

AGREEMENT FOR FIREWORKS DISPLAYS

THIS AGREEMENT made and entered into on the ____ day of February, 2024 (the “Effective Date”), by and between MASTER PYRO DISPLAY, L.L.C., a Florida Limited Liability Company with a Principal Address of 3332 Victoria Park Road, Jacksonville, FL 32216 (“Contractor”) and the CITY OF MADEIRA BEACH, a Florida Municipal Corporation (“City”).

WHEREAS, on February 1, 2023, the City issued RFP No.: 23-01, requesting proposals from qualified companies to provide fireworks displays on March 17, 2023, May 6, 2023, July 3, 2023, and November 11, 2023; and

WHEREAS, on February 15, 2023, Contractor submitted a proposal outlining its proposed services and related charges; and

WHEREAS, having considered the responsive proposals received and found Contractor to be responsive and responsible, and having found Contractor’s proposal to be the most beneficial to the City’s needs, the City chose to negotiate final contract terms with Contractor; and

WHEREAS, the City and Contractor have agreed to exercise a one year contract renewal, per the terms of the issued RFP: and

WHEREAS, the City and Contractor having agreed on final contractual terms, have agreed to enter this Agreement.

NOW, THEREFORE in consideration of the promises and covenants contained herein, the Parties agree as follows:

1. Contract Documents; Order of Precedence.

This Agreement shall consist of the following documents, and in the event of any conflict as to a term or condition between them, the earlier listed document shall control over the later listed document:

- This Agreement
- RFP No.: 23-01 (attached hereto and incorporated herein as **Exhibit A**)
- Contractor’s Proposal including any attachments or exhibits thereto referenced in the Proposal (attached hereto and incorporated herein as **Exhibit B**)

2. Contractor Duties.

Contractor shall provide to the City fireworks displays on March 16, 2024, May 4, 2024, July 3, 2024, and November 9, 2024 in the manner set forth in its Proposal, and in full compliance with all applicable safety rule, regulations and industry best practices as are referenced in the City’s RFP, Contractor’s Proposal, or are otherwise provided for by law.

3. Term.

The term of this Agreement shall be from the Effective Date through November 30, 2024.

4. Payment

Pursuant to Florida Statutes §§ 218.73 and 218.74, Contractor shall be paid the following fees: \$5,000.00 for the March 16th display, \$5,000.00 for the May 4th display, \$20,000.00 for the July 3rd display and \$5,000.00 for the November 9th display not more than forty-five (45) days after it has submitted to the City a proper invoice, which invoice shall be submitted only after the Contractor's required services have been completed.

Improper payment requests shall be addressed by the City as provided for in Florida Statutes § 218.76, and any disputes with respect to payment of an invoice shall be determined as provided for in that statute and any associated City procurement codes or procedures addressing resolution of payment disputes.

5. Amendments.

This Agreement may only be altered by written amendment executed by authorized officials of both Parties.

6. Severability.

In the event that any provision or portion hereof of any Contract Document shall be found to be invalid or unenforceable, then such provisions or portion thereof shall be performed in accordance with the applicable laws. The invalidity or unenforceability of any provision or portion of any Contract Document shall not affect the validity or enforceability of any other provision of the Contract Documents.

7. Miscellaneous Terms.

A. Each Party to this Agreement represents and warrants to the other Party that (i) they are duly organized, qualified and existing entities under the laws of the State of Florida, and (ii) all appropriate authority exists so as to duly authorize the persons executing this Agreement to so execute the same fully bind the Party on whose behalf they are executing.

B. Immigration Compliance; E-Verify. Contractor acknowledges that it is responsible for complying with the provisions of the Immigration Reform and Control Act of 1986, U.S.C. § 1324, et seq., and regulations relating thereto. Failure to comply with the above statutory provisions shall be considered a material breach and shall be grounds for immediate termination of this Agreement. The Contractor's employment of unauthorized aliens is a violation of § 274(e) of the Federal Immigration and Employment Act. The Contractor shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired during the term of this

Agreement and shall require the same verification procedure of any Subcontractors authorized by the Owner. Pursuant to Florida Statutes § 448.095(2), beginning January 1st 2021, Contractor shall register with and use the E-Verify system to verify the work authorization status of all newly hired employees. Contractor's contract with the City cannot be renewed unless, at the time of renewal, Contractor certifies in writing to the City that it has registered with and uses the E-Verify system. If Contractor enters into a contract with a subcontractor, the subcontractor must provide the Contractor with an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien and Contractor shall maintain a copy of such affidavit for the duration of the contract. If Contractor develops a good faith belief that any subcontractor with which it is contracting has knowingly violated Florida Statutes § 448.09(1) (making it unlawful for any person knowingly to employ, hire, recruit, or refer, either for herself or himself or on behalf of another, for private or public employment within the state, an alien who is not duly authorized to work by the immigration laws or the Attorney General of the United States) Contractor shall terminate the contract with the subcontractor. If the City develops a good faith belief that Contractor has knowingly violated Florida Statutes § 448.09(1) (making it unlawful for any person knowingly to employ, hire, recruit, or refer, either for herself or himself or on behalf of another, for private or public employment within the state, an alien who is not duly authorized to work by the immigration laws or the Attorney General of the United States) the City shall terminate this contract. Pursuant to Florida Statutes § 448.095(2)(c)(3), termination under the above-circumstances is not a breach of contract and may not be considered as such.

C. No Third-Party Beneficiary. This Agreement is for the benefit of the Parties and their respective successors and permitted assigns, and it is not the intent of the Parties to enter this Agreement for any other person's or entity's benefit.

D. Jurisdiction, Venue, Applicable Law. In the event of any litigation between the Parties with respect to the interpretation or enforcement of this Agreement, same shall be conducted, if in state court, in the appropriate circuit or county court in and for Pinellas County, Florida, and if in federal court, in the United States District Court for the Middle District of Florida, Tampa Division. In any such litigation, the substantive and procedural laws of the State of Florida shall be applied.

E. Public Records. In accordance with Florida Statutes § 119.0701, the Contractor shall:

1. Keep and maintain public records required by the City to perform the service.
2. Upon request from the City's custodian of public records, provide the requesting City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.
3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the contractor does not transfer the records to the City.

4. Upon completion of the contract, transfer, at no cost, to the City all public records in possession of the Contractor or keep and maintain public records required by the City to perform the service. If the Contractor transfers all public records to the City upon completion of the contract, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the contract, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT THE CITY MADEIRA BEACH, CITY CLERK'S OFFICE, AT:

TELEPHONE: 727- 391-9951

EMAIL: cvanblargan@madeirabeachfl.gov

ADDRESS: 300 Municipal Drive, Madeira Beach, FL 33708

F. Assignment and Subcontracting. The City has selected Contractor for its stated skills, abilities and unique product offerings, as represented to the City by Contractor's solicitation response and via other means. Contractor has represented to the City that it has the in-house capabilities, resources and expertise to perform the services required by this Agreement except as otherwise expressly set forth in this Agreement. Therefore, except in the case of a sale, transfer or assignment of all or substantially all of the assets of Contractor to a successor who has asserted its intent to continue the business of Contractor, Contractor shall not assign or transfer any right or duty under this Agreement to any other party without the prior written consent of the City. In the unlikely event Contractor asserts it is necessary to subcontract for the services of third parties to perform any service or provide any product under this Agreement not already provided for therein, Contractor shall first obtain prior written approval of the City. Approval to utilize any third party shall not relieve Contractor from any direct liability or responsibility to the City pursuant to the provisions of this Agreement, or obligate City to make any payments other than payments due to Contractor as outlined in this Agreement. While requests to subcontract are strongly discouraged and unlikely to be granted, in the event the City grants such permission, Contractor is obligated to ensure any such subcontractor's contract incorporates the terms and conditions of this Agreement and acknowledges the City as an intended third-party beneficiary.

G. Notices. Any and all notices sent pursuant to this Agreement shall be given in writing via certified mail or overnight courier and shall be delivered to the following addresses:

As to Contractor:

Brian Acosta, Manager
Master Pyro Display, L.L.C.
3332 Victoria Park Road
Jacksonville, Florida 32216

As to City:

Robin Gomez, City Manager
City of Madeira Beach
300 Municipal Drive
Madeira Beach, FL 33708

IN WITNESS WHEREOF the Parties hereto have executed this Agreement as of the day and year first written above.

CITY OF MADEIRA BEACH

MASTER PYRO DISPLAY. L.L.C.

By: _____
Robin Gomez, City Manager

By: _____
Brian Acosta, Manager

(Acknowledgment of Contractor)

State of Florida
County of Duval
City of Jacksonville

The foregoing Agreement was acknowledged before me this ___ day of _____, 2024, by Brian Acosta, Manager of Master Pyro Display, L.L.C. (“Contractor”), on behalf of the Contractor. He is personally known to me or has produced _____, as identification and appeared before me at the time of notarization.

Brian Acosta warrants that he is authorized by the Contractor to execute the foregoing Agreement.

(SEAL)

NOTARY PUBLIC:

My commission expires:

1. Provide a copy of your firm's Occupational License No. with the Expiration Date (if applicable).
2. Provide a copy of your firm's Federal Employer Tax ID certificate.
3. Provide a copy of all your current insurance coverages for General Liability, Automobile and Worker's Compensation.
4. Provide evidence of a certification through Pinellas County Licensing Board (if applicable).
5. Provide documentation that your firm is registered with the Florida Division of Corporations to do business within the state of Florida.