

RESOLUTION NO. 2019-05

**A RESOLUTION AUTHORIZING THE EXECUTION BY
THE CHAIRMAN OF THE DISTRICT OF AN
AGREEMENT BETWEEN THE DISTRICT AND THE
HOLIDAY DECOR FIRM OF WINTERLAND, INC., FOR
HOLIDAY DECOR SERVICES FOR THE DOWNTOWN
COMMUNITY IMPROVEMENT DISTRICT**

WHEREAS, the Downtown Community Improvement District (the "District"), which was formed on February 7, 2011, by Ordinance No. 20866 (the "Ordinance") of the City Council of the City of Columbia, Missouri, is a political subdivision of the State of Missouri and is transacting business and exercising powers granted pursuant to the Community Improvement District Act, Sections 67.1401 through 67.1571, RSMo., as amended ("the Act"); and

WHEREAS, 67.1461.1 of the Act grants the board of directors (the "Board of Directors") of the District the authority to possess and exercise all of the District's legislative and executive powers; and

WHEREAS, Winterland, Inc. ("WINTERLAND, INC.") submitted the proposal/agreement to provide holiday decor services for the Downtown Community Improvement District per the proposal attached hereto as Exhibit A; and

WHEREAS, the Board of Directors determined that Winterland, Inc. has best satisfied the criteria for selection of services under the District's competitive bidding policies and as set forth in the request for qualifications produced by the District with respect to the Winterland, Inc. proposal, including that Winterland, Inc. has the specialized experience and technical competence with respect to the holiday decor services sought, the capacity and capability to perform the services in the time required, a history and record of past performance that is acceptable, and familiarity with governmental entities such as a community improvement district; and

WHEREAS, the Board of Directors desires to engage Winterland, Inc. to perform the janitorial services for the District as described in the Agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE DOWNTOWN COMMUNITY IMPROVEMENT DISTRICT AS FOLLOWS:

1. The Board of Directors hereby approves the Winterland, Inc. proposal and the Chairman of the District is authorized to execute, and the Secretary is authorized to attest on behalf of the District, an agreement in substantially the form as the Winterland, Inc. proposal attached hereto as Exhibit A.

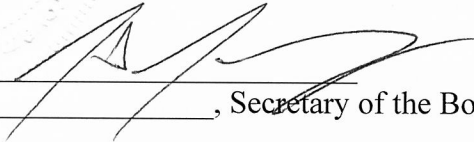
2. This resolution shall be in full force and effect from and after its passage by the Board of Directors.

Passed this 14th day of August, 2018.


_____, Chairman of the Board of
Directors

(SEAL)

Attest:


_____, Secretary of the Board of Directors

**EXHIBIT A
TO RESOLUTION NO. 2019-05**

Winterland Holiday Decor Proposal

Lease Agreement

Schedule A attached

This Lease Agreement (Agreement) is made this day, **June 25, 2015** between **Winterland, Inc. of Cicero, Indiana** ("Lessor") and **Columbia CID, 11 South 10th Street, Columbia MO, 65201** ("Lessee").

For the consideration set forth herein, Lessor hereby leases to Lessee and Lessee hires from Lessor those decorative items, display equipment, and materials (the "leased goods"), set forth on Schedule A attached hereto, or as described in a subsequent schedules which may hereafter be made a part hereof, for a term of four (4) years, upon the terms and conditions and upon the rate of rental set forth herein the lease to own agreement.

Article I - Rent

Lessee shall pay to Lessor, as rental for the leased goods the total annual rental fee of **\$19,100.00** payable in two (2) rental payments. The first such rental payment of **\$9,550.00** shall be due and payable at execution of this agreement. Lessor will issue an invoice for the subsequent rental payment of **\$9,550.00** which shall be due upon setup completion. Lessor will provide invoice for 2nd, 3rd and 4th subsequent years within thirty (30) days prior to due date. The 1st payment would be due on October 1st of each calendar year, and 2nd payment would be due following setup completion.

All rental payments shall be paid by Lessee at **P.O. Box 772, Cicero, IN 46034** or at such other place as the Lessor may from time to time designate.

Article II - Delivery and Installation

Lessor shall deliver and supervise the installation of the leased goods to Lessee during the **Christmas seasons of 2015, 2016, 2017 and 2018**. Such installation shall be in a good and workmanlike manner.

Lessee acknowledges that no particular delivery date has been warranted. Lessor shall use its best efforts to cause timely delivery of the leased goods and Lessee agrees to accept the leased goods upon delivery, if delivery occurs during Lessee's usual and customer business hours and does not interfere with the Lessee's operations. Leased goods shall be delivered and installation to start the 2nd week of October.

Upon conclusion of the Christmas season, Lessor shall remove and retrieve the leased goods and store them until redelivery hereunder, such **removal to occur as soon as practical after January 10th of each year**.

Article III - Location of Leased Goods

The leased goods shall be located on the premises set forth in Article II hereof during the Christmas seasons encompassed by this Agreement and shall not be removed without Lessor's prior written consent.

Article IV - Alterations

Lessee will make no alterations or structural changes to the leased goods without the prior written permission of Lessor.

Article V - Electrical Connection

Lessee shall furnish, at its own cost and expense, such electricity, electrical outlets and electrical connections (i.e. extension cords, triple taps and/or any power distribution related product) as are safe, efficient, and necessary to provide the leased goods with sufficient electrical service. Lessee, as part of its obligation under this Agreement shall plug in the electrically lighted leased goods. Lessee acknowledges that Lessor is not a licensed electrician or electrical contractor and has no obligation to perform any wiring or other work which would constitute performing the duties of an electrician or electrical conductor. Lessee must have electrical connections available for Lessor at start of installation to insure proper function and timely progress.

The use of GFI outlets and/or breakers by Lessee will result in the inability of Lessor to guarantee continued use of "leased goods" when any type of moisture is present. Such devices **will** prevent operation of "leased goods" when **any** amount of moisture is present from sources such as dew, fog, rain or snow (others exist). Lessor responses to services calls related to the tripping of a GFI device **will not** be part of this contract: *such service calls will be billed as a separate invoice for time and materials.*

Article VI- Maintenance and Repair Lessee shall immediately notify Lessor of any need for major maintenance and repair. Lessor shall have the right at any reasonable time to enter premises identified above for the purpose of maintenance, repairs, or removal of leased goods.

Article VII - Lessor's Remedies

If Lessee should wrongfully reject delivery, installation or reinstallation of the leased goods, fail to make any rent payments due hereunder when the same is due, or otherwise be in default hereof, after 30 days prior written notice and opportunity to cure, Lessor may, at its sole option do any one or more of the following:

1. Cancel this Agreement
2. Withhold delivery and/or installation of leased goods
3. Return the leased goods and recover damages
4. Exercise any other remedy provided for by statute or at law

Article VIII - Use of leased goods

Lessee shall use the leased goods only in a safe and secure manner, and not for any purpose other than a decorative purpose.

Article IX - Acceptance

Lessee shall inspect each item of leased goods delivered pursuant to this Agreement within seven (7) days and shall notify Lessor of any discrepancies between said item and item as described on Schedule A. If no such notice is received prior to installation of such item, Lessee will be conclusively presumed to have accepted the item as satisfactory or as specified on Schedule A.

Article X - Risk of Damage

Lessor agrees to repair or replace the leased goods, to the extent reasonably and practically possible as soon after receipt of notice of said damage. No loss or damage to the leased goods, whether caused by wind, rain, snow, ice or other cause, shall impair or mitigate any obligation of Lessee hereunder and all such obligations, including the obligations to pay rent shall continue in full force and effect until satisfied. Lessor shall not damage the premises in connection with the installation or removal of the leased good; however, normal wear and tear is expected.

Article XI - Insurance

1) Lessor shall procure and maintain in effect (A) insurance covering Lessee for loss or liability arising in connection with the leased goods and (B) workman's compensation insurance in the amount required by law. Lessor shall further procure and maintain in effect insurance covering Lessee for liability for property damage in the amount not less than \$1 million per occurrence. Before commencing any work pursuant to this Agreement, Lessor shall provide Lessee with a certificate evidencing such insurance.

2) Lessee shall maintain such other insurance as is reasonable and customary in regard to the use or operation upon the premises described in Article II hereof.

Article XII - Status of Leased Goods

The leased goods shall at all times remain the personal property of the Lessor notwithstanding that they may be or become, in any manner attached to, embedded in, or be affixed upon real property. Title to the leased goods shall at all times remain in Lessor and Lessee's only rights to the leased goods shall be as provided in this Agreement. Lessee shall give Lessor immediate notice of any claim, lien, levy or charge or legal process which would seek to determine, change or test Lessee's title to the leased goods.

Article XIII - Limitation of Waiver

No delay or omission in the exercise of any right, power or remedy granted Lessor upon breach hereof or default hereunder by Lessee will impair any such right, power or remedy. No waiver of any breach or default shall be deemed a waiver of any other breach or default. All remedies granted Lessor hereunder of by law or statute will be cumulative and not alternative.

Article XIV- Assignment

Lessee shall not assign this Agreement or any of the leased goods, or any interest therein without Lessor's written consent. Lessee shall not sublet, hire or rent the leased goods without Lessor's written consent.

Article XV - Miscellaneous

1. This Agreement shall be binding and insure to the benefit of the successors and assigns of the parties.
2. This Agreement is cancelable. Annually if Lessee notifies Lessor in writing prior to March 1st of each current year of the Lease.

Article VII - Lessor's Remedies

If Lessee should wrongfully reject delivery, installation or reinstallation of the leased goods, fail to make any rent payments due hereunder when the same is due, or otherwise be in default hereof, after 30 days prior written notice and opportunity to cure, Lessor may, at its sole option do any one or more of the following:

1. Cancel this Agreement
2. Withhold delivery and/or installation of leased goods
3. Return the leased goods and recover damages
4. Exercise any other remedy provided for by statute or at law

Article VIII - Use of leased goods

Lessee shall use the leased goods only in a safe and secure manner, and not for any purpose other than a decorative purpose.

Article IX - Acceptance

Lessee shall inspect each item of leased goods delivered pursuant to this Agreement within seven (7) days and shall notify Lessor of any discrepancies between said item and item as described on Schedule A. If no such notice is received prior to installation of such item, Lessee will be conclusively presumed to have accepted the item as satisfactory or as specified on Schedule A.

Article X - Risk of Damage

Lessor agrees to repair or replace the leased goods, to the extent reasonably and practically possible as soon after receipt of notice of said damage. No loss or damage to the leased goods, whether caused by wind, rain, snow, ice or other cause, shall impair or mitigate any obligation of Lessee hereunder and all such obligations, including the obligations to pay rent shall continue in full force and effect until satisfied. Lessor shall not damage the premises in connection with the installation or removal of the leased good; however, normal wear and tear is expected.

Article XI - Insurance

1) Lessor shall procure and maintain in effect (A) insurance covering Lessee for loss or liability arising in connection with the leased goods and (B) workman's compensation insurance in the amount required by law. Lessor shall further procure and maintain in effect insurance covering Lessee for liability for property damage in the amount not less than \$1 million per occurrence. Before commencing any work pursuant to this Agreement, Lessor shall provide Lessee with a certificate evidencing such insurance.

2) Lessee shall maintain such other insurance as is reasonable and customary in regard to the use or operation upon the premises described in Article II hereof.

Article XII - Status of Leased Goods

The leased goods shall at all times remain the personal property of the Lessor notwithstanding that they may be or become, in any manner attached to, embedded in, or be affixed upon real property. Title to the leased goods shall at all times remain in Lessor and Lessee's only rights to the leased goods shall be as provided in this Agreement. Lessee shall give Lessor immediate notice of any claim, lien, levy or charge or legal process which would seek to determine, change or test Lessee's title to the leased goods.

Article XIII - Limitation of Waiver

No delay or omission in the exercise of any right, power or remedy granted Lessor upon breach hereof or default hereunder by Lessee will impair any such right, power or remedy. No waiver of any breach or default shall be deemed a waiver of any other breach or default. All remedies granted Lessor hereunder of by law or statute will be cumulative and not alternative.

Article XIV - Assignment

Lessee shall not assign this Agreement or any of the leased goods, or any interest therein without Lessor's written consent. Lessee shall not sublet, hire or rent the leased goods without Lessor's written consent.

Article XV - Miscellaneous

1. This Agreement shall be binding and insure to the benefit of the successors and assigns of the parties.
2. This Agreement is cancelable; annually, if Lessee notifies Lessor in writing, prior to March 1st of each current year of the Lease.

3. In the event that any action is filed by either party to enforce this Agreement, the prevailing party shall be entitled to recover, in addition to all other cost and fees incurred the reasonable and customary fees of counsel.

Witness as accepted as of the 27th day of July, 2016.

Columbia CID, Columbia, MO

By:  _____

Winterland, Inc.

By:  _____

Tarah E. Fred

Schedule A

33 – 3' Snowflakes

34 – 4' Snowflakes

33 – 5' Snowflakes

60- LED Dripping Icicles

20-5"

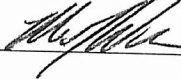
20- 7"

20- 9"

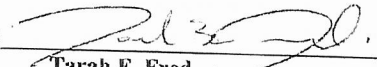
3. In the event that any action is filed by either party to enforce this Agreement, the prevailing party shall be entitled to recover, in addition to all other cost and fees incurred the reasonable and customary fees of counsel.

Witness as accepted as of the 25th day of June, 2015.

Columbia CID, Columbia, MO

By:  _____

Winterland, Inc.

By:  _____
Tarah E. Fred

Schedule A

Building Mounts

25 – 3' Snowflakes

30 – 4' Snowflakes

25 – 5' Snowflakes

5 – Snowflake GOBOS

Lease Agreement

Schedule A attached

This Lease Agreement (Agreement) is made this day, **July 27, 2016** between **Winterland, Inc. of Cicero, Indiana** ("Lessor") and **Columbia CID, 11 South 10th Street, Columbia MO, 65201** ("Lessee").

For the consideration set forth herein, Lessor hereby leases to Lessee and Lessee hires from Lessor those decorative items, display equipment, and materials (the "leased goods"), set forth on Schedule A attached hereto, or as described in a subsequent schedules which may hereafter be made a part hereof, for a term of four (4) years, upon the terms and conditions and upon the rate of rental set forth herein the lease to own agreement.

Article I - Rent

Lessee shall pay to Lessor, as rental for the leased goods the total annual rental fee of **\$20,000.00** payable in two (2) rental payments. The first such rental payment of **\$10,000.00** shall be due and payable at execution of this agreement. Lessor will issue an invoice for the subsequent rental payment of **\$10,000.00** which shall be due upon setup completion. Lessor will provide invoice for 2nd, 3rd and 4th subsequent years within thirty (30) days prior to due date. The 1st payment would be due on October 1st of each calendar year, and 2nd payment would be due following setup completion.

All rental payments shall be paid by Lessee at **P.O. Box 772, Cicero, IN 46034** or at such other place as the Lessor may from time to time designate.

Article II - Delivery and Installation

Lessor shall deliver and supervise the installation of the leased goods to Lessee during the **Christmas seasons of 2016, 2017, 2018 and 2019**. Such installation shall be in a good and workmanlike manner.

Lessee acknowledges that no particular delivery date has been warranted. Lessor shall use its best efforts to cause timely delivery of the leased goods and Lessee agrees to accept the leased goods upon delivery, if delivery occurs during Lessee's usual and customer business hours and does not interfere with the Lessee's operations. Leased goods shall be delivered and installation to start the 2nd week of October.

Upon conclusion of the Christmas season, Lessor shall remove and retrieve the leased goods and store them until redelivery hereunder, such **removal to occur as soon as practical after January 10st of each year.**

Article III - Location of Leased Goods

The leased goods shall be located on the premises set forth in Article II hereof during the Christmas seasons encompassed by this Agreement and shall not be removed without Lessor's prior written consent.

Article IV - Alterations

Lessee will make no alterations or structural changes to the leased goods without the prior written permission of Lessor.

Article V - Electrical Connection

Lessee shall furnish, at its own cost and expense, such electricity, electrical outlets and electrical connections (i.e. extension cords, triple taps and/or any power distribution related product) as are safe, efficient, and necessary to provide the leased goods with sufficient electrical service. Lessee, as part of its obligation under this Agreement shall plug in the electrically lighted leased goods. Lessee acknowledges that Lessor is not a licensed electrician or electrical contractor and has no obligation to perform any wiring or other work which would constitute performing the duties of an electrician or electrical conductor. Lessee must have electrical connections available for Lessor at start of installation to insure proper function and timely progress.

The use of GFI outlets and/or breakers by Lessee will result in the inability of Lessor to guarantee continued use of "leased goods" when any type of moisture is present. Such devices **will** prevent operation of "leased goods" when **any** amount of moisture is present from sources such as dew, fog, rain or snow (others exist). Lessor responses to services calls related to the tripping of a GFI device **will not** be part of this contract: *such service calls will be billed as a separate invoice for time and materials.*

Article VI- Maintenance and Repair Lessee shall immediately notify Lessor of any need for major maintenance and repair. Lessor shall have the right at any reasonable time to enter premises identified above for the purpose of maintenance, repairs, or removal of leased goods.