

EXHIBIT A

PYROTECHNIC DISPLAY, INC. FIREWORKS DISPLAY AGREEMENT

This agreement is entered into this 29th day of January 2019 between Pyrotechnic Display, Inc., a Minnesota Corporation with offices in Clear Lake, Minnesota, ("Pyrotechnic") and the City of Duluth, State of Minnesota ("Customer"), for the purchase of a fireworks display. (" Agreement")

SECTION 1 FIREWORKS DISPLAY

Pyrotechnic agrees to furnish for the Customer (1) fireworks display(s), as per the Proposal attached hereto and made part of this Agreement, on the evening of July 4th, 2019 ("Fireworks Display").

SECTION 2 CONTRACT PRICE

In consideration for the Fireworks Display, Customer agrees to pay Pyrotechnic the sum of \$50,000.00 (Fifty thousand and 00/100 dollars) which includes all taxes ("Contract Price"). A service fee of 1.5% per month shall be added to the Contract Price, or any portion of the Contract Price due, if it is not paid within 15 days of the date payment becomes due under this Agreement.

SECTION 3 MATERIALS AND SERVICES

Pyrotechnic shall be responsible for providing inventory meeting the specifications for the Fireworks Display, and the services of an operator who will be responsible for preparing and conducting the Fireworks Display. Pyrotechnic shall prepare a final design prior to the Fireworks Display, and the exact specifications will be supplied to the Customer after the final design, upon request.

SECTION 4 INSURANCE

Pyrotechnic Display, Inc. shall provide proof of Public Liability and Property Damage insurance with limits not less than \$1,500,000 Single Limit. Proof of Workers Compensation Insurance in accordance with the laws of the state of Minnesota shall also be provided. The City of Duluth shall be named as an additional insured under the Public Liability policy per this contract.

SECTION 5 LOCATION

Customer shall be responsible for providing a suitable location for the Fireworks Display. Customer shall cooperate with Pyrotechnic to ensure that the site is suitable for the Fireworks Display, and Pyrotechnic shall have the right to reject a proposed site for lack of accessibility, fire or other safety reasons.

In addition to providing the location, Customer shall be responsible for:

- Providing an appropriate staging area, and a minimum spectator setback of 700 feet.
- Providing for the staging area to be roped off or otherwise clearly marked as off limits to unauthorized personnel.
- Searching the fallout area at first light following a nighttime display.
- Providing security, police and fire protection, to ensure 1) that the staging area and the surrounding setback area will be free from unauthorized persons, and 2) the safety of people in or around the display location.

SECTION 6 WEATHER RELATED POSTPONEMENT AND CANCELLATION.

Customer acknowledges that the Fireworks Display will be provided so long as weather, and weather related conditions, including but not limited to drought and fire risk, permit. In the event of a postponement of the Fireworks display, Customer shall be responsible for payment based on the schedule below, which shall be due within 30 days of the date agreed to in Section 1. If Customer does not reschedule the Fireworks Display within the twelve-month period, Pyrotechnic shall be entitled to 30% of the Contract Price for damages and expenses relating to the cancellation.

If customer chooses to postpone or cancel the Fireworks Display for any reason, customer shall be responsible for payment of a percentage of the Contract Price based on the schedule below, which shall be due within 30 days of the date agreed to in Section 1.

In the case of postponement or cancellation, Customer shall pay, as an additional fee, the following percentage of the Contract Price.

- At any time prior to the scheduled date of the Fireworks Display, 5% of the Contract Price.
- At any time on the scheduled date for the Fireworks Display, 20% of the Contract Price
- After the commencement of the Fireworks Display, where Pyrotechnic's operator has not determined that the postponement is necessary for weather or weather related circumstances, 100% of the Contract Price.

The Customer agrees to pay any and all collection costs, including reasonable attorney's fees and court costs incurred by Pyrotechnic Display, Inc. in the collection or attempted collections of any amount due under this agreement and invoice.

SECTION 7 INDEMNITY

Pyrotechnic shall defend, indemnify and save the Customer harmless from all costs, charges, damages, and loss of any kind that may grow out of the matters covered by this contract. Said obligation does not include indemnification of the Customer for claims of liability arising out of the sole negligent or intentional acts or omissions of Customer but shall include but not be limited to the obligation to defend, indemnify and save harmless the Customer in all cases where claims of liability against the Customer arise out of acts or omissions of Customer which are derivative of the negligence or intentional acts or omissions of Pyrotechnic such as, and including but not limited to, the failure to supervise, the failure to warn, the failure to prevent such act or omission by Pyrotechnic and any other such source of liability. In addition, Pyrotechnic shall comply with all local, state and federal laws, rules and regulations applicable to this contract and to the work to be done and things to be supplied hereunder.

SECTION 8 NO PARTNERSHIP

It is agreed and mutually understood that nothing in this contract shall be construed or interpreted as creating or establishing a partnership or joint venture between the parties. Both parties are responsible for their separate and individual debts and obligations and neither party shall be responsible for any agreements not stipulated in this contract.

SECTION 8 ENTIRE AGREEMENT

This Contract and the Fireworks Exhibition and Display Program constitutes the entire agreement between the parties hereto, and there are no other understandings, either oral or written, regarding to the subject matter hereof. The parties hereto do mutually and severally guarantee terms, conditions, and payments of this contract, these articles to be binding upon the parties, themselves, their heirs, executors, administrators, successors and assigns.

NOTE: Any changes without Pyrotechnic Display, Inc. approval will cancel agreement.

NOTE: This agreement will be withdrawn if not accepted within 45 days.

IN WITNES S WHEREOF, the undersigned executed this Contract by and through their authorized representatives whose names appear below.

Approved:

Mayor

Attest:

City Clerk Date

Approved:

City Attorney

Countersigned:

City Auditor

Signed on: _____, 2019.
PYROTECHNIC DISPLAY, INC.

BY: _____

Name: Mark C. Hanson
ITS: Event Producer

Pyrotechnic Display, Inc.
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Clear Lake, MN 55319
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City of Duluth, MN
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