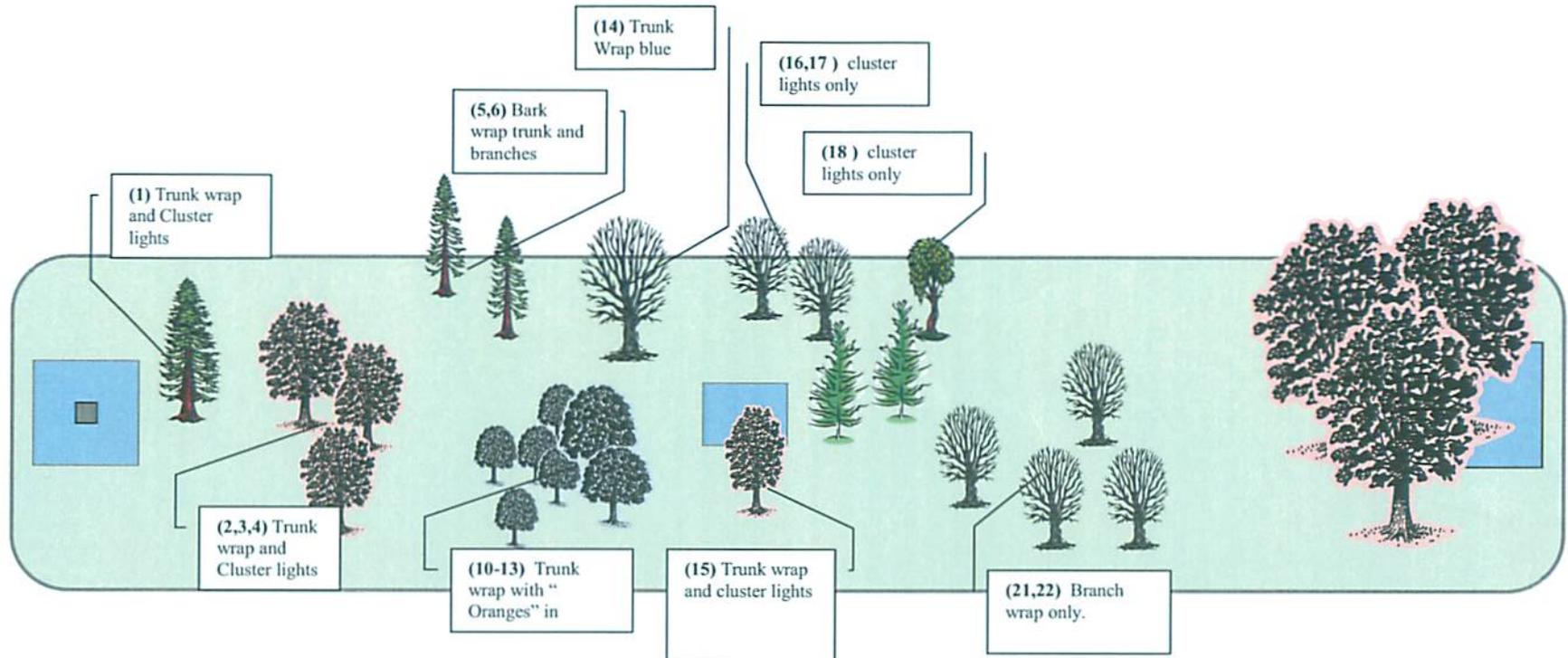
Total All Areas	\$34,917.76
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West Avenue of the Fountains Median



Note: Picture not to scale for representation of trees to be included in proposal.
Numbers in parenthesis pertain to trees numbered and listed on "Design of Tree Lighting" page.

East Avenue of the Fountains Median



Note: Picture not to scale for representation of trees to be included in proposal.
Numbers in parenthesis pertain to trees numbered and listed on "Design of Tree Lighting" page.