



# City of Austin

Founded by Congress, Republic of Texas, 1839

P.O. Box 1088, Austin, Texas 78767-1088

## Financial and Administrative Services Department

October 4, 2011

Mr. Tom Tymann  
Pyro Engineering, Inc.  
400 Broadhollow Rd., Ste. 3  
Farmingdale, NY 11735

Re: Fireworks Display for Austin's New Year

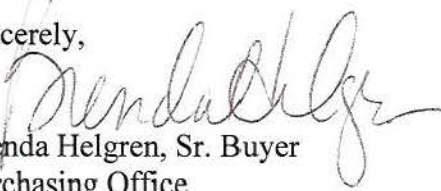
Dear Mr. Tymann:

The Purchasing Office has approved the execution of a contract with your company for the above-referenced item as follows:

Responsible Department:	EGRSO
Department Contact Person:	Kevin Shaw
Department Contact Email Address:	<a href="mailto:kevin.shaw@austintexas.gov">kevin.shaw@austintexas.gov</a>
Department Contact Telephone:	(512) 974-9316
Project Name:	Fireworks Display for Austin's New Year
Contractor Name:	Pyro Engineering, Inc.
Contract Number:	MA 5500 NA120000003
Contract Period:	12 months
Dollar Amount	\$15,000.00 per year
Extension Options:	2 12-month options to extend
Requisition Number:	RQM 5500 11081600532
Solicitation Number:	BKH0122
Agenda Item Number:	N/A
Council Approval Date:	N/A

Attached is a copy of all contract terms and conditions. Thank you for your interest in doing business with the City of Austin. If you have any questions regarding this contract, please contact me at (512) 974-9141.

Sincerely,

  
Brenda Helgren, Sr. Buyer  
Purchasing Office  
Finance and Administrative Services Department  
Enclosure

**CONTRACT BETWEEN THE CITY OF AUSTIN ("City")  
AND  
Pyro Engineering, Inc. ("Contractor")  
for  
Fireworks Display for Austin's New Year  
NA120000003**

The City accepts the Contractor's Offer (as referenced in Section 1.1.3 below) for the above requirement and enters into the following Contract.

This Contract is between Pyro Engineering, Inc. having offices at Farmingdale, NY 11735 and the City, a home-rule municipality incorporated by the State of Texas, and is effective as of the date executed by the City ("Effective Date").

Capitalized terms used but not defined herein have the meanings given them in Solicitation Number BKH0122.

**1.1 This Contract is composed of the following documents:**

- 1.1.1 This Contract
- 1.1.2 The City's Solicitation, Invitation for Bid-Best Value (IFB-BV), BKH0122 including all documents incorporated by reference
- 1.1.3 Pyro Engineering, Inc. Offer, dated 09/09/11, including subsequent clarifications

**1.2 Order of Precedence.** Any inconsistency or conflict in the Contract documents shall be resolved by giving precedence in the following order:

- 1.2.1 This Contract
- 1.2.2 The City's Solicitation as referenced in Section 1.1.2, including all documents incorporated by reference
- 1.2.3 The Contractor's Offer as referenced in Section 1.1.3, including subsequent clarifications

**1.3 Quantity of Work.** There is no guaranteed quantity of work for the period of the Contract and there are no minimum order quantities. Work will be on an as needed basis as specified by the City for each Delivery Order.

**1.4 Term of Contract.** The Contract will be in effect for an initial term of twelve (12) months and may be extended thereafter for up to two (2) twelve (12) month extension option(s), subject to the approval of the Contractor and the City Purchasing Officer or his designee. See the Term of Contract provision in Section 0400 for additional Contract requirements.

**1.5 Compensation.** The Contractor shall be paid a total Not-to-Exceed amount of \$15,000.00 for the initial Contract term and \$15,000.00 for each extension option as indicated in the Bid Sheet, IFB Section 0600. Payment shall be made upon successful completion of services or delivery of goods as outlined in each individual Delivery Order.

**1.6** This Contract (including any Exhibits) constitutes the entire agreement of the parties regarding the subject matter of this Contract and supersedes all prior and contemporaneous agreements and understandings, whether written or oral, relating to such subject matter. This Contract may be

altered, amended, or modified only by a written instrument signed by the duly authorized representatives of both parties.

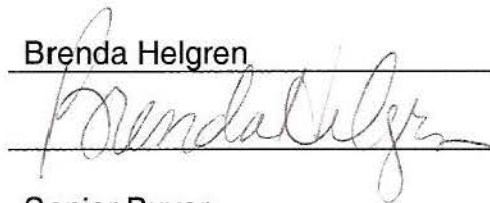
In witness whereof, the City has caused a duly authorized representative to execute this Contract on the date set forth below.

**CITY OF AUSTIN**

Printed Name of  
Authorized Person:

Brenda Helgren

Signature:



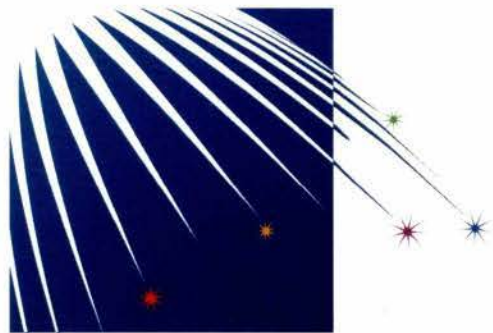
Title:

Senior Buyer

Date

10/04/11





# BAY FIREWORKS



## Technical & Creative Proposal



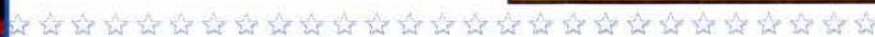
### CONCEPT



### DESIGN



### PRODUCTION







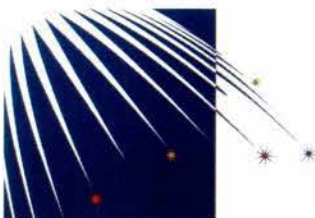
**MLB  
WORLD SERIES**



**CLUB  
MANAGERS  
ASSOCIATION  
OF AMERICA**

**INTREPID**  
SEA, AIR & SPACE MUSEUM • Adventures in Heroism

**PATRIOTS POINT**  
Naval & Maritime Museum



**BAY FIREWORKS**

**PRESENTS**

# **CITY OF AUSTIN NEW YEAR'S EVE**

## *Fireworks Spectacular*

**DECEMBER 31, 2011**

### *Featuring*

- \* The Most Creative Pyrotechnical Staff in the Business.
- \* A Huge Variety of World Class Quality Aerial Pyrotechnics.
- \* Comprehensive Insurance Coverage on an Occurrence Form Basis, with a World-Known, Top Rated Carrier.
- \* Our Professional Media and Public Relations Department to Assist you in Event Promotion.
- \* A Logistical Team and Office Staff who are Totally Dedicated to the Success of Your Fireworks Program.
- \* Our State-of-the-Art, Multi Media Production Services, featuring program media on the latest digital format.
- \* Spectacular computer designed, digitally fired fireworks performances, featuring the Fire One® computer system.



**CAESAR'S &  
BALLY'S  
CASINOS**



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# CONCEPT



NASA'S 50TH ANNIVERSARY

# DESIGN



JAMESTOWN  
"AMERICA'S 400TH ANNIVERSARY"

# PRODUCTION

## MISSION STATEMENT

**Concept:** Audiences respond well to contrast, and we use a number of atmospheric effects to create the background for sudden and overwhelming injections of pace, color and scale. These changes are achieved by a sudden change of mood within a piece of music, or by the transition from one piece to another. Utilizing your existing environment, we will utilize all aspects and materials available in our industry. Contained in the following pages are just a few of our choice fireworks manufacturers that build materials to our specifications, which are designed specifically for launch environments such as those at The City of Austin.

**Design:** Utilizing our combined experience of over 150 years, ensures that our show design parameters meet your specifications for safety and integrity while maximizing visual impact. Your presentation will draw all the elements contained in the attached proposal into one clear and concise program.

**Production:** Bay Fireworks will provide a site visit to review show specifics and to make certain all materials in our proposal are in conformity with your display site. On the morning of your display date, our team will begin the installation of the pyrotechnic materials. The technician in charge will contact your designated liaison to review overall coordination. Our team will then produce a flawless production.



# BAY FIREWORKS

CONCEPT DESIGN PRODUCTION

## Corporate Headquarters:

400 Broadhollow Rd., Suite 3  
Farmingdale, N.Y. 11735

Tel: 631.390.8620

Fax: 631.390.8621

Website: [www.bayfireworks.com](http://www.bayfireworks.com)



## World Class Productions

6th International Symposium on  
Fireworks at Walt Disney World  
Jamestown 2007 -  
America's 400th Anniversary  
Casinos - Bally's, Caesar's, Claridge  
Anheuser Busch Theme Parks  
Jones Beach Star Spangled Blast  
Universal Orlando Resort  
Paramount Theme Parks



## Major Sporting Events

Major League Baseball  
U.S. Olympic Committee  
State Games Of America  
National Football League  
Minor League Baseball  
Empire State Games



## Close Proximity and Illuminations

New Year's Eve Celebrations  
The Breakers & Rosecliff Centennials  
Stadium, Stage, Concerts  
Theatrical Events  
Theme Park Design - Consultation



International Festivals  
and Events Association



International  
Events Group



National Fireworks  
Association



International Association  
of Fairs and Expositions



National Fire Protection  
Association



American Pyrotechnics  
Association

## A. Pyro Engineering Inc, dba "Bay Fireworks"

## B. See attached proposal package for company history

## C.

- i. Length of display will be approximately 15 minutes
- ii. Please see attached fireworks inventory pages for quantity of shells and description of types of shells on subsequent pages
- iii. All fireworks for display will be 1.3G
- iv. The land mass will be used for firing aerial shells and the barge will be used to fire the grand illuminations
- v. Total # of shells = 890, Grand Illuminations = 6,662
- vi. For artistic impression please reference pages 1 and 2 of the "Scenes" section of the proposal
- vii. Firing method will be electrical. See attached site map showing use of both barge and land firing sites
- viii. We can fire the show in virtually any type of inclement weather. The only reason we will cancel the production is if there are sustained winds of 30mph or more as per NFPA regulations. If there is rain or snow we will cover the mortar racks and barrage units until just before the show starts.

## D. References

-Please see attached sheet with current references

## E. Experience

-Please note sections in the proposal showing specific examples of large scale events produced by Bay Fireworks

## F. Additional Forms

-Please see attached copies of Pyrotechnic Licenses



**CITY OF AUSTIN, TEXAS**  
Purchasing Office  
**INVITATION FOR BID (BEST VALUE)**  
**Offer Sheet**

SOLICITATION NO: BKH0122

COMMODITY/SERVICE DESCRIPTION: FIREWORKS DISPLAY FOR AUSTIN'S NEW YEAR

DATE ISSUED: 08/22/11

REQUISITION NO.: RQM 5500 11081600532

PRE-BID CONFERENCE TIME AND DATE: 08/29/11 @ 9:00AM

COMMODITY CODE: 96236

LOCATION: 124 W 8<sup>th</sup> St., Room 310, Austin, Texas 78701

FOR CONTRACTUAL AND TECHNICAL  
ISSUES CONTACT:

BID DUE PRIOR TO: 09/14/11 @ 9:00 AM

Brenda Helgren

COMPLIANCE PLAN DUE PRIOR TO: N/A

BID OPENING TIME AND DATE: 09/14/11 @ 9:00 AM

Senior Buyer

Phone: (512) 974-9141

LOCATION: MUNICIPAL BUILDING, 124 W 8<sup>th</sup> STREET  
RM 310, AUSTIN, TEXAS 78701

*It is the policy of the City of Austin to involve certified Minority Owned Business Enterprises (MBEs) and Woman Owned Business Enterprises (WBEs) in City contracting. MBE and WBE goals for this Solicitation are contained in Section 0900.*

*All Contractors and Subcontractors must be registered to do business with the City prior to submitting a response to a City Solicitation. In the case of Joint Ventures, each individual business in the joint venture must be registered with the City prior to submitting a response to a City solicitation. If the Joint Venture is awarded a contract, the Joint Venture must register to do business with the City. Prime Contractors are responsible for ensuring that their Subcontractors are registered. Registration can be done through the City's on-line vendor registration system. Log onto <https://www.cityofaustin.org/purchase> and follow the directions.*

**SUBMIT 1 ORIGINAL AND 3 SIGNED COPIES OF RESPONSE**

SOLICITATION TO:

Insert Vendor Name & Address

Signature of Person Authorized to Sign Offer

Tom Tymann - Sales

Signer's Name and Title: (please print or type)

FEDERAL TAX ID NO. [REDACTED]

Date: 9/9/11

Company Name: Pyro Engineering Inc

Address: 400 Broadhollow Rd, ste 3

City, State, Zip Code Farmingdale, NY 11735

Phone No. ( 631 ) 390-8620

Fax No. ( 631 ) 390-8621

BELOW INFO MUST MATCH THE NAME AND ADDRESS ON INVOICE AND IN COMPANY PROFILE WITH CITY

Company "Remit To" Name: Pyro Engineering Inc

Remit to Address: 400 Broadhollow Rd, ste 3

City, State, Zip Code Farmingdale, NY 11735

Email Address tom@bayfireworks.com

**CITY OF AUSTIN  
BID SHEET  
FIREWORKS DISPLAY FOR NEW YEAR'S EVE CELEBRATION**

**BID NO.** BKH0122  
**RX NO.** RQS 5500 10100100008  
**CLOSING DATE & TIME:** 09/14/11 @ 9:00 am  
**BUYER:** Brenda Helgren

Item	Description			Total Cost	
1.0	EVALUATION CRITERIA FOR COST (50 POINTS)				
	TOTAL COST IN ACCORDANCE WITH SCOPE OF WORK, 0500.			\$ 15,000	
2.0	EXPERIENCE (15 points)				
3.0	REFERENCES (5 POINTS)				
4.0	DISPLAY PACKAGE ( 30 POINTS)				
INTERVIEWS, OPTIONAL: Interviews may be conducted at the discretion of the City. Maximum 25 points.					
For Informational Purposes Only	CANCELLATION COSTS IF NOTIFIED WITHIN 7 DAYS			\$ 3,750	
	CANCELLATION COSTS IF CANCELLED ON DAY OF THE SHOW			\$ 7,500	

COMPANY NAME: Pyro Engineering Inc  
SIGNATURE OF AUTHORIZED REPRESENTATIVE:   
PRINTED NAME: Tom Tymann  
EMAIL ADDRESS: Tom@bayfireworks.com



**CITY OF AUSTIN  
PURCHASING OFFICE  
REFERENCE SHEET**  
Please Complete and Return This Form with the Offer

**SOLICITATION NUMBER:**

BKH0122

**OFFEROR'S NAME:** Pyro Engineering Inc

**DATE:** 9/9/11

The Offeror shall furnish, with the Offer, the following information, for at least insert # recent customers to whom products and/or services have been provided that are similar to those required by this Solicitation.

1. Company's Name SeaWorld San Antonio  
Name and Title of Contact Chris Jordan - Director of Entertainment  
Present Address 10500 Seaworld Dr  
City, State, Zip Code San Antonio, TX 78251  
Telephone Number ( 210 ) 523-3327 Fax Number (      )  
Email Address chris.jordan@seaworld.com
2. Company's Name Dallas Athletic Club  
Name and Title of Contact Brian Keelan - General Manager  
Present Address 4111 La Prada  
City, State, Zip Code Dallas, TX 75150  
Telephone Number ( 972 ) 279-3671 Fax Number (      )  
Email Address bkeelan@dacstaff.org
3. Company's Name The Woodlands  
Name and Title of Contact Julie DeGuerre - Events Manager  
Present Address 10001 Woodloch Forest Dr, ste 600  
City, State, Zip Code Woodlands, TX 77380  
Telephone Number ( 281 ) 210-3478 Fax Number (      )  
Email Address julie.deguerre@thewoodlandsclub.com
4. Company's Name City of Huntsville  
Name and Title of Contact Kimberly Barnes - Recreation Coordinator  
Present Address 448 Highway 75 North  
City, State, Zip Code Huntsville, TX 77320  
Telephone Number ( 936 ) 294-5725 Fax Number (      )  
Email Address kbarnes@huntsville.gov
5. Company's Name Ridgewood Country Club  
Name and Title of Contact David Gardner - General Manager  
Present Address 7301 Fish Pond Rd  
City, State, Zip Code Waco, TX 76710  
Telephone Number ( 254 ) 772-0160 Fax Number (      )  
Email Address dgardner@ridgewoodwaco.com

**City of Austin, Texas**  
**EQUAL EMPLOYMENT/FAIR HOUSING OFFICE**  
**NON-DISCRIMINATION CERTIFICATION**  
**SOLICITATION NO. BKH0122**

**City of Austin, Texas**  
**Human Rights Commission**

To: City of Austin, Texas, ("OWNER")

I hereby certify that our firm conforms to the Code of the City of Austin, Section 5-4-2 as reiterated below:

Chapter 5-4. Discrimination in Employment by City Contractors.

**Sec. 4-2 Discriminatory Employment Practices Prohibited.** As an Equal Employment Opportunity (EEO) employer, the Contractor will conduct its personnel activities in accordance with established federal, state and local EEO laws and regulations and agrees:

- (B) (1) Not to engage in any discriminatory employment practice defined in this chapter.
- (2) To take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without discrimination being practiced against them as defined in this chapter. Such affirmative action shall include, but not be limited to: all aspects of employment, including hiring, placement, upgrading, transfer, demotion, recruitment, recruitment advertising; selection for training and apprenticeship, rates of pay or other form of compensation, and layoff or termination.
- (3) To post in conspicuous places, available to employees and applicants for employment, notices to be provided by OWNER setting forth the provisions of this chapter.
- (4) To state in all solicitations or advertisements for employees placed by or on behalf of the Contractor, that all qualified applicants will receive consideration for employment without regard to race, creed, color, religion, national origin, sexual orientation, gender identity, disability, veteran status, sex or age.
- (5) To obtain a written statement from any labor union or labor organization furnishing labor or service to Contractors in which said union or organization has agreed not to engage in any discriminatory employment practices as defined in this chapter and to take affirmative action to implement policies and provisions of this chapter.
- (6) To cooperate fully with OWNER's Human Rights Commission in connection with any investigation or conciliation effort of said Human Rights Commission to ensure that the purpose of the provisions against discriminatory employment practices are being carried out.
- (7) To require compliance with provisions of this chapter by all subcontractors having fifteen or more employees who hold any subcontract providing for the expenditure of \$2,000 or more in connection with any contract with OWNER subject to the terms of this chapter.

For the purposes of this Offer and any resulting Contract, Contractor adopts the provisions of the City's Minimum Standard Nondiscrimination Policy set forth below.

**City of Austin**  
**Minimum Standard Non-Discrimination in Employment Policy:**

*As an Equal Employment Opportunity (EEO) employer, the Contractor will conduct its personnel activities in accordance with established federal, state and local EEO laws and regulations.*

*The Contractor will not discriminate against any applicant or employee based on race, creed, color, national origin, sex, age, religion, veteran status, gender identity, disability, or sexual orientation. This policy covers all aspects of employment, including hiring, placement, upgrading, transfer, demotion, recruitment, recruitment advertising, selection for training and apprenticeship, rates of pay or other forms of compensation, and layoff or termination.*

*Further, employees who experience discrimination, sexual harassment, or another form of harassment should immediately report it to their supervisor. If this is not a suitable avenue for addressing their complaint, employees are advised to contact another member of management or their human resources representative. No employee shall be discriminated against, harassed, intimidated, nor suffer any reprisal as a result of reporting a violation of this policy. Furthermore, any employee, supervisor, or manager who becomes aware of any such discrimination or harassment should immediately report it to executive management or the human resources office to ensure that such conduct does not continue.*



*Contractor agrees that to the extent of any inconsistency, omission, or conflict with its current non-discrimination employment policy, the Contractor has expressly adopted the provisions of the City's Minimum Non-Discrimination Policy contained in Section 5-4-2 of the City Code and set forth above, as the Contractor's Non-Discrimination Policy or as an amendment to such Policy and such provisions are intended to not only supplement the Contractor's policy, but will also supersede the Contractor's policy to the extent of any conflict.*

UPON CONTRACT AWARD, THE CONTRACTOR SHALL PROVIDE A COPY TO THE CITY OF THE CONTRACTOR'S NON-DISCRIMINATION POLICY ON COMPANY LETTERHEAD, WHICH CONFORMS IN FORM, SCOPE, AND CONTENT TO THE CITY'S MINIMUM NON-DISCRIMINATION POLICY, AS SET FORTH HEREIN, **OR** THIS NON-DISCRIMINATION POLICY, WHICH HAS BEEN ADOPTED BY THE CONTRACTOR FOR ALL PURPOSES (THE FORM OF WHICH HAS BEEN APPROVED BY THE CITY'S EQUAL EMPLOYMENT/FAIR HOUSING OFFICE), WILL BE CONSIDERED THE CONTRACTOR'S NON-DISCRIMINATION POLICY WITHOUT THE REQUIREMENT OF A SEPARATE SUBMITTAL.


**Sanctions:**

Our firm understands that non-compliance with Chapter 5-4 may result in sanctions, including termination of the contract and suspension or debarment from participation in future City contracts until deemed compliant with the requirements of Chapter 5-4.

**Term:**

The Contractor agrees that this Section 0800 Non-Discrimination Certificate or the Contractor's separate conforming policy, which the Contractor has executed and filed with the Owner, will remain in force and effect for one year from the date of filing. The Contractor further agrees that, in consideration of the receipt of continued Contract payments, the Contractor's Non-Discrimination Policy will automatically renew from year-to-year for the term of the underlying Contract.

Dated this 9th day of September, 2011

CONTRACTOR	<u>Pyro Engineering Inc</u>
Authorized Signature	<u></u>
Title	<u>Sales</u>

**City of Austin, Texas**  
**NON-SUSPENSION OR DEBARMENT CERTIFICATION**  
**SOLICITATION NO. BKH0122**

The City of Austin is prohibited from contracting with or making prime or sub-awards to parties that are suspended or debarred or whose principals are suspended or debarred from Federal, State, or City of Austin Contracts. Covered transactions include procurement contracts for goods or services equal to or in excess of \$25,000.00 and all non-procurement transactions. This certification is required for all Vendors on all City of Austin Contracts to be awarded and all contract extensions with values equal to or in excess of \$25,000.00 or more and all non-procurement transactions.

The Offeror hereby certifies that its firm and its principals are not currently suspended or debarred from bidding on any Federal, State, or City of Austin Contracts.

Contractor's Name: Pyro Engineering Inc

Signature of Officer  
or Authorized  
Representative:



Date:

9/1/11

Printed Name:

Tom Tymann

Title

Sales



CITY OF AUSTIN  
NON-COLLUSION,  
NON-CONFLICT OF INTEREST, AND ANTI-LOBBYING AFFIDAVIT  
SOLICITATION NO. BKH0122

FOR  
Fireworks Display for Austin's New Year

State of Texas

County of Travis

The undersigned "Affiant" is a duly authorized representative of the Offeror for the purpose of making this Affidavit, and, after being first duly sworn, has deposed and stated and hereby deposes and states, to the best of his or her personal knowledge and belief as follows:

The term "Offeror", as used herein, includes the individual or business entity submitting the Offer and for the purpose of this Affidavit includes the directors, officers, partners, managers, members, principals, owners, agents, representatives, employees, other parties in interest of the Offeror, and anyone or any entity acting for or on behalf of the Offeror, including a subcontractor in connection with this Offer.

1. **Anti-Collusion Statement.** The Offeror has not in any way directly or indirectly:
  - a. colluded, conspired, or agreed with any other person, firm, corporation, Offeror or potential Offeror to the amount of this Offer or the terms or conditions of this Offer.
  - b. paid or agreed to pay any other person, firm, corporation Offeror or potential Offeror any money or anything of value in return for assistance in procuring or attempting to procure a contract or in return for establishing the prices in the attached Offer or the Offer of any other Offeror.
2. **Preparation of Solicitation and Contract Documents.** The Offeror has not received any compensation or a promise of compensation for participating in the preparation or development of the underlying Solicitation or Contract documents. In addition, the Offeror has not otherwise participated in the preparation or development of the underlying Solicitation or Contract documents, except to the extent of any comments or questions and responses in the solicitation process, which are available to all Offerors, so as to have an unfair advantage over other Offerors, provided that the Offeror may have provided relevant product or process information to a consultant in the normal course of its business.
3. **Participation in Decision Making Process.** The Offeror has not participated in the evaluation of Offers or other decision making process for this Solicitation, and, if Offeror is awarded a Contract hereunder, no individual, agent, representative, consultant, subcontractor, or subconsultant associated with Offeror, who may have been involved in the evaluation or other decision making process for this Solicitation, will have any direct or indirect financial interest in the Contract, provided that the Offeror may have provided relevant product or process information to a consultant in the normal course of its business.
4. **Present Knowledge.** Offeror is not presently aware of any potential or actual conflicts of interest regarding this Solicitation, which either enabled Offeror to obtain an advantage over other Offerors or would prevent Offeror from advancing the best interests of the City in the course of the performance of the Contract.
5. **City Code.** As provided in Sections 2-7-61 through 2-7-65 of the City Code, no individual with a substantial interest in Offeror is a City official or employee or is related to any City official or employee within the first or second degree of consanguinity or affinity.
6. **Chapter 176 Conflict of Interest Disclosure.** In accordance with Chapter 176 of the Texas Local Government Code, the Offeror:
  - a. does not have an employment or other business relationship with any local government officer of the City or a family member of that officer that results in the officer or family member receiving taxable income;

CITY OF AUSTIN  
NON-COLLUSION,  
NON-CONFLICT OF INTEREST, AND ANTI-LOBBYING AFFIDAVIT

- b. has not given a local government officer of the City one or more gifts, other than gifts of food, lodging, transportation, or entertainment accepted as a guest, that have an aggregate value of more than \$250 in the twelve month period preceding the date the officer becomes aware of the execution of the Contract or that OWNER is considering doing business with the Offeror.
- c. as required by Chapter 176 of the Texas Local Government Code, Offeror must file a Conflict of Interest Questionnaire with the Office of the City Clerk no later than 5:00 P.M. on the seventh (7<sup>th</sup>) business day after the commencement of contract discussions or negotiations with the City or the submission of an Offer, or other writing related to a potential Contract with the City. The questionnaire is available on line at the following website for the City Clerk:  
<http://www.ci.austin.tx.us/cityclerk/coi.htm>

There are statutory penalties for failure to comply with Chapter 176.

If the Offeror cannot affirmatively swear and subscribe to the forgoing statements, the Offeror shall provide a detailed written explanation in the space provided below or, as necessary, on separate pages to be annexed hereto.

7. **Anti-Lobbying Ordinance.** As set forth in the Solicitation Instructions, Section 0200, paragraph 7N, between the date that the Solicitation was issued and the date of full execution of the Contract, Offeror has not made and will not make a representation to a member of the City Council, a member of a City Board, or any other official, employee or agent of the City, other than the Authorized Contact Person for the Solicitation, except as permitted by the Ordinance.

OFFEROR'S EXPLANATION:

Contractor's Name: Pyro Engineering Inc. dba Bay Fireworks

Printed  
Name: Dennis Brady Jr.

Title CEO Pyro Engineering Inc. dba Bay Fireworks

Signature of Officer or Authorized Representative: \_\_\_\_\_

Subscribed and sworn to before me this 22<sup>nd</sup> day of Sept., 2011.

Jo-Anne Trilo  
Notary Public

My Commission Expires \_\_\_\_\_

Jo-Anne Trilo  
Notary Public State of New York  
No. 011TR6167363  
Qualified in Nassau County  
Commission Expires May 29, 2015



**CITY OF AUSTIN, TEXAS**  
**LIVING WAGES AND BENEFITS CONTRACTOR CERTIFICATION**  
*(Please duplicate as needed)*

**SOLICITATION NO. BKH0122**

Pursuant to the Living Wages and Benefits provision (reference Section 0400, Supplemental Purchase Provisions) the Contractor is required to pay to all employees directly assigned to this City contract a minimum Living Wage equal to or greater than \$11.00 per hour.

I hereby certify under penalty of perjury that all of the below listed employees of the Contractor who are directly assigned to this contract:

- (1) are compensated at wage rates equal to or greater than \$11.00 per hour; and
- (2) are offered a health care plan with optional family coverage.

Employee Name	Employee Job Title
James Johnson	Lead Technician
Jonathan Johnson	Technician
Jordan Johnson	Technician

- (3) all future employees assigned to this Contract will be paid a minimum Living Wage equal to or greater than \$11.00 per hour and offered a health care plan with optional family coverage.

- (4) Our firm will not retaliate against any employee claiming non-compliance with the Living Wage provision.

A Contractor who violates this Living Wage provision shall pay each employee affected the amount of the deficiency for each day the violation continues. Willful or repeated violations of the provision may result in termination of this Contract for Cause and subject the firm to possible suspension or debarment.

Contractor's Name: Pyro Engineering Inc

Signature of Officer  
or Authorized  
Representative:



Date:

9/2/11

Printed Name:

Tom Tymann

Title

Sales


**CITY OF AUSTIN, TEXAS  
LIVING WAGES AND BENEFITS EMPLOYEE CERTIFICATION**

Contract Number: BKH0122	Description of Services: Fireworks Display for Austin's New Year
Contractor Name: Insert Contractor's Name      Pyro Engineering Inc	

Pursuant to the Living Wages and Benefits provision of the contract (reference Section 0400, Supplemental Purchase Provisions), the Contractor is required to pay to all employees directly assigned to this City contract a minimum Living Wage equal to or greater than \$11.00 per hour. In addition, employees are required to certify that they are compensated in accordance with the Living Wage provision. Contractors are prohibited from retaliating against any employee claiming non-compliance with the Living Wage provision.

I hereby certify under penalty of perjury that I am directly assigned to this contract and that I am:

- (1) compensated at wage rates equal to or greater than \$11.00 per hour; and
- (2) offered a health care plan with optional family coverage.

Employee's Title: Insert Employee's Title      Sales	
Signature of Employee 	Date      9/9/11
Type or Print Name Insert Employee's Name <div style="text-align: right;">Tom Tymann</div>	

  
(Witness Signature)

Jeananne Ivarson  
(Printed Name)



**City of Austin, Texas**  
**NONRESIDENT BIDDER PROVISIONS**  
**SOLICITATION NO. BKH0122**

- A. Bidder must answer the following questions in accordance with Vernon's Texas Statutes and Codes Annotated Government Code 2252.002, as amended:

Is the Bidder that is making and submitting this Bid a "Resident Bidder" or a "Non-resident Bidder"?

Answer: Nonresident Bidder

- (1) Texas Resident Bidder – A Bidder whose principal place of business is in Texas and includes a Contractor whose ultimate parent company or majority owner has its principal place of business in Texas.
- (2) Nonresident Bidder – A Bidder who is not a Texas Resident Bidder.

- B. If the Bidder is a "Nonresident Bidder" does the state, in which the Nonresident Bidder's principal place of business is located, have a law requiring a Nonresident Bidder of that state to bid a certain amount or percentage under the Bid of a Resident Bidder of that state in order for the nonresident Bidder of that state to be awarded a Contract on such bid in said state.

Answer: No Which State: New York

- C. If the answer to Question B is "yes", then what amount or percentage must a Texas Resident Bidder bid under the bid price of a Resident Bidder of that state in order to be awarded a Contract on such bid in said state?

Answer: N/A

Bidder's Name: Pyro Engineering Inc, dba "Bay Fireworks"

Signature of Officer or  
Authorized  
Representative:



Date: 9/9/11

Printed Name: Tom Tymann

Title: Sales

**MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISE (MBE/WBE)  
PROCUREMENT PROGRAM  
NO GOALS FORM**

SOLICITATION NUMBER:	BKH0122
PROJECT NAME:	Fireworks Display for Austin's New Year

**The City of Austin has determined that no goals are appropriate for this project.** Even though no goals have been established for this solicitation, the Bidder/Proposer is required to comply with the City's MBE/WBE Procurement Program, if areas of subcontracting are identified.

If any service is needed to perform the Contract and the Bidder/Proposer does not perform the service with its own workforce or if supplies or materials are required and the Bidder/Proposer does not have the supplies or materials in its inventory, the Bidder/Proposer shall contact the Small and Minority Business Resources Department (SMBR) at (512) 974-7600 to obtain a list of MBE and WBE firms available to perform the service or provide the supplies or materials. The Bidder/Proposer must also make a Good Faith Effort to use available MBE and WBE firms. Good Faith Efforts include but are not limited to contacting the listed MBE and WBE firms to solicit their interest in performing on the Contract; using MBE and WBE firms that have shown an interest, meet qualifications, and are competitive in the market; and documenting the results of the contacts.

**Will subcontractors or sub-consultants or suppliers be used to perform portions of this Contract?**

No   X   If no, please sign the No Goals Form and submit it with your Bid/Proposal in a sealed envelope.


Yes        If yes, please contact SMBR to obtain further instructions and an availability list and perform Good Faith Efforts. Complete and submit the No Goals Form and the No Goals Utilization Plan with your Bid/Proposal in a sealed envelope.

After Contract award, if your firm subcontracts any portion of the Contract, it is a requirement to complete Good Faith Efforts and the No Goals Utilization Plan, listing any subcontractor, subconsultant, or supplier. Return the completed Plan to the Project Manager or the Contract Manager.

I understand that even though no goals have been established, I must comply with the City's MBE/WBE Procurement Program if subcontracting areas are identified. I agree that this No Goals Form and No Goals Utilization Plan shall become a part of my Contract with the City of Austin.

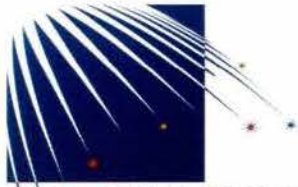
Pyro Engineering Inc  
Company Name

Tom Tymann - Sales  
Name and Title of Authorized Representative (Print or Type)

  
Signature

9/9/11  
Date





**BAY FIREWORKS**

# CITY OF AUSTIN NEW YEAR'S EVE AERIAL SHELL SEGMENT

OPENING SEGMENT	QTY
Special Effect Barrages	210
2.5" - Three-Inch Shells	105
Four-Inch Shells	10
Five-Inch Shells	5

BODY OF PROGRAM	QTY
Three-Inch Shells	150
Four-Inch Shells	125
Five-Inch Shells	100

GRAND FINALE	QTY
Special Effect Barrages	600
2.5" - Three-Inch Shells	350
Four - Inch Shells	30
Five-Inch Shells	15

**Proposed Inventory  
Aerial Shell Segment  
DECEMBER 31, 2011  
Program Value: \$15,000**

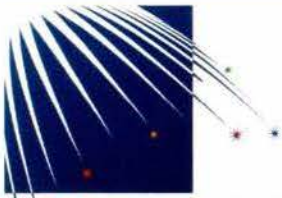


**LPGA MICHELOB ULTRA OPEN  
AT KINGSMILL RESORT**



**BAY FIREWORKS AT BARNUM SKYBLAST**





**BAY FIREWORKS**

# **CITY OF AUSTIN**

## **NEW YEAR'S EVE**

### **GRAND ILLUMINATIONS**

**"Multi-Theater Performances"**

(any combination of effects below may be utilized)

<b>SPECIAL EFFECT BARRAGE ILLUMINATIONS</b>	<b>Formation</b>	<b>Quantity</b>
100s White Glittering with Blue Pistil	\\	0 / 100
100s "Z" Shape Multi Color Falling Leaves with Blue Pistil	\\\\\\ \\ \\	1 / 100
372s "W" Shape Gold Willow Comet w/Blue Pistil	\\	1 / 372
200 Shot "V" Shape <i>Rapid Fire</i> Blue Stars	V	1 / 200
210s "Z" Shape <i>Rapid Fire</i> Zig-Zag Red Stars	\\\\\\ \\ \\	1 / 210
100s Re Comet to Horse Tail		0 / 200
210s "Z" Shape <i>Rapid Fire</i> Zig-Zag Blue Stars	\\\\\\ \\ \\	1 / 210
300 Shot Titanium Salutes		0 / 600
372s Blue Bijou w/Brocade Crown	\\	1 / 372
100s Color Strobe Willow		0 / 200
100s Dou Lai Mi	\\\\\\ \\ \\	1 / 100
210s Five Lake Four Sea	\\\\\\ \\ \\	0 / 210
144s Peacock Begin	\\\\\\ \\ \\	2 / 288
100s Brocade Crown w Green Strobe & Brocade Crown Tail		0 / 200
400s Whistle and Fire Flower	\\\\\\ \\ \\	1 / 400
600s Shot Peacock Shape Silver Barrier		1 / 600
1,000s Alternating Color Comets w/Silver Tails: (R,B,G,Y,P)	\\\\\\ \\ \\	1 / 1,000
2,000 Charging Wasps	\\\\\\ \\ \\	1 / 2,000
<b>SELECTED COMETS / CANDLES MULTI SHOT</b>	<b>Type</b>	<b>Shots</b>
25mm 5 Times Variegated Color & Multi Effect Comet, Candles	Single \\	0
50mm 8 Times Multi Effect: Candles	Single	0
25mm 5 Times Multi Effect Candle: Bombette, Comet, Candles	Single \\	0
64mm 8 Times Multi Effect: Star, Crossette, Mosaic Candles	Single	0
64mm 8 Times Multi Effect: Star, Kamuro Candles	Single \   /	0
<b>SELECTED VARIAGATED MINE EFFECTS</b>	<b>Size</b>	<b>Quantity</b>
Multi Effect Mines: Color Crossettes w/Strobe	3"	0
Multi Effect Mines: Tourbillions to Color & Salute	4"	0
Multi Effect Mines: Scattering, Color w/Strobe	5"	0
<b>ALL SELECTED ABOVE EFFECTS</b>	<b>TOTAL PIECES</b>	<b>5,852</b>



NO SCHOOL OR HOSPITAL WITHIN 600 FT.  
NO HAZARDOUS MATERIAL WITHIN 700 FT.  
FIRE & POLICE PATROL BOATS ON SITE.

Temporary  
Fencing

365 ft radius  
5 inch max  
shell

Temporary  
Fencing

Main Body of  
Program

30-15-52.5 N  
97-45-4.20 W

Barge With  
Grand  
Illuminations

City of Austin  
New Years Eve  
Celebration  
12/31/2010

Spectators

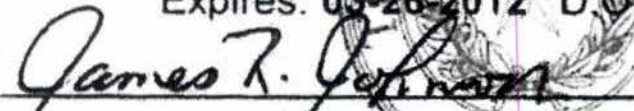


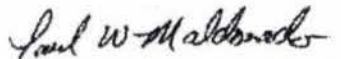
TEXAS DEPARTMENT OF INSURANCE  
STATE FIRE MARSHAL'S OFFICE  
**JOHNSON, JAMES REDMOND**

License No. **FPO-1226**

**PYROTECHNIC OPERATOR**

Expires: **03-26-2012** D.O.B. **07-30-1946**

  
SIGNATURE OF LICENSE/PERMIT HOLDER

  
TX STATE FIRE MARSHAL



**Registered Location(s):**

400 BROADHOLLOW RD STE 3  
FARMINGDALE NY 11735

Registration Number

**FWD-0118**

Expiration Date: 02-16-2012

**FIREWORKS DISTRIBUTOR'S LICENSE**

TEXAS DEPARTMENT OF INSURANCE  
STATE FIRE MARSHAL'S OFFICE

**Issued To:**

BAY FIREWORKS

DATE ISSUED: February 15, 2011



PAUL MALDONADO, STATE FIRE MARSHAL

SFD01 Rev.



BAY FIREWORKS  
400 BROADHOLLOW RD STE 3  
FARMINGDALE NY 11735

## Scenes - continued



### Scene 7

Red Cycas, Spangled Palms and Twinkling Spangle Shells are featured in this scene. Five points of Glittering Crossette Candles with Matching Glittering Crossette Shells are joined by Violet Go-Getter Mines from ground level up to 300 feet. Following this scene are several points of Silver Three-Way Fanned barrage units.

### Scene 8

Here we feature very fast paced firings of Multi-Color Mines with Matching Multi-Color Shells. Red Strobing to Kamuro Shells are added, and the scene ends with a Sky Full of Red, White and Blue Lanterns signaling the end of the main segment.

## The Grand Finale

### Scene 9

Beginning with the sights of large comets and meteors are launched in unison, then followed with several "points" of Mines and Illuminations, the pyrotechnics gradually build in size and intensity as the choreography parallels the building dynamics in the program. Featured here are Silver Tailed Chrysanthemums in Red, White and Blue; finally ending with hundreds of the largest Peony and Chrysanthemum Shells, building into the incredible, Twin-Theater Grand Finale which fans the entire sky.







**BAYFIREWORKS**

**SAMPLING OF SHELL EFFECTS 3" - 10"**

SILVER GLITTER CROSSETTE COMET  
GOLD CHARCOAL CROSSETTE COMET  
FIREFLY CROSSETTE COMET  
GREEN PEONY  
SILVER PEONY  
RED, WHITE & BLUE PEONY  
RED CHRYSANTHEMUM w/ COCO PISTIL & TAIL  
PURPLE CHRYSANTHEMUM w/ COCO PISTIL & TAIL  
GREEN CHRYSANTHEMUM w/ COCO PISTIL & TAIL  
BLUE CHRYSANTHEMUM w/ COCO PISTIL & TAIL  
PINK CROSSETTE RING w/ RED HEART  
BROCADE RING w/ CROSSETTE PEONY  
BLUE RING w/ CRACKLING PISTIL  
GIANT BOWTIE w/ SILVER TAIL  
BROCADE WATERFALL  
RED WHITE & BLUE WATERFALL  
NISHIKI KAMURO w/ GOLD TAIL  
DOUBLE LAYERED TI WHISTLE to REPORT w/ RED & BLUE HEART  
DOUBLE LAYERED TI SERPENTS to REPORT w/ RED & BLUE HEART  
SCREECHER SHELL  
RED, WHITE & BLUE W/ WHISTLE RING SHELL  
WHISTLE & STARS  
SERPENTS & STARS  
FISH & WHISTLE  
HUMMER  
THUNDER & RAINBOW  
ARTILLERY  
ORANGE PEONY w/ SALUTES  
PINK MOVING STARS  
BLUE TO YELLOW MOVING STARS  
SILVER PEONY w/ TAIL  
GREEN PEONY w/ TAIL  
RED WHITE AND BLUE PEONY W/TAIL  
GREEN PEONY w/ SILVER FISH PISTIL  
PURPLE PEONY w/ SILVER FISH PISTIL  
BLUE TO RED PEONY w/ RED TO BLUE PISTIL  
VARIGATED MOVING STARS SHELL  
RED SILVER AND BLUE MOVING STARS SHELL  
RED DAHLIA w/ COCO PISTIL & TAIL  
LEMON DAHLIA  
SATURN, YELLOW PEONY w/ PURPLE RING  
RED HEART PATTERN  
RED FILLED STAR PATTERN  
WHITE FILLED STAR PATTERN  
BLUE FILLED STAR PATTERN  
HALF PURPLE & HALF SILVER CHRYSANTHEMUM  
RED WHITE & BLUE WATERFALL  
CRACKLING NISHIKI KAMURO  
SILVER TO RED TO BLUE MUM



**BAYFIREWORKS**

**SAMPLING OF SHELL EFFECTS 3" - 10"**

SILVER PEONY W/ TAIL  
GREEN PEONY W/ TAIL  
RED WHITE AND BLUE PEONY W/ TAIL  
GLITTERING SILVER TO RED TO BLUE CHRYSANTHEMUM  
GLITTERING SILVER TO PURPLE TO GREEN CHRYSANTHEMUM  
PURPLE TO SILVER PEONY  
YELLOW TO BLUE PEONY  
SILVER PEONY w/ RED PISTIL & RISING FLOWERS  
GOLD WAVE CHRYSANTHEMUM TO GREEN TO RED  
CRACKLING CHRYSANTHEMUM w/ RISING WHISTLE & TAIL  
RED GAMBOGE TO SILVER TO PURPLE CHRYS w/ PISTIL  
RED GAMBOGE TO GREEN TO BLUE CHRYS w/ COCO PISTIL  
MULTI COLORED DAHLIA  
BROCADE CROSSETTE RING  
5 CONCENTRIC RINGS  
RING w/ TI SALUTE PISTIL w/ TAIL  
5 COLOR CROSS RINGS  
RED HEART PATTERN  
BLUE STAR PATTERN W/ RED RING  
RED STAR PATTERN W/ BLUE RING  
HAPPY FACE  
SILVER FISH  
BROCADE CROSSETTING PALM TREE w/ BROCADE TAIL  
PURPLE GLITTERING CROSSETTING PALM TREE SHELL w/ TAIL  
ASSORTED COLOR CLUSTER OF STARS  
BROCADE WATERFALL  
RED WHITE & BLUE WATERFALL  
PEONY w/ TOURBILION TO REPORT RING  
GOLD PALM w/ GREEN FLOWERS  
BROCADE CHRYSANTHEMUM w/ RED PISTILS & TAIL  
BIG GOLDEN WILLOW TO VARIGATED  
SILVERY WILLOW TO RED w/ BLUE PISTIL & TAIL  
8 GIANT FIREFLY TAILS  
WIZARD CRACKLING WILLOW  
GOLDEN CHRYSANTHEMUM w/ RING  
RED TO WHITE TO BLUE PEONY  
GREEN TO YELLOW TO SILVER PEONY  
BLUE PEONY w/ SILVER FISH PISTIL  
GLITTERING SILVER TO BLUE TO GREEN PEONY w/ YELLOW PISTIL  
GLITTERING SILVER TO PURPLE TO GREEN PEONY w/ RED PISTIL  
TWO LAYERED CRACKLING CHRYSANTHEMUM w/ TAIL  
GREEN TO SILVER TO BLUE CHRYSANTHEMUM  
BLUE TO PURPLE TO STROBE CHRYSANTHEMUM  
GREEN TO SILVER TO BLUE CHRY w/ COCO PISTIL  
RED, WHITE & BLUE CROSSETTE RING  
YELLOW, PURPLE & BLUE CROSSETTE RING  
RING w/ 5 CHRYSANTHEMUMS & RISING FLOWERS  
RING OF TAILED FLOWERS w/ TAIL  
TITANIUM ARTILLERY RING w/ TAIL  
WHISTLES & FISH RING  
GOLD STAR w RISING GOLD STAR SHELLS  
RED TO CRACKLING CROSSETTING PALM TREE w/ TAIL





## **SAMPLING OF SHELL EFFECTS 3" - 10"**

**GOLD STAR w RISING GOLD STAR SHELLS  
RED TO CRACKLING CROSSETTING PALM TREE w/ TAIL  
FIREFLY CROSSETTING PALM TREE  
PARACHUTE w/ RED, WHITE, & BLUE STARS  
PARACHUTE w/ AMERICAN FLAG  
DOUBLE PARACHUTE w/ SILVER WATERFALL  
THOUSAND FLASHING SALUTES w/ CRACKLING PISTIL  
SILVER TO RED BEES w TAIL  
SILVER TO BLUE BEES w TAIL  
MR PAN'S TITANIUM SPIDER w/ HUGE CRACKLING  
RED WHITE & BLUE WATERFALL  
4 COLOR CHANGE w/ DOUBLE PISTIL & TAIL  
EIGHT CHRYSANTHEMUM  
THREE BREAK COLOR (R,W,&B) w/ THREE REPORTS  
BROCADE RING OF CROSSETTES w/ BLUE PEONY CENTER  
NEW COLOR RAINBOW RING w/ GOLD STROBE CENTER  
BROCADE CHRYSANTHEMUM w/ PURPLE PISTILS & TAIL  
BIG GOLDEN WILLOW w/ SILVER WILLOW PISTILS  
NISHIKI KAMURO TO FLASH w/ PURPLE PISTILS  
TWICE CRACKLING RAIN  
HORSETAIL WITH GOLDEN TRAIL  
GOLDEN BOW TIE W/BLUE RING  
SILVER BOW TIE W/GREEN RING  
SILVER BOW TIE W/RED RING  
SILVER BOW TIE W/PURPLE RING  
RED FLASHING  
GREEN FLASHING  
GOLDEN FLASHING  
PURPLE CROSSETTE  
BLUE CROSSETTE  
BLUE CROSSETTE  
STAINED GLASS  
FIREFLY CROSSETTING PALM TREE  
PARACHUTE w/ RED, WHITE, & BLUE STARS  
PARACHUTE w/ AMERICAN FLAG  
THOUSAND FLASHING SALUTES w/ CRACKLING PISTIL  
SILVER TO RED BEES w TAIL  
SILVER TO BLUE BEES w TAIL  
4 COLOR CHANGE w/ DOUBLE PISTIL & TAIL  
EIGHT CHRYSANTHEMUM  
THREE BREAK COLOR (R,W,&B) w/ THREE REPORTS  
BROCADE RING OF CROSSETTES w/ BLUE PEONY CENTER  
NEW COLOR RAINBOW RING w/ GOLD STROBE CENTER  
BROCADE CHRYSANTHEMUM w/ PURPLE PISTILS & TAIL  
BIG GOLDEN WILLOW w/ SILVER WILLOW PISTILS  
NISHIKI KAMURO TO FLASH w/ PURPLE PISTILS  
PURPLE CHRYSANTHEMUM w/ COCO PISTIL & TAIL  
YELLOW CHRYSANTHEMUM w/ COCO PISTIL & TAIL  
SILVER TO RED TO BLUE CHRY w/ BLUE TO GREEN CENTER**

# Scenes



## Opening Segment

### Scene 1

The Opening Section begins with **Gold Flitter & RWB** shells rising in opposing patterns to over 400', along with an awesome, sky-filling shell overlay of breathtaking **Ni-shiki Kamuros, Brocade Crown Chrysanthemums, and Kamuro Waterfall Shells**, with similar **Mines** filling the sky.

## Main Program

### Scene 2

Featuring **"Crackling Rain"** shells and **Palm Tree with Multi Colored Flowers**. The section builds with increasing intensity until the end where it concludes with a mini-finale including **"Silver Strobing Comets with Salute"**

### Scene 3

Featured here are **Fan Units, Planet Pattern Shells, Five-Pointed Star Pattern Shells, Crossing Comets, Clusters of Falling Strobe Leaves and Atomic Ring Pattern Shells** fill the sky joined by dozens of **Shell of Shell Artillery Titanium Salutes** creating a "Star Wars" type space battle.

### Scene 4

Featuring rapid firing **"Fire Flower (Furry Serpent)", Shell of Shells Rings and Wagon Wheel, Space Station and Hard-Breaking Eddy in Chrysanthemum**. This Scene ends with a sky full of spinning **Serpent Candles, Fanned Serpent Barrages** and matching **Serpent Shells**.

### Scene 5

Features Multi-colored **Pattern Shells** alternating between **Red, Purple and Strobing Silver. Pattern** shells emerge right before ending with a sky full of twinkling **Gold Flitter Crossettes**.

### Scene 6

Featuring **Flashing White Mag Stars, Pillbox Mag Blue Stars, Silver Cluster of Stars Shells and Multi-Colored Falling Leaves Shells** that simulate ships sailing across the sky. The scene then changes to a sky full of Japanese style **"Brocade Waterfall"** shells, that appear as huge dripping waterfalls, slowly cascading downward. Finally ending with huge **1000's of Brocade Waterfall Shell**







**BAYFIREWORKS**

## **SAMPLING OF SHELL EFFECTS 3" - 10"**

### **JAPANESE STYLE MULTI EFFECT SHELLS**

**Multi Color Palm Tree**  
**Blue Eddy in Chrysanthemum**  
**Gold Spangle Chrys**  
**Red Strobing Nishiki Kamuro w/ Red Strobing Pistil**  
**Nishiki Kamuro Niagra Falls**  
**Blue Sunflower**  
**Red Sunflower**  
**Multi Color Kamuro Chrys**  
**Blue Eddy in Chrysanthemum**  
**Red Eddy in Chrysanthemum**  
**Gold Spangle Chrysanthemum**  
**Red Strobing Nishiki Kamuro w/ Red Strobing Pistil**  
**Nishiki Kamuro Niagra Falls**  
**Silver Nishiki Kamuro**  
**Golden Willow**  
**Blue Planet Saturn w/ Silver Ring**  
**Red Strobing Dahlia**  
**Multi Color Palm Tree**  
**Golden Coconut with Full Red Blooms**  
**Golden Coconut with Full Blue Blooms**  
**Red Planet Saturn w/ Silver Ring**  
**Red Cycas**  
**Glittering Silver to Multi-Color Chrys**  
**Glittering Silver to Blue Chrys**  
**Red Eddy in Chrysanthemum**  
**Blue Eddy in Chrysanthemum**  
**Nishiki Kamuro Niagara Falls**  
**Gold Spangle Chrys w/ Blue Pistil**  
**Gold Spangle Chrysanthemum**  
**Crackling Thousand Circle Chrysanthemum w/ Crackling Pistil**  
**Red Gamboge to Green to Crackling Chrys w Crackling Double Pistil**  
**Red Gamboge to Blue to Crackling Chrys w/ Crackling Double Pistil**  
**Golden Willow**  
**Golden Wave to Variegated Swim Chrys w/ Crackling Pistil**  
**Blue Planet Saturn w/ Silver Ring**  
**Red Planet Saturn w/ Silver Ring**  
**Red Cycas**  
**Red Eddy in Chrysanthemum**  
**Silver Nishiki Kamuro**  
**Golden Coconut w/ Full Red Blooms**  
**Golden Coconut w/ Full Blue Blooms**  
**Red Strobing Nishiki Kamuro w/ Red Strobing Pistil**  
**Twinkling Palm Tree**  
**Multi Color Palm Tree w/ Crown Flowers**  
**Five-Angle Star**  
**Smiling Face**  
**Golden Willow w/ Green Meteor**  
**Blue Eddy in Chrysanthemum**

# High Aerial Shells

210' to 1,200' in height



## Three-Inch Through Ten-Inch Shells

Shell sizes are available according to site dimensions

**CHRYSANTHEMUM SHELLS** - Brilliant colors in a perfectly round burst. Most shells feature rising effects such as rising comet tails or rising whistles. Inventory includes:

- *Strobing Two Color Changing "Ghost" Shells*
- *Glittering Silver and Wave series*
- *Crackling Chrysanthemums*
- *Gold Spider*

### SPECIAL EFFECT SHELLS

- *Screaming Whistle Shells*
- *Electric Storm Shells (dragon eggs)*
- *Gold Flitter*
- *Spider (Gold, Silver)*
- *Two Break Color and Report*
- *Magnesium Combo*

**SALUTE AND THUNDER SHELLS** - A variety of effects that incorporate powerful reports into their display. Featuring:

- *Artillery Titanium, Thunder Blossom, Battle Clouds*

### STROBE, TWINKLING AND SPARKLING STAR SHELLS

- A variety of beautiful twinkling star shells, featuring:

- *Strobe Shells (Red, White, Silver, Green)*
- *Flashing Light Shells (Pink, Gold, Silver, Red, Green)*
- *Sparkling Light Shells (Gold, Red, Green, Silver)*
- *Twinkling Stars (Spangle, Silver, Gold)*

**MULTI-COLORED JAPANESE STYLE PEONIES** - Variegated colors in a spherical burst resembling a peony flower, many with rising effects (tails, flowers, whistles, etc).

- *Color Changing Peony (Two, Three or Four Color Changes)*
- *Peony With Pistil*

**SPECIAL AND MULTI-PATTERN SHELLS \*** - Forming fantastic, unusual patterns.

- *Olympic Ring Pattern, Happy Face Pattern, Five-Pointed Star (White, Red, Blue) Red*
- *Snail Pattern with Drifting Purple Small Flowers, Saturn Planet, Bow Tie Pattern, Hourglass with Color Ring Diamond, Shamrock, Club Pattern with Strobing Center, Gold Hour Glass with Red or Blue Ring, Red—White—Blue Shell of Shell Rings, Umbrella Pattern, Kiddy Fishes in Crowds with Crackling Stars, Stained Glass, Poinsettia Pattern—Variegated Colors, Sunflower Pattern, Butterfly in Circle Pattern, 3-D Tetrahedron Pattern*





**PALM TREE SHELLS** - A huge palm tree with rising comet tails.

- *Blue Palm Tree with Yellow Trunk, Green Palm Tree Shell of Shells, Glitter Palm with Glittering Comet Tail, Crackling Palm Tree with Rising Crackling Tail, Red Coconut Leaves*

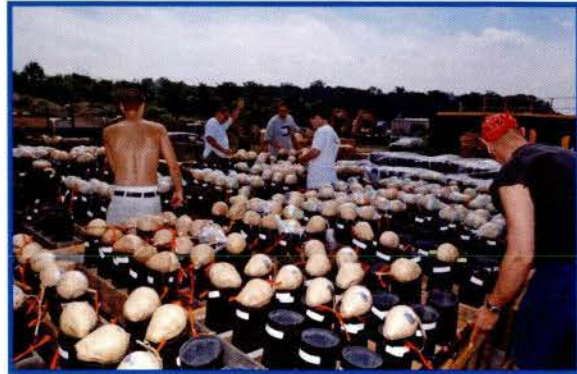


**MULTI-BREAK SHELL OF SHELLS** - A variety of effects that incorporate hundreds of components into their display.

- *Thousands of Colorful Strobes, Thousands of Brocade Waterfall, Thousands of Glittering Kamuro*
- *Artillery Titanium, Thundering Blossom, Battle in the Clouds*

**JAPANESE BROCADE WATERFALL** - It looks just like a shimmering golden waterfall high in the sky. (Also in shell-of-shells variety)

**SHATTERING GLASS** - Looks like glass shattering - Very Different! Yellow to Red color changing stars with Glitter Strobe effects.



**WAGON WHEEL COMET** - A Huge break of a Glitter Ring pattern with comets protruding from center to form the pattern of a wheel. Very Unique.

**MAG ILLUMINATORS** - Super flights that are intensely bright.

**GO-GETTERS** - Rich, vibrant colors featuring Violet, Bright Red and Rich Emerald Green. Shell breaks soft - then waves of corkscrew erratic propulsion in every direction.

**COMET SHELLS** - A variety of special effects.

- *Split Comets—Gold Flitter, White Flitter, Crossette—Red, Green, Silver, Glitter, Scattering - Criss Crossing comets, Magic Scatter—Yellow Comet Flower, Snowball Crossette—Long Tailed, Fluffy White Glitter*

### **ADVANCED EFFECT AND DESIGNER JAPANESE SHELLS**

- *Bay Fireworks Gold Flitter Split Comets, Super Crown, Designer Three and Four Color Change Effects, Eddy In Chrysanthemum*
- *Crackling Dahlia with Crackling Mag Stars Pistil, Farfalle, Diadem with Scrambling Red & Green Comets, Comet Mine Shell of Shells*
- *Brocade Diadem Kamuro Shell of Shells, Floral Shell of Shells with Popping Brocade Small Flowers Pistil, Lightning Bugs (Strobing stars)*
- *Blue Comets to Floral Salute Shell of Shells, Floral Fancy (Chrysanthemum with Ring of Diadem Stars)*
- *Silver Waterfall with Red and Blue Scrambling Comets, Palm Flowers (Palm Tree without trunk)*
- *Japanese Kaleidoscope with Color Pistil, Circle of Bouquets—Assorted Colors, Magic Peony, Spangle Peony with Coconut Core*



# OPENING SCENE & Grand Finale



**Level 1: Multi-Shot Fanned Crossette Barrage**

**Level 2: Aerial Shells in Three-Inch Color & Titanium Salute Shells**

**Level 3: Huge Aerial Shells blossom over the top**

**Bay Fireworks** is known for producing the most exciting Openings and Grand Finales in the business. We use special effect, and multi-break shells, rising flowers and tails, along with large support shells, all timed to allow for a continuous barrage.

This finale is a **TWIN—THEATER** presentation, designed to be displayed from **two locations** simultaneously:

☀ **3” Special Color Shell “Fan”** - Hundreds of spectacular Japanese-style shells volley into the sky into a widely “fanned” overlay of multi-colored floral patterns .

☀ **3” Titanium Salute Shells w/ Silver Tails** - The color shells are joined by a bombardment of electric flash salutes, again exploding into a wide fan pattern for maximum coverage. All salutes are followed by brilliant magnesium comets.

☀ **Multi Break Shells** - The sky now turns into a multi-level barrage of color, and booming reports. High over the top of the finale, huge oriental chrysanthemum bursts soar up to 1,000 feet above the barges.

☀ **Japanese Special Effect Shells** The heavens ignite with the sights and sounds of a full-scale aerial barrage above pounding flash salutes that are heard for miles around. This scene includes a full multi-level compliment of the most spectacular aerial effects available.

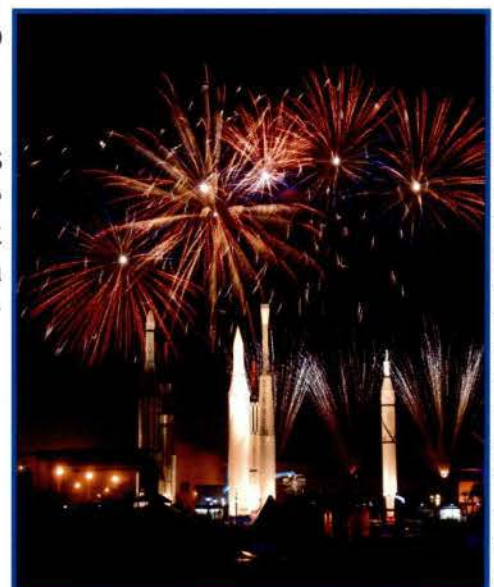
☀ *Brilliant Brocade Chrysanthemums*

☀ *Nishiki Kamuro Shells with Spangle Pistil*

☀ *Popping Brocade Flowers*

☀ *Color Changing Mums w/ Changing Pistils*

☀ *Artillery Titanium (Shell of Shells)*





# ***Illuminations***



## **Mid-Level Effects**

### **CANDLES**

**Size - 15-30mm**

- 30mm Color Crossette Candles
- 30mm Blue Bombettes Candles
- 30mm White Flitter Candles
- 30mm Gold Rain Star Candles



- 30mm Brilliant White Mag Candles
- 30mm Gold Flitter Crossette Candles
- 30mm French Mosaic Candles

### **STAR MINES**

#### **Three-Inch**

- 3" Glittering Crossette Mine
- 3" Silver Crossette Mines
- 3" Sparkling Strobe Mines
- 3" Patriot Colors Mine

#### **Four-Inch**

- 4" Gold Glitter with Purple Mag Stars
- 4" Silver Crossette Stars Mine
- 4" White Flitter with Red Mag / Whistles
- 4" Mag Colors with Scattering Stars Mine
- 4" Mag Colors with Swimming Fish Mine
- 4" Colorful Crossette Mines
- 4" Super Crackle Mine
- 4" Brocade Waterfall Mine

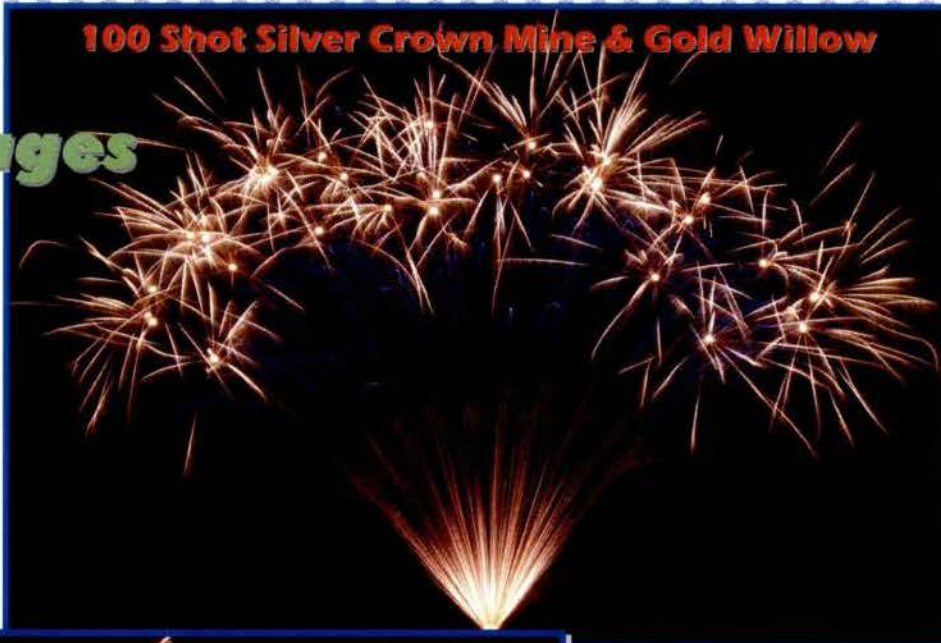


**100 shot Red Wave to  
Multi-Color Bombettes**



## Fan Barrages

**100 Shot Silver Crown Mine & Gold Willow**



**100 shot Variegated Flowers with Blue Comets**

### SPECIAL EFFECT BARRAGE UNITS

#### Formation

100 Shot Silver Crown Mine & Gold Willow	\\\\\\ /////
100 Shot "Z" Shape Color Falling Leaves with Blue Pistil	\\\\\\ /////
372 Shot "W" Shape Gold Willow Comet w/Blue Pistil	\\ /
400 Shot "V" Shape <i>Rapid Fire</i> Blue Stars	∨
210 Shot "Z" Shape <i>Rapid Fire Zig-Zag</i> Red Stars	\\V//
210 Shot Fan Shape Blue Star & Silver Coconut Pistil	\\V//
100 Shot Variegated Flowers w/ Blue Comets	\\\\\\ /////
300 Shot Titanium Salutes	

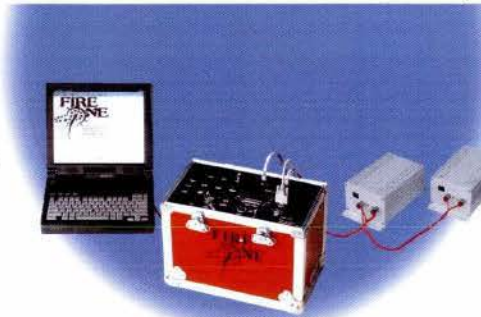


# Show Design / Choreography

The magic that pulls together all the elements in a pyrotechnic program into one spectacular medium is the choreography - "the musical marriage of fire and sound." Using precision "Fire One" choreography software, and pinpoint editing of the musical score, the final result is a dramatic state-of-the-art fireworks performance, precisely fired by dozens of computer modules networked throughout the fireworks staging area. The final theme and mood of the fireworks musical program will be a collaboration of your requirements, the event theme, and our expertise. We will work closely with your production and creative staff to exactly match your specifications. Included with our media production is broadcast quality professional narration, and celebrity narration is available upon request.



Scriptmaker choreography screen



Our Fire One Choreography network system.

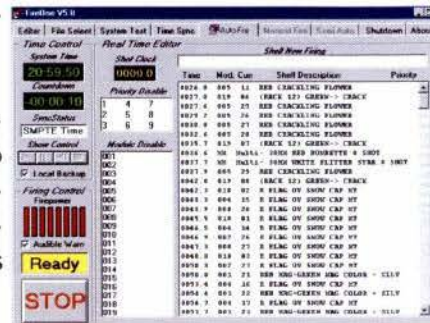
## Advanced Technology



All our World-Class programs begin in our multi-track studio, where the layers of the musical production track are first assembled\*. Upon approval, this final mix is combined with other production elements such as narration, and then output to a digital medium, such as CD or Mini-Disk. It is then prepared for the process for precise computer designed choreography with the fireworks effects. The software, "Scriptmaker", is the most precise and intuitive in the industry, allowing for the exact placement and triggering of literally thousands of simultaneous firings throughout the staging network, a feat not possible with any other mode of firing. Whether displayed from one, two or ten or more firing locations, the pyrotechnic effects are seen to lift into the sky and display at the same precise instant, a truly unprecedented pyrotechnic accomplishment.



Before and during the event, our media team will work seamlessly with your event media partners to bring the soundtrack to life, whether by local radio station, event sound system, or television. Our media experience and capabilities are head and shoulders above our competition and will guarantee you a flawless production.



Fire One software firing screen

\* Music and choreography available upon special order only.

# ***REFERENCES***



Bay Fireworks  
400 Broadhollow Rd, Suite 3  
Farmingdale, NY 11735  
Phone 631-390-8620 fax 631-390-8621



# Fireworks Credits and Commendations



Robert P. Antares  
County Executive  
Kathleen O'Connor, Acting Commissioner  
Department of Parks, Recreation & Conservation

September 29, 2010

Charlie Rappa  
Bay Fireworks  
400 Broadhollow Rd., Suite 3  
Farmingdale, NY 11735

Dear Charlie,

As our season is finally over, I wanted to write you and let you know of the spectacular shows that Bay Fireworks provided for us this year. In the 25 years I have been associated with Playland these shows have not only been awesome but have been stress free in terms of logistics and operation. Anytime you begin with a new company there are usually issues that arise that make for a negative experience. We had none of that with Bay Fireworks. Your company has been extraordinary in making our twice a week shows go so smoothly that I still get compliments from our staff. Speaking of compliments our guests truly enjoyed each and every show which was evident by the rousing cheers and applause after every finale.

New this year was your computer fired show that was choreographed to music. We were a little apprehensive of this technology but Bay had this worked out to a science which made each show not only additionally spectacular but consistent as well. Each time I saw the shows it was twelve minutes of pure bliss. I look forward to working with you and Bay Fireworks next year and my only concern is how are we going to top this year's shows? Knowing you and Bay I am confident we won't have to worry. See you in 2011.

Sincerely yours,

*Kenneth J. Puccia*  
Kenneth J. Puccia  
Marketing Manager  
Playland Park



July 7, 2005

Bay Fireworks  
110 Route 110, Suite 102  
Huntington Station, NY 11746

I wanted to let you know that your folks did a great job for the fireworks presentations for the 4th of July weekend. Kudos to you and your staff on a great looking show for 4th of July shows and to providing a great crew of people.

Thank You,

Robbi Lepre  
Director of Theatrical Services  
Entertainment Department  
Tel: 813-987-5302, FAX: 813-987-5180  
Cell: 813-267-5919

North Hills Country Club  
MANHASSET, L.I., NY 11030  
(516) 467-9100 Fax (516) 467-9101

July 10, 2009

Mr. Charles A. Rappa  
Bay Fireworks  
400 Broadhollow Road  
Suite 3  
Farmingdale, NY 11735

Dear Charlie,

At the end of last year's 4<sup>th</sup> of July Barbecue our members commented that we had the best fireworks show in the history of the Club. At the end of this year's 4<sup>th</sup> of July Barbecue our members commented that this year's show was the best in the history of the Club. It's nice to know that even though Bay Fireworks and North Hills Country Club have had a long relationship you still strive to be better every year.

Your staff is always professional and always treats our facility with care and respect. Thank you for continuing to do such a great job for us year after year.

Sincerely,

*Michael J. Romano*  
Michael J. Romano  
General Manager  
North Hills Country Club  
CCO/Club



September 30, 2010

Bay Fireworks  
400 Broadhollow Road  
Suite 3  
Farmingdale, NY 11735

Dear Charlie,

On September 15, 2010 our organization celebrated our 90<sup>th</sup> year of protecting and defending civil liberties for the people of the United States of America with an event on Ellis Island, capped off with a terrific fireworks display from Bay Fireworks overlooking the Manhattan skyline and New York Harbor.

On behalf of the American Civil Liberties Union Foundation, I wish to extend our heartfelt thank you for helping to make our event so memorable.

AMERICAN CIVIL LIBERTIES  
UNION FOUNDATION  
HAY GWA, OFFICE  
125 BROAD STREET, 14<sup>th</sup> FL  
NEW YORK, NY 10004-2400  
TEL: 212-512-1854  
FAX: 212-512-2140  
WWW.ACLU-ORG

## 6<sup>th</sup> International Symposium on Fireworks

Coronado Springs Resort, Orlando, Florida  
November 1 - 3, 2005



05/09/02

Bay Fireworks  
110 Route 110, Suite 102  
Huntington Station, NY 11746

Once again, on behalf of the International Symposium on Fireworks, I would like to thank you for the wonderful displays of fireworks that your company produced at Walt Disney World recently. I know that all the delegates in attendance from around the world thoroughly enjoyed the show, from the FireOne computer choreography to the music to the fireworks themselves.

I understand that Walt Disney Co. CEO Michael Eisner was on hand to view your Monday evening program in front of the Magic Kingdom. While dining atop the Contemporary Resort Hotel, Mr. Eisner had a perfect view of the show, and I am told that he enjoyed it very much. Dining along with Mr. Eisner was Regis Philbin ("Who Wants to Be a Millionaire"), who made several very complimentary comments about your program on "Live! With Regis and Kelly" the next morning.

Many thanks for your hard work that made our evenings of fireworks so successful for the delegates. We look forward to working with you again at the 7th International Symposium in Valencia, Spain in October 2003.

Yours sincerely,

*Fred Wade*

Fred Wade



Bay Fireworks  
Tom Tynan  
400 Broadhollow Road, Suite 3  
Farmingdale, NY 11735

July 15, 2010

Dear Tom,

Thank you so much for your participation in the Sail South Texas 2010 event. The success of an event depends on the vendors who contract to make it happen, and while there are always changes and adaptations, this one was a doozy! Given all of the variables involved, including a hurricane and delayed ships, this event required a good deal of patience and flexibility from all of us, and I am so grateful for yours. I appreciate your professionalism and look forward to working with you in the future. Thanks again for your kind assistance.

Sincerely,

*Amy McCoy*  
Amy McCoy  
Event Manager  
Buccaneer Commission

# Fireworks Credits and Commendations

"The Vice President and Mrs. Cheney were thoroughly delighted with the exciting pyrotechnics performed by your company at the DeltaPlex. It truly added a tremendous amount of excitement to the rally. . ."

- Bush /Cheney '04 Campaign

"In all the years, you guys have never let me down. I love Bay Fireworks!" Peter Gulliver, Bear Mountain State Park

"Everything went very well .... and everyone was very impressed with the shows. . . Great job. Looking forward to July 4th." - Martin Steinke, SeaWorld Orlando

"We would like to take this opportunity to thank you for the spectacular July 4th fireworks show provided by your company. The crowd was treated to a fantastic display." Candy Rutledge, Las Vegas

"On behalf of our sponsor, People's Bank, the entire Barnum Festival family and the tens of thousands of people who watched the Skyblast on June 30th, I want to thank you for the fantastic show Bay Fireworks presented - it was WORLD CLASS." - Charlie Carroll, BarnumFest

"We at Caesars were delighted with the incredible fireworks display on the 26th. Rest assured that Caesars' experience with Bay Fireworks was an excellent one, and we look forward to working with you again." - Ronnie Watson, Director, Special Events, Caesars

"I wanted to thank you formally for the terrific job Bay Fireworks did . . . We have received many compliments on the show, including the oft-repeated assessment that this was our best fireworks show ever. For many years the Mets had been doing business with one of your main competitors.. You promised to give us a bigger and better show. . . On behalf of the team, please accept our thanks for doing exactly that.—Tim Gunkel, New York Mets



Ron Delsener

January 15, 2003

VIA TELECOPIER (631) 549-3151

Bay Fireworks, Inc.  
110 Route 110  
Suite 102  
Huntington Station, New York 11746

The fireworks show you provided for Jimmy and Jayne Buffett's 25<sup>th</sup> Wedding Anniversary during his concert at Jones Beach Amphitheatre on August 27, 2002, was the most exciting fireworks display, dollar-for-dollar, that I have ever seen.

If you remember when Jimmy walked out on the stage after the display, he indicated what an incredible performance your company had demonstrated, and the audience went wild with their enthusiasm and applause in agreement with Mr. Buffett.

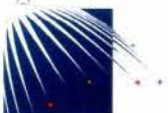
Here is looking to the future and more events like this.

Sincerely,

Ron Delsener

© 2002 Clear Channel Entertainment  
110 West 42nd Street, 11th Floor, New York, NY 10036

311 549-3151  
311 549-3152



**BAY FIREWORKS**



## Fireworks Credits and Commendations

Your action here, as well as your responsiveness show me that the two of you really care about the quality and the perception by others of what you do. The fact that Charlie personally attended our show is, to me, an indication of your pride in your work. There were MANY things about this year's performance to be proud of, and, on behalf of our team, we thank you for them.  
Terry Kelly, Rhythm & Booms, Madison WI

"The fireworks display was excellent, and the quarter-million people who viewed it were thoroughly thrilled." - George Gorman, New York State Parks (Jones Beach)

Bay Fireworks is a GREAT company to work with, and Charlie Rappa - is the best in the business. We use them in NY, now DC, FL, and soon to be LA and Philly. Our members - and guests attend the show - to the tune of 2,000 people, that are blown away.

Dan Scavino, EVP & GM

**Trump Golf Westchester**

"My family was very pleased with the performance by Bay Fireworks at the Millennium party at our Connecticut home. The fireworks display was full of surprises, and our guests were left dazzled by your fine show." - Phil Donahue & Marlo Thomas

"It was a pleasure to work with a group offering the professionalism and flexibility needed to operate in such a unique venue as the Seaport. Thanks again for your wonderful production." -

Richard Gill, South Street Seaport

"I just wanted to drop you a note to let you know about the wonderful comments we've received on your New Year's Eve Fireworks display at First Night Annapolis. We heard many comments on how fantastic the fireworks were - especially the special effect shells... the colors were brilliant" -

Janice Gary, First Night Annapolis

"The fireworks display here at the Atlantis was spectacular. Your Office Staff and Team of technicians were superb and extremely professional. I look forward toward working with you on other events". - Michele Wiltshire Atlantis, Paradise Island, Nassau

"I just wanted to let you know how great your show was at SunFest. Everyone is still talking about it" - Leah Rockwell, SunFest of West Palm Beach

"I wanted to thank you for the wonderful fireworks show. It was truly amazing! There was so much excitement from the thousands of people viewing the fireworks from the beginning of the show, to the end. The fireworks show has far exceeded our expectations - Lynne Sixta, Bayfest of Corpus Christi

"On behalf of the Empire State Games and the thousands who witnessed your spectacular display at our opening ceremony, I just wanted to say thank you, and WOW!!"

Fred Smith, Empire State Games

"It has been a pleasure to work with Bay Fireworks over the years on key efforts when second best will not suffice. Your staff once again went beyond what was necessary to make it an extra special experience. Your display in Utah on February 8 was viewed by many of our most important International sponsor companies for the XIX Olympic Winter Games in Salt Lake City. Thanks again for a terrific job." -

Chris Sullivan, Salt Lake Organizing Committee (2002 Winter Olympics)





# Fireworks Credits and Commendations

**Kennedy Space Center Celebrates N.A.S.A.'s 50th Anniversary**

**Jamestown Virginia**— "America's 400th Anniversary

**Atlantis Hotel & Casino**, Paradise Island, Nassau

**Universal Orlando Resort**, Orlando, FL

**Intrepid Sea, Air & Space Museum**

**Anheuser Busch Theme Parks** – Busch Gardens Tampa & Williamsburg

**Paramount Theme Parks** – Kings Dominion, Richmond, VA

**Inaugural Sailing "Pride of America" & "Norwegian Gem"**

**Walt Disney Pictures** "Pirates of the Caribbean" II VIP launch

**President Bush / VP Cheney Election Campaign**

**Republican National Convention**, New York City

**Cunard's Queen Mary II July 4th Celebration** – Newport, RI

**Rhythm & Booms**, Madison, WI

**Concert Tours**: Jimmy Buffett, Beach Boys, Mariah Carry, Survivor

**Rosecliff Mansion & Breakers Centennial Celebrations**, Newport RI

**State Games of America**, Hartford CT

**U.S. Military Installations**: Wright-Patterson AFB, Fort Monmouth, Fort

Benning, Fort Rucker, Fort Campbell, Naval Station Newport, Fort Hamil-

ton, Groton Naval Station, Fort Bragg

**Jessica Simpson** Columbia Records Album Release, NYC

**Jacksonville Jazz Festival**, Jacksonville, FL

**The History Channel**, Battle of Monmouth Reenactment

**Jones Beach State Park**, Star Spangled Blast, NY

**The Learning Channel**, "Beyond Tough" w/ Ice T

**Bronx Salute To America**, New York, NY

**International Symposium on Fireworks** at Walt Disney World, FL

**Chinese New Year** – Manhattan, Queens, Bronx

**Court TV 10<sup>th</sup> Anniversary Celebration**, NYC

**Millennium Celebrations** @ Ft. McHenry, Baltimore Harbor, MD

**PT Barnum Festival Skyblast**, Bridgeport, CT

**Goodwill Games**, Lake Placid, NY

**Caesar's Casino 20th Anniversary**, Atlantic City, NJ

**City of Las Vegas Independence Day**, Las Vegas, NV

**SunBowl**, El Paso, TX

**Elite Model Management**, NYC

**OpSail 2000** – New York, New London, Newport

**Bethlehem Musikfest**, Bethlehem, PA

**National Football League**, Monday Night Football

**Target Stores Grand Openings**, Multiple Locations, U.S.

**State of Wisconsin Sesquicentennial**, Madison WI

**The History Channel**, "Star Spangle Banner Story"

**Montauk Lighthouse Bicentennial**, Long Island, NY

**Paramount Pictures** "Sabrina" w/ Harrison Ford

**Empire State Games**, NY

**Capital Cities Celebrations**: Albany NY, Hartford CT, Trenton NJ, Bal-

timore MD, Boise ID, Madison WI, Providence RI, Concord NH, Salt Lake

City UT, Atlanta GA, etc.

**ACLU 90th, Fort Tryon 75th**



Universal Orlando Resort



N.A.S.A.'s 50th Anniversary



New York Mets



US Navy, Newport, RI



Queen Mary II



Republican Convention



**RELEVANT  
EXPERIENCE**

**THEME PARK  
DESIGN &  
INTEGRATION**



Bay Fireworks  
400 Broadhollow Rd, Suite 3  
Farmingdale, NY 11735  
Phone 631-390-8620 fax 631-390-8621

# Relevant Experience and Show Operations

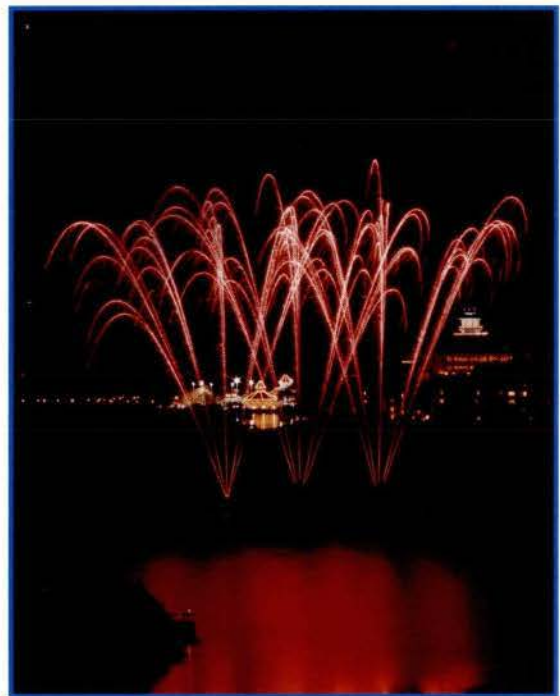


## INTERNATIONAL SYMPOSIUM ON FIREWORKS AT WALT DISNEY WORLD ORLANDO, FL



*Bay Fireworks was honored to perform as Technical Manager at The International Symposium on Fireworks held at Walt Disney World. Each night, Bay designed and produced World-Class fireworks programs for international suppliers such as Panzera of Italy and Yung-Feng of Taiwan.*

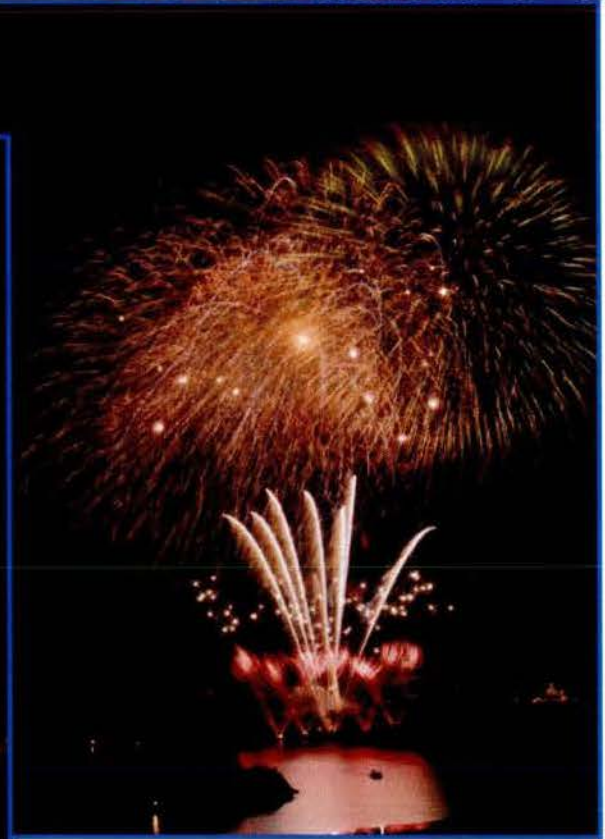
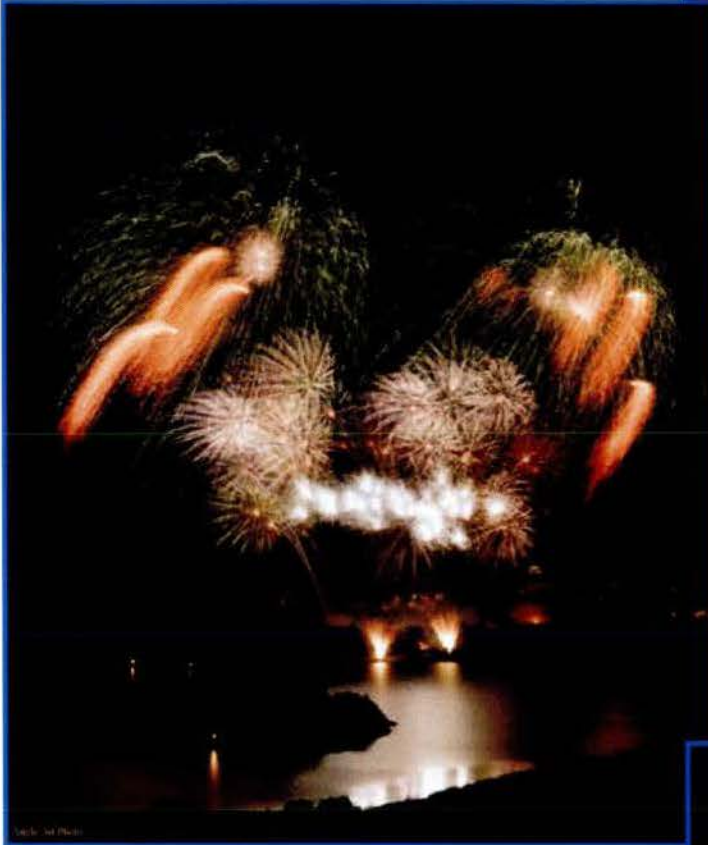
*The Symposium has become the world's premiere international gathering of the pyrotechnic industry. Each Symposium has focused on bringing together individuals of diverse pyrotechnic background, to see the newest technology, to trade experience and ideas on ways to enhance the industry and to move the science forward. The emphasis of the Symposia is on the safety, scientific, artistic, and regulatory aspects of the global fireworks and pyrotechnic industries.*





## Relevant Experience and Show Operations

Silver Tiger Tails, Brilliant Red Star  
Mines and Super Crowns (R)



Green Strobing Willows, Gold Falling Leaves  
and Sparkling Silver Peonies (above)



Mag Multi Color Palms

Red Mines, Thousands of Salutes, and Silver  
Whistles burst over Seven Seas Lagoon



# Relevant Experience and Show Operations

## UNIVERSAL ORLANDO RESORT ISLANDS OF ADVENTURE CITY WALK USF



Above: Flame Projectors begin to erupt on the lagoon



Below:

Dennis Brady Jr. V.P. of Operations, puts the finishing touches on one of seven barges used during the "end of night" display at

*Universal Orlando  
Islands Of Adventure*



Mine plates Illuminate the lagoon



## Relevant Experience and Show Operations

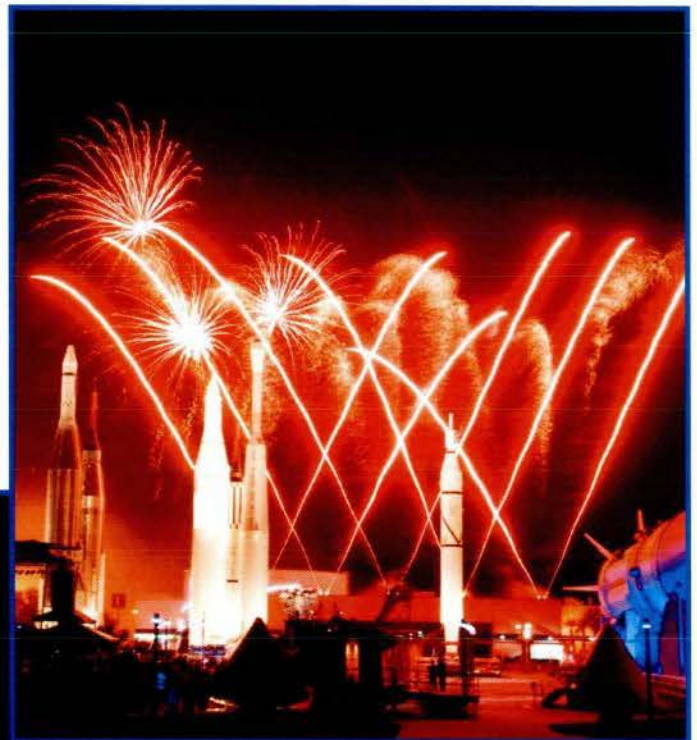


ABOVE: 1/2 Red, 1/2 Blue with White Pistil Shells erupt over the Rocket Garden which are complimented by Silver Glitter 50mm Mines.

RIGHT: Red Comets Pulse into the evening sky flanked by Gold Flitter Comets.



## CELEBRATES N.A.S.A.'s 50TH ANNIVERSARY



LEFT: As the band **Survivor** finishes their concert in the Rocket Garden, Blue Peony's burst in time to the musical score

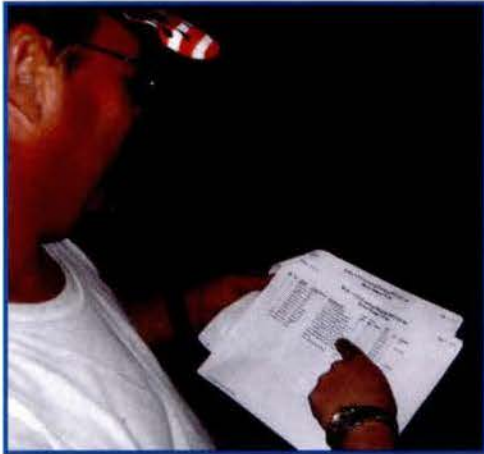




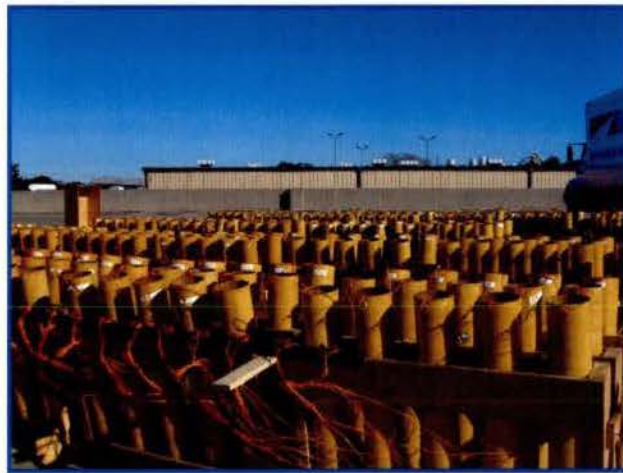
**Relevant Experience and Show Operations**

# **BUSCH GARDENS**

## **WILLIAMSBURG, TAMPA, KINGSMILL RESORT**



Above: Computerized firing scripts are carefully reviewed prior to show time.



Above and Left: Hundreds of mortar tubes are carefully wired and tested





# Relevant Experience and Show Operations



Myrtle Beach, SC  
Opening 2008

## HARD ROCK THEME PARK

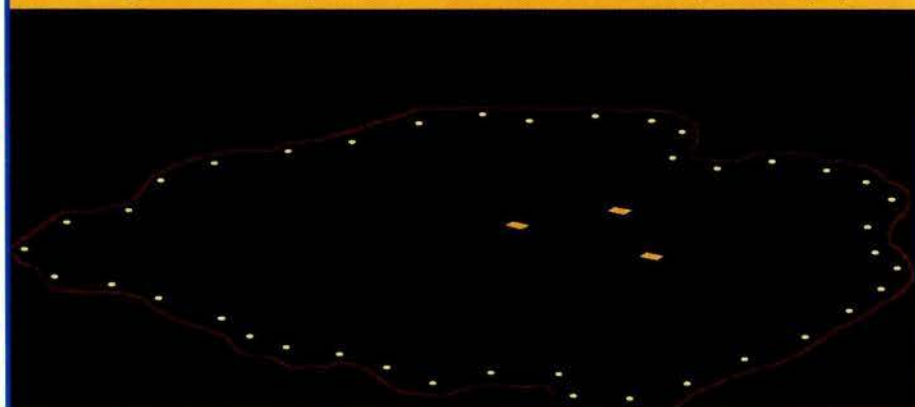


Above: ShowSim enables Bays in-house designers the ability to preview the "look and feel" of a choreographed program long before the pyrotechnic attraction goes into performance. At this stage of design, client production expenses are analyzed for possible cost overruns. If detected they are identified and eliminated to ensure budgets are strictly adhered to.

Working closely with the parks design engineers, Bay Fireworks designed, and fabricated all hardware and software required to run the entire Parks pyrotechnic infrastructure which included a choreographed display to the music of **Queens Bohemian Rhapsody**

Bay Fireworks was also charged with the responsibility of acquiring all licensure for the Parks Pyrotechnic operations which included Technician licensing for their employees, storage and transportation permits as well as, ensuring proper levels of inventory at all times.

Pyrotechnic design begins with a scaled down engineering diagram depicting forty pylons located around the lagoon, along with three floating barge platforms located in center. It is from each of these points, several hundred devices will be scripted into the nightly performance. The design of the show begins here and is transformed into a digitized Anigraphic.



Additional venues were introduced throughout the park which included several open air theaters, as well as, indoor attractions which utilized pyrotechnics to highlight the various stage performances.



## Relevant Experience and Show Operations



The complicated and intricate scene featured below was further enhanced with the use of a stunt kite tethered to a jet ski.

The long duration **silver gerbs** flowing off of the kite were made possible with the use of our remote wireless firing system and technology.

Below: Bay Fireworks introduces "Kiss The Sky" for the newly reopened Freestyle Music Park.





**RELEVANT  
EXPERIENCE**

**SPORTS VENUES**

**STAGE & THEATRICAL  
PYROTECHNICS**



Bay Fireworks  
400 Broadhollow Rd, Suite 3  
Farmingdale, NY 11735  
Phone 631-390-8620 fax 631-390-8621

# Relevant Experience and Show Operations



## NY METS FIREWORKS NIGHT

*Fireworks Night at CitiField* is one of the most anticipated fireworks programs in the Sports world. Since 1998, Bay Fireworks has been wowing sellout crowds at CitiField. 45,000 cheering fireworks fans witnessed the most elaborate fireworks program ever at the stadium. This program is designed, produced and displayed with the Fire One Computer system.



45 firing locations along the rim,  
12 firing locations along the infield  
40,000 Screaming fans



Over one hundred firing positions located  
around the rim of the stadium produced the  
magnificent image above.





# Relevant Experience and Show Operations

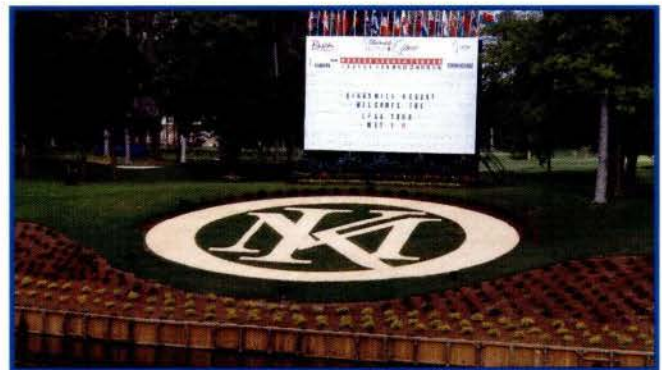
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Relevant Experience and Show Operations

**LPGA**  
**MICHELOB ULTRA OPEN**  
**AT**  
**KINGSMILL RESORT, VA**

*Michelob*  
**ULTRA** *Open*  
AT KINGSMILL



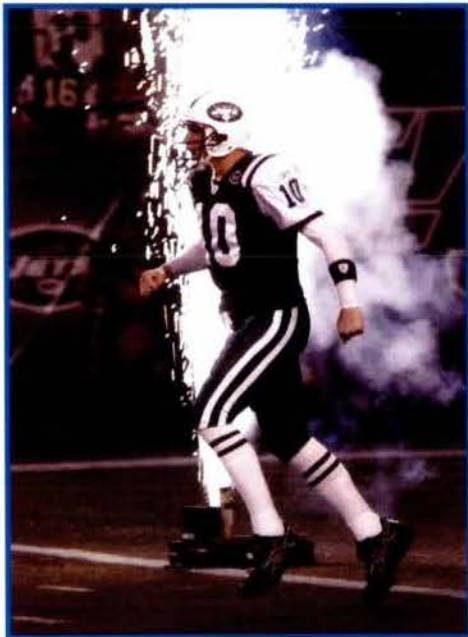


# Relevant Experience and Show Operations

## NY JETS GIANTS STADIUM MONDAY NIGHT FOOTBALL

Bay Fireworks is rapidly becoming the pyro-company of choice for major sports events. NFL teams like the New York Jets use Bay Fireworks to highlight their most important games and events. Below, Bay puts the final touches on the last airing of **Monday Night Football** for Network Television.

Pyro items pre-mounted ready for placement on press box roof.



**BAY**FIREWORKS



# Relevant Experience and Show Operations



## GOODWILL GAMES LAKE PLACID

*The Goodwill Games* are an international, multi-sport invitational event uniting the world's best athletes. In February 2000, 442 athletes from 22 countries converged on the legendary winter sports facilities of Lake Placid, New York.

The Main Stage set for the Opening Ceremonies



Bay Fireworks worked closely with Games producer Jack Morton Productions to produce several nights of state-of-the-art pyrotechnics at the Opening, Medals, and Closing Ceremonies. These programs included a variety of sites such as arena rooftop, stage and suspended pyro from arena rafters, and several sites of outdoor fireworks.



Olympic Arena rooftop set-up.



Silver close-proximity gerbs on stage.





## Relevant Experience and Show Operations



### OPENING CEREMONIES STATE GAMES OF AMERICA

The State Games of America National Championship in Hartford CT featured 5,000 athletes competing in 14 Olympic-style events. Bay Fireworks was called on to provide pyrotechnics in a wide variety of locations in and around **Rentschler Field** for the Opening Ceremonies.



Main Stage & Lighting Truss Pyro



Sparking Silver Gerbs



Lighting of the Cauldron  
(above). Red White and  
Blue Mines on lighting truss  
(above right). Rockets Red  
Glare (right)



**RELEVANT  
EXPERIENCE**

**MILESTONE EVENTS**

**NATIONAL FESTIVALS**

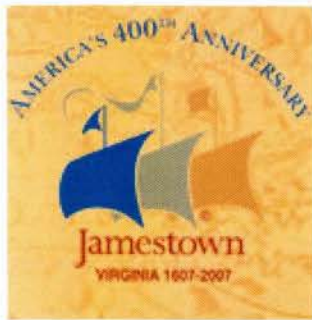
**PRESIDENTIAL  
CAMPAIGNS**



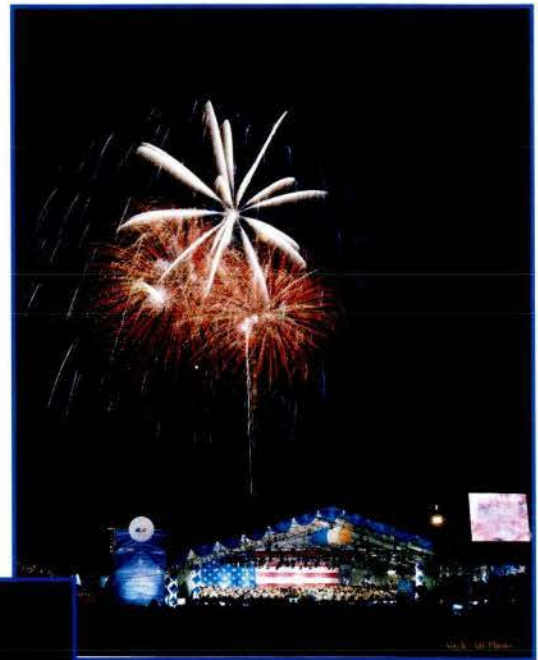
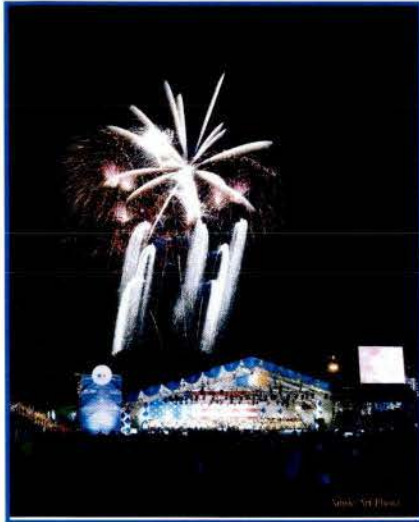
Bay Fireworks  
400 Broadhollow Rd, Suite 3  
Farmingdale, NY 11735  
Phone 631-390-8620 fax 631-390-8621



**Relevant Experience and Show Operations**



# **JAMESTOWN AMERICA'S 400TH ANNIVERSARY**



Above: Silver Waterfalls  
along with Silver Palm  
Tree Shells burst in time  
to the live Orchestra  
Below: Silver Kamuro's



Above: Red Waterfalls cas-  
cade 1000' above the band  
shell





# Relevant Experience and Show Operations



ABOVE: Gold Kamuro Waterfall Shells

Bay Fireworks was honored to be selected to provide the only fireworks program at the RNC. As delegates from around the country gathered in New York City, a spectacular program of fireworks was launched from two barges off of the *USS Intrepid Sea, Air & Space Museum*.

BELOW: President Bush addresses U.S. Veterans on Veterans Day upon return of the USS Intrepid Sea, Air & Space Museum.



BELOW: Red Strobes, Brocade Shells with Red Strobe Pistils, and a Fan of Wave to Red Mines.





## Relevant Experience and Show Operations

### RHYTHM & BOOMS MADISON, WI

Bay Fireworks was honored to be selected to design and produce the fireworks for **Wisconsin's Rhythm & Booms®**. This program is the largest annual single day event in Wisconsin. Our World Class fireworks performance was accompanied by, and timed to, LIVE music performed on stage by the Madison Symphony Orchestra and Chorus, whose 250 performers were conducted by Music Director John De-

LEFT & BELOW: Our team of eighteen technicians completed the project in 7 days.



BELOW:: The Rhythm & Booms Fireworks Production Team.





## Relevant Experience and Show Operations

**BUSH  
CHENEY '04**

**BUSH / CHENEY  
CAMPAIGN TRAIL**



It was an honor to all of us at Bay Fireworks to have been the pyrotechnic producer at specially selected rallies in the last weeks of the 2004 Re-election Campaign. These locations were specially selected to use indoor pyro in order to boost excitement, and stimulate the voters to come out and vote. Judging by the outcome, we believe it worked!

LEFT: Vice President Cheney addresses the rally in Pennsylvania. BELOW: Pyro Airbursts signal the end of the rally.

BELOW: Rigging the ceiling with pyro devices





# Relevant Experience and Show Operations

## BRIDGEPORT, CT "SKYBLAST"

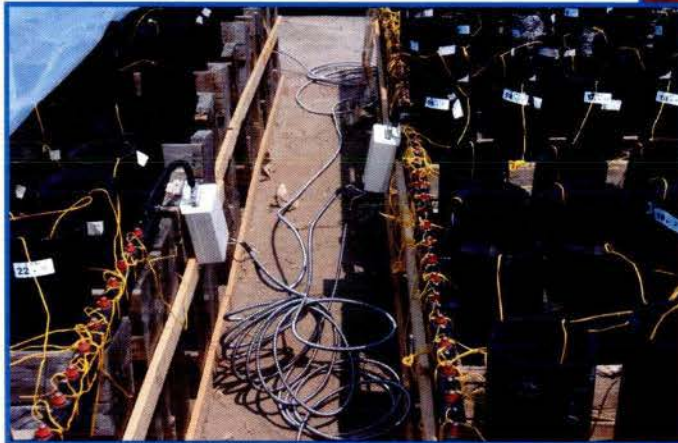
Bridgeport celebrates the memory of consummate showman Phineas T. Barnum each year running from April through June, capped off with World-Class fireworks at "SkyBlast". Each year the spectacle is viewed by several hundred thousand people gathered at Seaside Park, as well as other locations



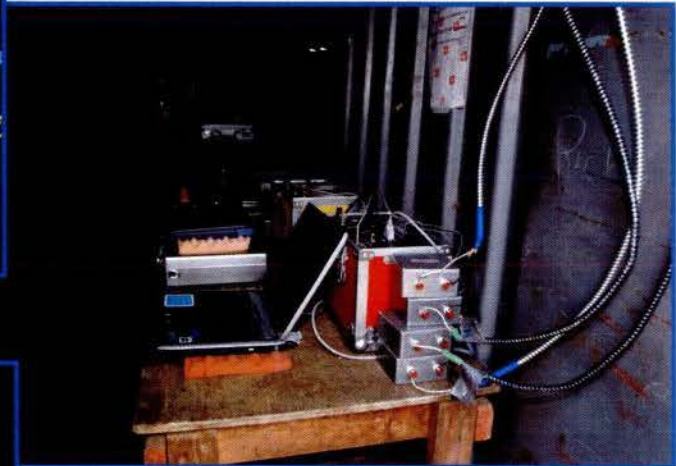
Pyrotechnicians installing shells



The Chief Technician inspects a candle illuminations point.



Blast-proof "Network" for cue delivery



Command central - FireOne Main Modules and Computers ready to go





## Relevant Experience and Show Operations



A scene of Golden Brocade Waterfall shells (above). Violet Bow-tie Shells above a spray of Japanese Spangle Shells (right)



Green Fire Flowers, Blue Crossettes & Silver Comets [L], Red Cypas [C], National Colors Scene



## Relevant Experience and Show Operations

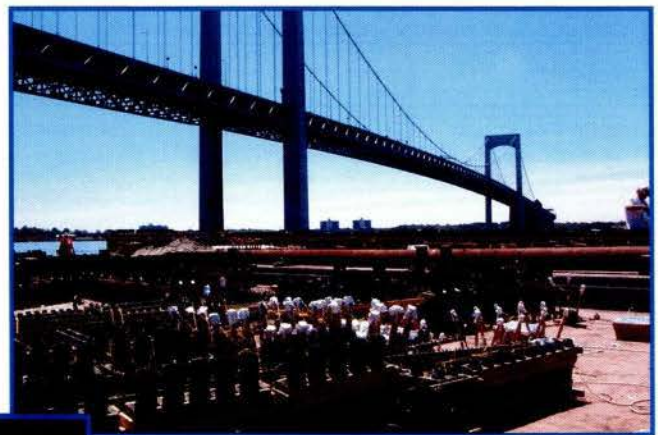
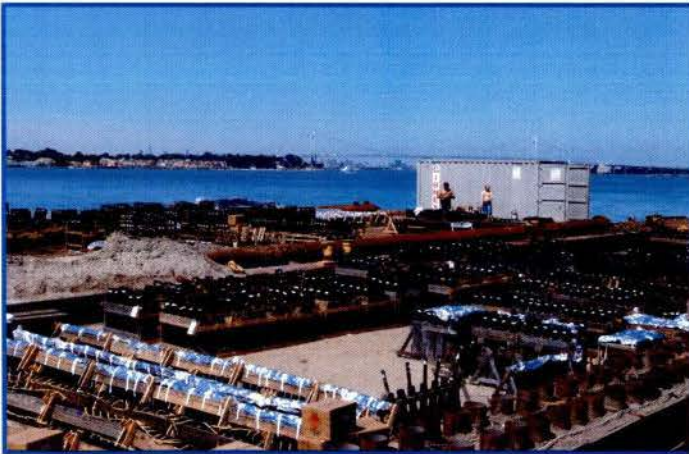


### SALUTE TO AMERICA NEW YORK, NY

A spectacular evening of pyrotechnics was enjoyed by the residents of the City of New York at the 3rd Annual Salute to America held on four barge locations in June. Simulcast music was enjoyed by thousands as they witnessed one of the largest programs in America.



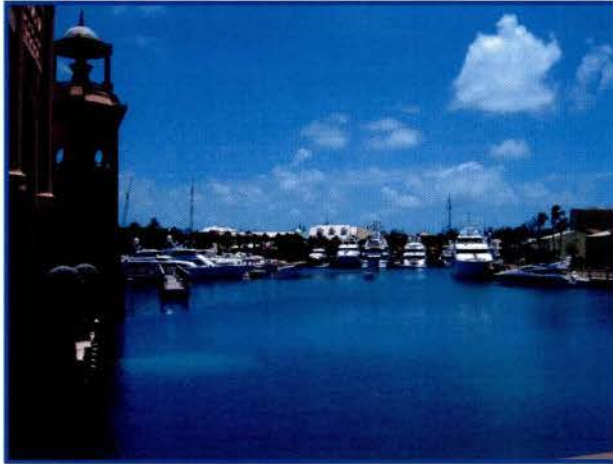
Mortar tubes set-up on four barge firing locations. The "Salute to America" has become the second largest Independence Day program.



Over 5000 shells fired from four barge locations, entertained thousands of spectators at one of the Nation's largest fireworks programs.



## ATLANTIS PARADISE ISLAND, BAHAMAS



Bay Fireworks produced one of the largest fireworks displays in recent memory for the casino giant over Americas Independence Day.



The choreographed display was fired by computer to a musical score which featured many popular American artists





# SCOPE OF SERVICES

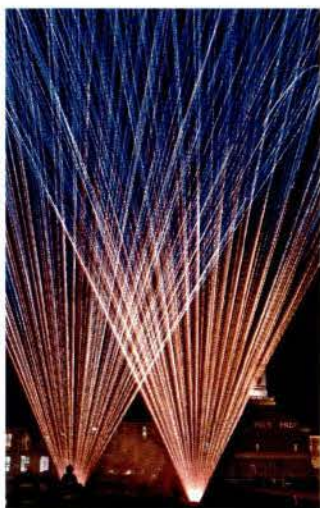
**PROGRAM VALUE: \$15,000**



## OTHER SERVICES:

### INSURANCE LIABILITY COVERAGE\*:

Insurance: \$10,000,000 General Liability  
\$5,000,000 Motor Carrier



**Poly Prep Day School**



**Bronx Celebrates the American Spirit—NYC**



**Walt Disney World**

WORKER'S COMPENSATION: Full coverage as required by law.

U.S. LONGSHOREMAN & HARBOR WORKER'S ACT:  
We provide full coverage for our Pyrotechnicians who perform fireworks exhibitions on barge based programs.

COMPLIANCE: Pyro Engineering, Inc. strictly adheres to the following requirements:

- \* NFPA 1123, BATF, OSHA
- \* U.S. Department of Transportation
- \* U.S. Coast Guard

**Visit Us Online!**  
**WWW.BAYFIREWORKS.COM**

**631-390-8620**



**Kennedy Space Center**



**Universal Orlando Resort**

### © PYRO ENGINEERING, INC.

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**CONTENT SUBJECT TO REDESIGN:** We reserve the right to make substitutions of equal or greater value in the products, types, quantities and sizes listed herein, provided such substitutions are in accordance with NFPA 1123. The value of this program among other production elements, is based on the programs esthetic look. Different firework effects and shells of the same size may have significantly different values, therefore, a fireworks program can never be valued on shell counts alone. Shells sizes larger than 12" in diameter have been reclassified by the USDOT as "high explosives" and therefore will not appear on your program. Prices and specifications are subject to change without notice.

\* Insurance limits are valid through our policy period May 15, 2010—May 15, 2011 (Policy subject to renewal at that time)

**CITY OF AUSTIN  
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STANDARD PURCHASE TERMS AND CONDITIONS**

By submitting an Offer in response to the Solicitation, the Contractor agrees that the Contract shall be governed by the following terms and conditions. Unless otherwise specified in the Contract, Sections 3, 4, 5, 6, 7, 8, 20, 21, and 36 shall apply only to a Solicitation to purchase Goods, and Sections 9, 10, 11 and 22 shall apply only to a Solicitation to purchase Services to be performed principally at the City's premises or on public rights-of-way.

1. **CONTRACTOR'S OBLIGATIONS**. The Contractor shall fully and timely provide all deliverables described in the Solicitation and in the Contractor's Offer in strict accordance with the terms, covenants, and conditions of the Contract and all applicable Federal, State, and local laws, rules, and regulations.
2. **EFFECTIVE DATE/TERM**. Unless otherwise specified in the Solicitation, this Contract shall be effective as of the date the contract is signed by the City, and shall continue in effect until all obligations are performed in accordance with the Contract.
3. **CONTRACTOR TO PACKAGE DELIVERABLES**: The Contractor will package deliverables in accordance with good commercial practice and shall include a packing list showing the description of each item, the quantity and unit price. Unless otherwise provided in the Specifications or Supplemental Terms and Conditions, each shipping container shall be clearly and permanently marked as follows: (a) The Contractor's name and address, (b) the City's name, address and purchase order or purchase release number and the price agreement number if applicable, (c) Container number and total number of containers, e.g. box 1 of 4 boxes, and (d) the number of the container bearing the packing list. The Contractor shall bear cost of packaging. Deliverables shall be suitably packed to secure lowest transportation costs and to conform with requirements of common carriers and any applicable specifications. The City's count or weight shall be final and conclusive on shipments not accompanied by packing lists.
4. **SHIPMENT UNDER RESERVATION PROHIBITED**: The Contractor is not authorized to ship the deliverables under reservation and no tender of a bill of lading will operate as a tender of deliverables.
5. **TITLE & RISK OF LOSS**: Title to and risk of loss of the deliverables shall pass to the City only when the City actually receives and accepts the deliverables.
6. **DELIVERY TERMS AND TRANSPORTATION CHARGES**: Deliverables shall be shipped F.O.B. point of delivery unless otherwise specified in the Supplemental Terms and Conditions. Unless otherwise stated in the Offer, the Contractor's price shall be deemed to include all delivery and transportation charges. The City shall have the right to designate what method of transportation shall be used to ship the deliverables. The place of delivery shall be that set forth in the block of the purchase order or purchase release entitled "Receiving Agency".
7. **RIGHT OF INSPECTION AND REJECTION**: The City expressly reserves all rights under law, including, but not limited to the Uniform Commercial Code, to inspect the deliverables at delivery before accepting them, and to reject defective or non-conforming deliverables. If the City has the right to inspect the Contractor's, or the Contractor's Subcontractor's, facilities, or the deliverables at the Contractor's, or the Contractor's Subcontractor's, premises, the Contractor shall furnish, or cause to be furnished, without additional charge, all reasonable facilities and assistance to the City to facilitate such inspection.
8. **NO REPLACEMENT OF DEFECTIVE TENDER**: Every tender or delivery of deliverables must fully comply with all provisions of the Contract as to time of delivery, quality, and quantity. Any non-complying tender shall constitute a breach and the Contractor shall not have the right to substitute a conforming tender; provided, where the time for performance has not yet expired, the Contractor may notify the City of the intention to cure and may then make a conforming tender within the time allotted in the contract.
9. **PLACE AND CONDITION OF WORK**: The City shall provide the Contractor access to the sites where the Contractor is to perform the services as required in order for the Contractor to perform the services in a timely and efficient manner, in accordance with and subject to the applicable security laws, rules, and regulations. The Contractor acknowledges that it has satisfied itself as to the nature of the City's service requirements and specifications, the location and essential characteristics of the work sites, the quality and quantity of materials, equipment, labor and facilities necessary to perform the services, and any other condition or state of fact which



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could in any way affect performance of the Contractor's obligations under the contract. The Contractor hereby releases and holds the City harmless from and against any liability or claim for damages of any kind or nature if the actual site or service conditions differ from expected conditions.

**10. WORKFORCE**

- A. The Contractor shall employ only orderly and competent workers, skilled in the performance of the services which they will perform under the Contract.
- B. The Contractor, its employees, subcontractors, and subcontractor's employees may not while engaged in participating or responding to a solicitation or while in the course and scope of delivering goods or services under a City of Austin contract or on the City's property .
  - i. use or possess a firearm, including a concealed handgun that is licensed under state law, except as required by the terms of the contract; or
  - ii. use or possess alcoholic or other intoxicating beverages, illegal drugs or controlled substances, nor may such workers be intoxicated, or under the influence of alcohol or drugs, on the job.
- C. If the City or the City's representative notifies the Contractor that any worker is incompetent, disorderly or disobedient, has knowingly or repeatedly violated safety regulations, has possessed any firearms, or has possessed or was under the influence of alcohol or drugs on the job, the Contractor shall immediately remove such worker from Contract services, and may not employ such worker again on Contract services without the City's prior written consent.

- 11. COMPLIANCE WITH HEALTH, SAFETY, AND ENVIRONMENTAL REGULATIONS:** The Contractor, its Subcontractors, and their respective employees, shall comply fully with all applicable federal, state, and local health, safety, and environmental laws, ordinances, rules and regulations in the performance of the services, including but not limited to those promulgated by the City and by the Occupational Safety and Health Administration (OSHA). In case of conflict, the most stringent safety requirement shall govern. The Contractor shall indemnify and hold the City harmless from and against all claims, demands, suits, actions, judgments, fines, penalties and liability of every kind arising from the breach of the Contractor's obligations under this paragraph.

**12. INVOICES:**

- A. The Contractor shall submit separate invoices in duplicate on each purchase order or purchase release after each delivery. If partial shipments or deliveries are authorized by the City, a separate invoice must be sent for each shipment or delivery made.
- B. **Proper Invoices must include a unique invoice number, the purchase order or delivery order number and the master agreement number if applicable, the Department's Name, and the name of the point of contact for the Department.** Invoices shall be itemized and transportation charges, if any, shall be listed separately. A copy of the bill of lading and the freight waybill, when applicable, shall be attached to the invoice. The Contractor's name and, if applicable, the tax identification number on the invoice must exactly match the information in the Vendor's registration with the City. Unless otherwise instructed in writing, the City may rely on the remittance address specified on the Contractor's invoice.
- C. Invoices for labor shall include a copy of all time-sheets with trade labor rate and deliverables order number clearly identified. Invoices shall also include a tabulation of work-hours at the appropriate rates and grouped by work order number. Time billed for labor shall be limited to hours actually worked at the work site.
- D. Unless otherwise expressly authorized in the Contract, the Contractor shall pass through all Subcontract and other authorized expenses at actual cost without markup.
- E. Federal excise taxes, State taxes, or City sales taxes must not be included in the invoiced amount. The City will furnish a tax exemption certificate upon request.

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13. **PAYMENT:**

- A. All proper invoices received by the City will be paid within thirty (30) calendar days of the City's receipt of the deliverables or of the invoice, whichever is later.
- B. **If payment is not timely made, (per paragraph A), interest shall accrue on the unpaid balance at the lesser of the rate specified in Texas Government Code Section 2251.025 or the maximum lawful rate; except, if payment is not timely made for a reason for which the City may withhold payment hereunder, interest shall not accrue until ten (10) calendar days after the grounds for withholding payment have been resolved.**
- C. If partial shipments or deliveries are authorized by the City, the Contractor will be paid for the partial shipment or delivery, as stated above, provided that the invoice matches the shipment or delivery.
- D. The City may withhold or set off the entire payment or part of any payment otherwise due the Contractor to such extent as may be necessary on account of:
  - i. delivery of defective or non-conforming deliverables by the Contractor;
  - ii. third party claims, which are not covered by the insurance which the Contractor is required to provide, are filed or reasonable evidence indicating probable filing of such claims;
  - iii. failure of the Contractor to pay Subcontractors, or for labor, materials or equipment;
  - iv. damage to the property of the City or the City's agents, employees or contractors, which is not covered by insurance required to be provided by the Contractor;
  - v. reasonable evidence that the Contractor's obligations will not be completed within the time specified in the Contract, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;
  - vi. failure of the Contractor to submit proper invoices with all required attachments and supporting documentation; or
  - vii. failure of the Contractor to comply with any material provision of the Contract Documents.
- E. Notice is hereby given of Article VIII, Section 1 of the Austin City Charter which prohibits the payment of any money to any person, firm or corporation who is in arrears to the City for taxes, and of §2-8-3 of the Austin City Code concerning the right of the City to offset indebtedness owed the City.
- F. Payment will be made bycheck unless the parties mutually agree to payment by credit card or electronic transfer of funds. The Contractor agrees that there shall be no additional charges, surcharges, or penalties to the City for payments made by credit card or electronic funds transfer.
- G. The awarding or continuation of this contract is dependent upon the availability of funding. The City's payment obligations are payable only and solely from funds Appropriated and available for this contract. The absence of Appropriated or other lawfully available funds shall render the Contract null and void to the extent funds are not Appropriated or available and any deliverables delivered but unpaid shall be returned to the Contractor. The City shall provide the Contractor written notice of the failure of the City to make an adequate Appropriation for any fiscal year to pay the amounts due under the Contract, or the reduction of any Appropriation to an amount insufficient to permit the City to pay its obligations under the Contract. In the event of non or inadequate appropriation of funds, there will be no penalty nor removal fees charged to the City.

14. **TRAVEL EXPENSES:** All travel, lodging and per diem expenses in connection with the Contract for which reimbursement may be claimed by the Contractor under the terms of the Solicitation will be reviewed against the City's Travel Policy as published and maintained by the City's Controller's Office and the Current United States General Services Administration Domestic Per Diem Rates (the "Rates") as published and maintained on the Internet at:



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<http://www.gsa.gov/portal/category/21287>

No amounts in excess of the Travel Policy or Rates shall be paid. All invoices must be accompanied by copies of detailed itemized receipts (e.g. hotel bills, airline tickets). No reimbursement will be made for expenses not actually incurred. Airline fares in excess of coach or economy will not be reimbursed. Mileage charges may not exceed the amount permitted as a deduction in any year under the Internal Revenue Code or Regulations.

**15. FINAL PAYMENT AND CLOSE-OUT:**

- A. If an MBE/WBE Program Compliance Plan is required by the Solicitation, and the Contractor has identified Subcontractors, the Contractor is required to submit a Contract Close-Out MBE/WBE Compliance Report to the Project manager or Contract manager no later than the 15th calendar day after completion of all work under the contract. Final payment, retainage, or both may be withheld if the Contractor is not in compliance with the requirements of the Compliance Plan as accepted by the City.
- B. The making and acceptance of final payment will constitute:
  - i. a waiver of all claims by the City against the Contractor, except claims (1) which have been previously asserted in writing and not yet settled, (2) arising from defective work appearing after final inspection, (3) arising from failure of the Contractor to comply with the Contract or the terms of any warranty specified herein, (4) arising from the Contractor's continuing obligations under the Contract, including but not limited to indemnity and warranty obligations, or (5) arising under the City's right to audit; and
  - ii. a waiver of all claims by the Contractor against the City other than those previously asserted in writing and not yet settled.

**16. SPECIAL TOOLS & TEST EQUIPMENT:** If the price stated on the Offer includes the cost of any special tooling or special test equipment fabricated or required by the Contractor for the purpose of filling this order, such special tooling equipment and any process sheets related thereto shall become the property of the City and shall be identified by the Contractor as such.

**17. RIGHT TO AUDIT:**

- A. The Contractor agrees that the representatives of the Office of the City Auditor or other authorized representatives of the City shall have access to, and the right to audit, examine, or reproduce, any and all records of the Contractor related to the performance under this Contract. The Contractor shall retain all such records for a period of three (3) years after final payment on this Contract or until all audit and litigation matters that the City has brought to the attention of the Contractor are resolved, whichever is longer. The Contractor agrees to refund to the City any overpayments disclosed by any such audit.
- B. The Contractor shall include section a. above in all subcontractor agreements entered into in connection with this Contract.

**18. SUBCONTRACTORS:**

- A. If the Contractor identified Subcontractors in an MBE/WBE Program Compliance Plan or a No Goals Utilization Plan the Contractor shall comply with the provisions of Chapters 2-9A, 2-9B, 2-9C, and 2-9D, as applicable, of the Austin City Code and the terms of the Compliance Plan or Utilization Plan as approved by the City (the "Plan"). The Contractor shall not initially employ any Subcontractor except as provided in the Contractor's Plan. The Contractor shall not substitute any Subcontractor identified in the Plan, unless the substitute has been accepted by the City in writing in accordance with the provisions of Chapters 2-9A, 2-9B, 2-9C and 2-9D, as applicable. No acceptance by the City of any Subcontractor shall constitute a waiver of any rights or remedies of the City with respect to defective deliverables provided by a Subcontractor. If a Plan has been approved, the Contractor is additionally required to submit a monthly Subcontract Awards and

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Expenditures Report to the Contract Manager and the Purchasing Office Contract Compliance Manager no later than the tenth calendar day of each month.

- B. Work performed for the Contractor by a Subcontractor shall be pursuant to a written contract between the Contractor and Subcontractor. The terms of the subcontract may not conflict with the terms of the Contract, and shall contain provisions that:
- i. require that all deliverables to be provided by the Subcontractor be provided in strict accordance with the provisions, specifications and terms of the Contract;
  - ii. prohibit the Subcontractor from further subcontracting any portion of the Contract without the prior written consent of the City and the Contractor. The City may require, as a condition to such further subcontracting, that the Subcontractor post a payment bond in form, substance and amount acceptable to the City;
  - iii. require Subcontractors to submit all invoices and applications for payments, including any claims for additional payments, damages or otherwise, to the Contractor in sufficient time to enable the Contractor to include same with its invoice or application for payment to the City in accordance with the terms of the Contract;
  - iv. require that all Subcontractors obtain and maintain, throughout the term of their contract, insurance in the type and amounts specified for the Contractor, with the City being a named insured as its interest shall appear; and
  - v. require that the Subcontractor indemnify and hold the City harmless to the same extent as the Contractor is required to indemnify the City.
- C. The Contractor shall be fully responsible to the City for all acts and omissions of the Subcontractors just as the Contractor is responsible for the Contractor's own acts and omissions. Nothing in the Contract shall create for the benefit of any such Subcontractor any contractual relationship between the City and any such Subcontractor, nor shall it create any obligation on the part of the City to pay or to see to the payment of any moneys due any such Subcontractor except as may otherwise be required by law.
- D. The Contractor shall pay each Subcontractor its appropriate share of payments made to the Contractor not later than ten (10) calendar days after receipt of payment from the City.

**19. WARRANTY-PRICE:**

- A. The Contractor warrants the prices quoted in the Offer are no higher than the Contractor's current prices on orders by others for like deliverables under similar terms of purchase.
- B. The Contractor certifies that the prices in the Offer have been arrived at independently without consultation, communication, or agreement for the purpose of restricting competition, as to any matter relating to such fees with any other firm or with any competitor.
- C. In addition to any other remedy available, the City may deduct from any amounts owed to the Contractor, or otherwise recover, any amounts paid for items in excess of the Contractor's current prices on orders by others for like deliverables under similar terms of purchase.

20. **WARRANTY – TITLE:** The Contractor warrants that it has good and indefeasible title to all deliverables furnished under the Contract, and that the deliverables are free and clear of all liens, claims, security interests and encumbrances. The Contractor shall indemnify and hold the City harmless from and against all adverse title claims to the deliverables.

21. **WARRANTY – DELIVERABLES:** The Contractor warrants and represents that all deliverables sold the City under the Contract shall be free from defects in design, workmanship or manufacture, and conform in all material respects to the specifications, drawings, and descriptions in the Solicitation, to any samples furnished by the Contractor, to the terms, covenants and conditions of the Contract, and to all applicable State, Federal or local laws, rules, and



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regulations, and industry codes and standards. Unless otherwise stated in the Solicitation, the deliverables shall be new or recycled merchandise, and not used or reconditioned.

- A. Recycled deliverables shall be clearly identified as such.
- B. The Contractor may not limit, exclude or disclaim the foregoing warranty or any warranty implied by law; and any attempt to do so shall be without force or effect.
- C. Unless otherwise specified in the Contract, the warranty period shall be at least one year from the date of acceptance of the deliverables or from the date of acceptance of any replacement deliverables. If during the warranty period, one or more of the above warranties are breached, the Contractor shall promptly upon receipt of demand either repair the non-conforming deliverables, or replace the non-conforming deliverables with fully conforming deliverables, at the City's option and at no additional cost to the City. All costs incidental to such repair or replacement, including but not limited to, any packaging and shipping costs, shall be borne exclusively by the Contractor. The City shall endeavor to give the Contractor written notice of the breach of warranty within thirty (30) calendar days of discovery of the breach of warranty, but failure to give timely notice shall not impair the City's rights under this section.
- D. If the Contractor is unable or unwilling to repair or replace defective or non-conforming deliverables as required by the City, then in addition to any other available remedy, the City may reduce the quantity of deliverables it may be required to purchase under the Contract from the Contractor, and purchase conforming deliverables from other sources. In such event, the Contractor shall pay to the City upon demand the increased cost, if any, incurred by the City to procure such deliverables from another source.
- E. If the Contractor is not the manufacturer, and the deliverables are covered by a separate manufacturer's warranty, the Contractor shall transfer and assign such manufacturer's warranty to the City. If for any reason the manufacturer's warranty cannot be fully transferred to the City, the Contractor shall assist and cooperate with the City to the fullest extent to enforce such manufacturer's warranty for the benefit of the City.

22. **WARRANTY – SERVICES:** The Contractor warrants and represents that all services to be provided the City under the Contract will be fully and timely performed in a good and workmanlike manner in accordance with generally accepted industry standards and practices, the terms, conditions, and covenants of the Contract, and all applicable Federal, State and local laws, rules or regulations.

- A. The Contractor may not limit, exclude or disclaim the foregoing warranty or any warranty implied by law, and any attempt to do so shall be without force or effect.
- B. Unless otherwise specified in the Contract, the warranty period shall be at least one year from the Acceptance Date. If during the warranty period, one or more of the above warranties are breached, the Contractor shall promptly upon receipt of demand perform the services again in accordance with above standard at no additional cost to the City. All costs incidental to such additional performance shall be borne by the Contractor. The City shall endeavor to give the Contractor written notice of the breach of warranty within thirty (30) calendar days of discovery of the breach warranty, but failure to give timely notice shall not impair the City's rights under this section.
- C. If the Contractor is unable or unwilling to perform its services in accordance with the above standard as required by the City, then in addition to any other available remedy, the City may reduce the amount of services it may be required to purchase under the Contract from the Contractor, and purchase conforming services from other sources. In such event, the Contractor shall pay to the City upon demand the increased cost, if any, incurred by the City to procure such services from another source.

23. **ACCEPTANCE OF INCOMPLETE OR NON-CONFORMING DELIVERABLES:** If, instead of requiring immediate correction or removal and replacement of defective or non-conforming deliverables, the City prefers to accept it, the City may do so. The Contractor shall pay all claims, costs, losses and damages attributable to the City's evaluation of and determination to accept such defective or non-conforming deliverables. If any such acceptance occurs prior

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to final payment, the City may deduct such amounts as are necessary to compensate the City for the diminished value of the defective or non-conforming deliverables. If the acceptance occurs after final payment, such amount will be refunded to the City by the Contractor.

24. **RIGHT TO ASSURANCE:** Whenever one party to the Contract in good faith has reason to question the other party's intent to perform, demand may be made to the other party for written assurance of the intent to perform. In the event that no assurance is given within the time specified after demand is made, the demanding party may treat this failure as an anticipatory repudiation of the Contract.
25. **STOP WORK NOTICE:** The City may issue an immediate Stop Work Notice in the event the Contractor is observed performing in a manner that is in violation of Federal, State, or local guidelines, or in a manner that is determined by the City to be unsafe to either life or property. Upon notification, the Contractor will cease all work until notified by the City that the violation or unsafe condition has been corrected. The Contractor shall be liable for all costs incurred by the City as a result of the issuance of such Stop Work Notice.
26. **DEFAULT:** The Contractor shall be in default under the Contract if the Contractor (a) fails to fully, timely and faithfully perform any of its material obligations under the Contract, (b) fails to provide adequate assurance of performance under Paragraph 24, (c) becomes insolvent or seeks relief under the bankruptcy laws of the United States or (d) makes a material misrepresentation in Contractor's Offer, or in any report or deliverable required to be submitted by the Contractor to the City.
27. **TERMINATION FOR CAUSE:** In the event of a default by the Contractor, the City shall have the right to terminate the Contract for cause, by written notice effective ten (10) calendar days, unless otherwise specified, after the date of such notice, unless the Contractor, within such ten (10) day period, cures such default, or provides evidence sufficient to prove to the City's reasonable satisfaction that such default does not, in fact, exist. The City may place Contractor on probation for a specified period of time within which the Contractor must correct any non-compliance issues. Probation shall not normally be for a period of more than nine (9) months, however, it may be for a longer period, not to exceed one (1) year depending on the circumstances. If the City determines the Contractor has failed to perform satisfactorily during the probation period, the City may proceed with suspension. In the event of a default by the Contractor, the City may suspend or debar the Contractor in accordance with the "City of Austin Purchasing Office Probation, Suspension and Debarment Rules for Vendors" and remove the Contractor from the City's vendor list for up to five (5) years and any Offer submitted by the Contractor may be disqualified for up to five (5) years. In addition to any other remedy available under law or in equity, the City shall be entitled to recover all actual damages, costs, losses and expenses, incurred by the City as a result of the Contractor's default, including, without limitation, cost of cover, reasonable attorneys' fees, court costs, and prejudgment and post-judgment interest at the maximum lawful rate. All rights and remedies under the Contract are cumulative and are not exclusive of any other right or remedy provided by law.
28. **TERMINATION WITHOUT CAUSE:** The City shall have the right to terminate the Contract, in whole or in part, without cause any time upon thirty (30) calendar days' prior written notice. Upon receipt of a notice of termination, the Contractor shall promptly cease all further work pursuant to the Contract, with such exceptions, if any, specified in the notice of termination. The City shall pay the Contractor, to the extent of funds Appropriated or otherwise legally available for such purposes, for all goods delivered and services performed and obligations incurred prior to the date of termination in accordance with the terms hereof.
29. **FRAUD:** Fraudulent statements by the Contractor on any Offer or in any report or deliverable required to be submitted by the Contractor to the City shall be grounds for the termination of the Contract for cause by the City and may result in legal action.
30. **DELAYS:**
- A. The City may delay scheduled delivery or other due dates by written notice to the Contractor if the City deems it is in its best interest. If such delay causes an increase in the cost of the work under the Contract, the City and the Contractor shall negotiate an equitable adjustment for costs incurred by the Contractor in the Contract price and execute an amendment to the Contract. The Contractor must assert its right to an



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adjustment within thirty (30) calendar days from the date of receipt of the notice of delay. Failure to agree on any adjusted price shall be handled under the Dispute Resolution process specified in paragraph 49. However, nothing in this provision shall excuse the Contractor from delaying the delivery as notified.

- B. Neither party shall be liable for any default or delay in the performance of its obligations under this Contract if, while and to the extent such default or delay is caused by acts of God, fire, riots, civil commotion, labor disruptions, sabotage, sovereign conduct, or any other cause beyond the reasonable control of such Party. In the event of default or delay in contract performance due to any of the foregoing causes, then the time for completion of the services will be extended; provided, however, in such an event, a conference will be held within three (3) business days to establish a mutually agreeable period of time reasonably necessary to overcome the effect of such failure to perform.

**31. INDEMNITY:**

A. Definitions:

- i. "Indemnified Claims" shall include any and all claims, demands, suits, causes of action, judgments and liability of every character, type or description, including all reasonable costs and expenses of litigation, mediation or other alternate dispute resolution mechanism, including attorney and other professional fees for:
- (1) damage to or loss of the property of any person (including, but not limited to the City, the Contractor, their respective agents, officers, employees and subcontractors; the officers, agents, and employees of such subcontractors; and third parties); and/or
  - (2) death, bodily injury, illness, disease, worker's compensation, loss of services, or loss of income or wages to any person (including but not limited to the agents, officers and employees of the City, the Contractor, the Contractor's subcontractors, and third parties),
- ii. "Fault" shall include the sale of defective or non-conforming deliverables, negligence, willful misconduct, or a breach of any legally imposed strict liability standard.

- B. **THE CONTRACTOR SHALL DEFEND (AT THE OPTION OF THE CITY), INDEMNIFY, AND HOLD THE CITY, ITS SUCCESSORS, ASSIGNS, OFFICERS, EMPLOYEES AND ELECTED OFFICIALS HARMLESS FROM AND AGAINST ALL INDEMNIFIED CLAIMS DIRECTLY ARISING OUT OF, INCIDENT TO, CONCERNING OR RESULTING FROM THE FAULT OF THE CONTRACTOR, OR THE CONTRACTOR'S AGENTS, EMPLOYEES OR SUBCONTRACTORS, IN THE PERFORMANCE OF THE CONTRACTOR'S OBLIGATIONS UNDER THE CONTRACT. NOTHING HEREIN SHALL BE DEEMED TO LIMIT THE RIGHTS OF THE CITY OR THE CONTRACTOR (INCLUDING, BUT NOT LIMITED TO, THE RIGHT TO SEEK CONTRIBUTION) AGAINST ANY THIRD PARTY WHO MAY BE LIABLE FOR AN INDEMNIFIED CLAIM.**

**32. INSURANCE:** (reference Section 0400 for specific coverage requirements). The following insurance requirement applies. (Revised 6/01/98).

A. General Requirements.

- i. The Contractor shall at a minimum carry insurance in the types and amounts indicated in Section 0400, Supplemental Purchase Provisions, for the duration of the Contract, including extension options and hold over periods, and during any warranty period.
- ii. The Contractor shall provide Certificates of Insurance with the coverages and endorsements required in Section 0400, Supplemental Purchase Provisions, to the City as verification of coverage prior to contract execution and within fourteen (14) calendar days after written request from the City. Failure to provide the required Certificate of Insurance may subject the Offer to disqualification from consideration for award. The Contractor must also forward a Certificate of Insurance to the City whenever a previously identified policy period has expired, or an extension option or hold over period is exercised, as verification of continuing coverage.

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- iii. The Contractor shall not commence work until the required insurance is obtained and until such insurance has been reviewed by the City. Approval of insurance by the City shall not relieve or decrease the liability of the Contractor hereunder and shall not be construed to be a limitation of liability on the part of the Contractor.
- iv. The Contractor must submit certificates of insurance to the City for all subcontractors prior to the subcontractors commencing work on the project.
- v. The Contractor's and all subcontractors' insurance coverage shall be written by companies licensed to do business in the State of Texas at the time the policies are issued and shall be written by companies with A.M. Best ratings of B+VII or better. The City will accept workers' compensation coverage written by the Texas Workers' Compensation Insurance Fund.
- vi. The "other" insurance clause shall not apply to the City where the City is an additional insured shown on any policy. It is intended that policies required in the Contract, covering both the City and the Contractor, shall be considered primary coverage as applicable.
- vii. If insurance policies are not written for amounts specified in Section 0400, Supplemental Purchase Provisions, the Contractor shall carry Umbrella or Excess Liability Insurance for any differences in amounts specified. If Excess Liability Insurance is provided, it shall follow the form of the primary coverage.
- viii. The City shall be entitled, upon request, at an agreed upon location, and without expense, to review certified copies of policies and endorsements thereto and may make any reasonable requests for deletion or revision or modification of particular policy terms, conditions, limitations, or exclusions except where policy provisions are established by law or regulations binding upon either of the parties hereto or the underwriter on any such policies.
- ix. The City reserves the right to review the insurance requirements set forth during the effective period of the Contract and to make reasonable adjustments to insurance coverage, limits, and exclusions when deemed necessary and prudent by the City based upon changes in statutory law, court decisions, the claims history of the industry or financial condition of the insurance company as well as the Contractor.
- x. The Contractor shall not cause any insurance to be canceled nor permit any insurance to lapse during the term of the Contract or as required in the Contract.
- xi. The Contractor shall be responsible for premiums, deductibles and self-insured retentions, if any, stated in policies. All deductibles or self-insured retentions shall be disclosed on the Certificate of Insurance.
- xii. The Contractor shall endeavor to provide the City thirty (30) calendar days' written notice of erosion of the aggregate limits below occurrence limits for all applicable coverages indicated within the Contract.
- xiii. The insurance coverages specified in Section 0400, Supplemental Purchase Provisions, are required minimums and are not intended to limit the responsibility or liability of the Contractor.

**B. Specific Coverage Requirements: Specific insurance requirements are contained in Section 0400, Supplemental Purchase Provisions**

33. **CLAIMS:** If any claim, demand, suit, or other action is asserted against the Contractor which arises under or concerns the Contract, or which could have a material adverse affect on the Contractor's ability to perform thereunder, the Contractor shall give written notice thereof to the City within ten (10) calendar days after receipt of notice by the Contractor. Such notice to the City shall state the date of notification of any such claim, demand, suit,



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or other action; the names and addresses of the claimant(s); the basis thereof; and the name of each person against whom such claim is being asserted. Such notice shall be delivered personally or by mail and shall be sent to the City and to the Austin City Attorney. Personal delivery to the City Attorney shall be to City Hall, 301 West 2<sup>nd</sup> Street, 4<sup>th</sup> Floor, Austin, Texas 78701, and mail delivery shall be to P.O. Box 1088, Austin, Texas 78767.

34. **NOTICES**: Unless otherwise specified, all notices, requests, or other communications required or appropriate to be given under the Contract shall be in writing and shall be deemed delivered three (3) business days after postmarked if sent by U.S. Postal Service Certified or Registered Mail, Return Receipt Requested. Notices delivered by other means shall be deemed delivered upon receipt by the addressee. Routine communications may be made by first class mail, telefax, or other commercially accepted means. Notices to the Contractor shall be sent to the address specified in the Contractor's Offer, or at such other address as a party may notify the other in writing. Notices to the City shall be addressed to the City at P.O. Box 1088, Austin, Texas 78767 and marked to the attention of the Contract Administrator.
35. **RIGHTS TO BID, PROPOSAL AND CONTRACTUAL MATERIAL**: All material submitted by the Contractor to the City shall become property of the City upon receipt. Any portions of such material claimed by the Contractor to be proprietary must be clearly marked as such. Determination of the public nature of the material is subject to the Texas Public Information Act, Chapter 552, Texas Government Code.
36. **NO WARRANTY BY CITY AGAINST INFRINGEMENTS**: The Contractor represents and warrants to the City that: (i) the Contractor shall provide the City good and indefeasible title to the deliverables and (ii) the deliverables supplied by the Contractor in accordance with the specifications in the Contract will not infringe, directly or contributorily, any patent, trademark, copyright, trade secret, or any other intellectual property right of any kind of any third party; that no claims have been made by any person or entity with respect to the ownership or operation of the deliverables and the Contractor does not know of any valid basis for any such claims. The Contractor shall, at its sole expense, defend, indemnify, and hold the City harmless from and against all liability, damages, and costs (including court costs and reasonable fees of attorneys and other professionals) arising out of or resulting from: (i) any claim that the City's exercise anywhere in the world of the rights associated with the City's ownership, and if applicable, license rights, and its use of the deliverables infringes the intellectual property rights of any third party; or (ii) the Contractor's breach of any of Contractor's representations or warranties stated in this Contract. In the event of any such claim, the City shall have the right to monitor such claim or at its option engage its own separate counsel to act as co-counsel on the City's behalf. Further, Contractor agrees that the City's specifications regarding the deliverables shall in no way diminish Contractor's warranties or obligations under this paragraph and the City makes no warranty that the production, development, or delivery of such deliverables will not impact such warranties of Contractor.
37. **CONFIDENTIALITY**: In order to provide the deliverables to the City, Contractor may require access to certain of the City's and/or its licensors' confidential information (including inventions, employee information, trade secrets, confidential know-how, confidential business information, and other information which the City or its licensors consider confidential) (collectively, "Confidential Information"). Contractor acknowledges and agrees that the Confidential Information is the valuable property of the City and/or its licensors and any unauthorized use, disclosure, dissemination, or other release of the Confidential Information will substantially injure the City and/or its licensors. The Contractor (including its employees, subcontractors, agents, or representatives) agrees that it will maintain the Confidential Information in strict confidence and shall not disclose, disseminate, copy, divulge, recreate, or otherwise use the Confidential Information without the prior written consent of the City or in a manner not expressly permitted under this Agreement, unless the Confidential Information is required to be disclosed by law or an order of any court or other governmental authority with proper jurisdiction, provided the Contractor promptly notifies the City before disclosing such information so as to permit the City reasonable time to seek an appropriate protective order. The Contractor agrees to use protective measures no less stringent than the Contractor uses within its own business to protect its own most valuable information, which protective measures shall under all circumstances be at least reasonable measures to ensure the continued confidentiality of the Confidential Information.
38. **OWNERSHIP AND USE OF DELIVERABLES**: The City shall own all rights, titles, and interests throughout the world in and to the deliverables.

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- A. Patents. As to any patentable subject matter contained in the deliverables, the Contractor agrees to disclose such patentable subject matter to the City. Further, if requested by the City, the Contractor agrees to assign and, if necessary, cause each of its employees to assign the entire right, title, and interest to specific inventions under such patentable subject matter to the City and to execute, acknowledge, and deliver and, if necessary, cause each of its employees to execute, acknowledge, and deliver an assignment of letters patent, in a form to be reasonably approved by the City, to the City upon request by the City.
- B. Copyrights. As to any deliverables containing copyrightable subject matter, the Contractor agrees that upon their creation, such deliverables shall be considered as work made-for-hire by the Contractor for the City and the City shall own all copyrights in and to such deliverables, provided however, that nothing in this Paragraph 38 shall negate the City's sole or joint ownership of any such deliverables arising by virtue of the City's sole or joint authorship of such deliverables. Should by operation of law, such deliverables not be considered works made-for-hire, the Contractor hereby assigns to the City (and agrees to cause each of its employees providing services to the City hereunder to execute, acknowledge, and deliver an assignment to the City of) all worldwide right, title, and interest in and to such deliverables. With respect to such work made-for-hire, the Contractor agrees to execute, acknowledge, and deliver and cause each of its employees providing services to the City hereunder to execute, acknowledge, and deliver a work-made-for-hire agreement, in a form to be reasonably approved by the City, to the City upon delivery of such deliverables to the City or at such other time as the City may request.
- C. Additional Assignments. The Contractor further agrees to, and if applicable, cause each of its employees to, execute, acknowledge, and deliver all applications, specifications, oaths, assignments, and all other instruments which the City might reasonably deem necessary in order to apply for and obtain copyright protection, mask work registration, trademark registration and/or protection, letters patent, or any similar rights in any and all countries and in order to assign and convey to the City, its successors, assigns and nominees, the sole and exclusive right, title, and interest in and to the deliverables. The Contractor's obligation to execute, acknowledge, and deliver (or cause to be executed, acknowledged, and delivered) instruments or papers such as those described in this Paragraph 38 a., b., and c. shall continue after the termination of this Contract with respect to such deliverables. In the event the City should not seek to obtain copyright protection, mask work registration or patent protection for any of the deliverables, but should desire to keep the same secret, the Contractor agrees to treat the same as Confidential Information under the terms of Paragraph 37 above.
39. **PUBLICATIONS**: All published material and written reports submitted under the Contract must be originally developed material unless otherwise specifically provided in the Contract. When material not originally developed is included in a report in any form, the source shall be identified.
40. **ADVERTISING**: The Contractor shall not advertise or publish, without the City's prior consent, the fact that the City has entered into the Contract, except to the extent required by law.
41. **NO CONTINGENT FEES**: The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure the Contract upon any agreement or understanding for commission, percentage, brokerage, or contingent fee, excepting bona fide employees of bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the City shall have the right, in addition to any other remedy available, to cancel the Contract without liability and to deduct from any amounts owed to the Contractor, or otherwise recover, the full amount of such commission, percentage, brokerage or contingent fee.
42. **GRATUITIES**: The City may, by written notice to the Contractor, cancel the Contract without liability if it is determined by the City that gratuities were offered or given by the Contractor or any agent or representative of the Contractor to any officer or employee of the City of Austin with a view toward securing the Contract or securing favorable treatment with respect to the awarding or amending or the making of any determinations with respect to the performing of such contract. In the event the Contract is canceled by the City pursuant to this provision, the City



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shall be entitled, in addition to any other rights and remedies, to recover or withhold the amount of the cost incurred by the Contractor in providing such gratuities.

43. **PROHIBITION AGAINST PERSONAL INTEREST IN CONTRACTS**: No officer, employee, independent consultant, or elected official of the City who is involved in the development, evaluation, or decision-making process of the performance of any solicitation shall have a financial interest, direct or indirect, in the Contract resulting from that solicitation. Any willful violation of this section shall constitute impropriety in office, and any officer or employee guilty thereof shall be subject to disciplinary action up to and including dismissal. Any violation of this provision, with the knowledge, expressed or implied, of the Contractor shall render the Contract voidable by the City.
44. **INDEPENDENT CONTRACTOR**: The Contract shall not be construed as creating an employer/employee relationship, a partnership, or a joint venture. The Contractor's services shall be those of an independent contractor. The Contractor agrees and understands that the Contract does not grant any rights or privileges established for employees of the City.
45. **ASSIGNMENT-DELEGATION**: The Contract shall be binding upon and enure to the benefit of the City and the Contractor and their respective successors and assigns, provided however, that no right or interest in the Contract shall be assigned and no obligation shall be delegated by the Contractor without the prior written consent of the City. Any attempted assignment or delegation by the Contractor shall be void unless made in conformity with this paragraph. The Contract is not intended to confer rights or benefits on any person, firm or entity not a party hereto; it being the intention of the parties that there be no third party beneficiaries to the Contract.
46. **WAIVER**: No claim or right arising out of a breach of the Contract can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party. No waiver by either the Contractor or the City of any one or more events of default by the other party shall operate as, or be construed to be, a permanent waiver of any rights or obligations under the Contract, or an express or implied acceptance of any other existing or future default or defaults, whether of a similar or different character.
47. **MODIFICATIONS**: The Contract can be modified or amended only by a writing signed by both parties. No pre-printed or similar terms on any the Contractor invoice, order or other document shall have any force or effect to change the terms, covenants, and conditions of the Contract.
48. **INTERPRETATION**: The Contract is intended by the parties as a final, complete and exclusive statement of the terms of their agreement. No course of prior dealing between the parties or course of performance or usage of the trade shall be relevant to supplement or explain any term used in the Contract. Although the Contract may have been substantially drafted by one party, it is the intent of the parties that all provisions be construed in a manner to be fair to both parties, reading no provisions more strictly against one party or the other. Whenever a term defined by the Uniform Commercial Code, as enacted by the State of Texas, is used in the Contract, the UCC definition shall control, unless otherwise defined in the Contract.
49. **DISPUTE RESOLUTION**:
- A. If a dispute arises out of or relates to the Contract, or the breach thereof, the parties agree to negotiate prior to prosecuting a suit for damages. However, this section does not prohibit the filing of a lawsuit to toll the running of a statute of limitations or to seek injunctive relief. Either party may make a written request for a meeting between representatives of each party within fourteen (14) calendar days after receipt of the request or such later period as agreed by the parties. Each party shall include, at a minimum, one (1) senior level individual with decision-making authority regarding the dispute. The purpose of this and any subsequent meeting is to attempt in good faith to negotiate a resolution of the dispute. If, within thirty (30) calendar days after such meeting, the parties have not succeeded in negotiating a resolution of the dispute, they will proceed directly to mediation as described below. Negotiation may be waived by a written agreement signed by both parties, in which event the parties may proceed directly to mediation as described below.

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- B. If the efforts to resolve the dispute through negotiation fail, or the parties waive the negotiation process, the parties may select, within thirty (30) calendar days, a mediator trained in mediation skills to assist with resolution of the dispute. Should they choose this option, the City and the Contractor agree to act in good faith in the selection of the mediator and to give consideration to qualified individuals nominated to act as mediator. Nothing in the Contract prevents the parties from relying on the skills of a person who is trained in the subject matter of the dispute or a contract interpretation expert. If the parties fail to agree on a mediator within thirty (30) calendar days of initiation of the mediation process, the mediator shall be selected by the Travis County Dispute Resolution Center (DRC). The parties agree to participate in mediation in good faith for up to thirty (30) calendar days from the date of the first mediation session. The City and the Contractor will share the mediator's fees equally and the parties will bear their own costs of participation such as fees for any consultants or attorneys they may utilize to represent them or otherwise assist them in the mediation.
50. **JURISDICTION AND VENUE:** The Contract is made under and shall be governed by the laws of the State of Texas, including, when applicable, the Uniform Commercial Code as adopted in Texas, V.T.C.A., Bus. & Comm. Code, Chapter 1, excluding any rule or principle that would refer to and apply the substantive law of another state or jurisdiction. All issues arising from this Contract shall be resolved in the courts of Travis County, Texas and the parties agree to submit to the exclusive personal jurisdiction of such courts. The foregoing, however, shall not be construed or interpreted to limit or restrict the right or ability of the City to seek and secure injunctive relief from any competent authority as contemplated herein.
51. **INVALIDITY:** The invalidity, illegality, or unenforceability of any provision of the Contract shall in no way affect the validity or enforceability of any other portion or provision of the Contract. Any void provision shall be deemed severed from the Contract and the balance of the Contract shall be construed and enforced as if the Contract did not contain the particular portion or provision held to be void. The parties further agree to reform the Contract to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this section shall not prevent this entire Contract from being void should a provision which is the essence of the Contract be determined to be void.
52. **HOLIDAYS:** The following holidays are observed by the City:

<u>Holiday</u>	<u>Date Observed</u>
New Year's Day	January 1
Martin Luther King, Jr.'s Birthday	Third Monday in January
President's Day	Third Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Veteran's Day	November 11
Thanksgiving Day	Fourth Thursday in November
Friday after Thanksgiving	Friday after Thanksgiving
Christmas Eve	December 24
Christmas Day	December 25

If a Legal Holiday falls on Saturday, it will be observed on the preceding Friday. If a Legal Holiday falls on Sunday, it will be observed on the following Monday.

53. **SURVIVABILITY OF OBLIGATIONS:** All provisions of the Contract that impose continuing obligations on the parties, including but not limited to the warranty, indemnity, and confidentiality obligations of the parties, shall survive the expiration or termination of the Contract.
54. **NON-SUSPENSION OR DEBARMENT CERTIFICATION:**



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The City of Austin is prohibited from contracting with or making prime or sub-awards to parties that are suspended or debarred or whose principals are suspended or debarred from Federal, State, or City of Austin Contracts. By accepting a Contract with the City, the Vendor certifies that its firm and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the General Services Administration List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.

**55. EQUAL OPPORTUNITY**

- A. **Equal Employment Opportunity:** No Offeror, or Offeror's agent, shall engage in any discriminatory employment practice as defined in Chapter 5-4 of the City Code. No Offer submitted to the City shall be considered, nor any Purchase Order issued, or any Contract awarded by the City unless the Offeror has executed and filed with the City Purchasing Office a current Non-Discrimination Certification. Non-compliance with Chapter 5-4 of the City Code may result in sanctions, including termination of the contract and the Contractor's suspension or debarment from participation on future City contracts until deemed compliant with Chapter 5-4.
- B. **Americans with Disabilities Act (ADA) Compliance:** No Offeror, or Offeror's agent, shall engage in any discriminatory employment practice against individuals with disabilities as defined in the ADA.

**56. BUY AMERICAN ACT-SUPPLIES (Applicable to certain Federally funded requirements)**

- A. Definitions. As used in this paragraph –
- i. "Component" means an article, material, or supply incorporated directly into an end product.
  - ii. "Cost of components" means -
    - (1) For components purchased by the Contractor, the acquisition cost, including transportation costs to the place of incorporation into the end product (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or
    - (2) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) of this definition, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the end product.
  - iii. "Domestic end product" means-
    - (1) An unmanufactured end product mined or produced in the United States; or
    - (2) An end product manufactured in the United States, if the cost of its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. Components of foreign origin of the same class or kind as those that the agency determines are not mined, produced, or manufactured in sufficient and reasonably available commercial quantities of a satisfactory quality are treated as domestic. Scrap generated, collected, and prepared for processing in the United States is considered domestic.
  - iv. "End product" means those articles, materials, and supplies to be acquired under the contract for public use.
  - v. "Foreign end product" means an end product other than a domestic end product.
  - vi. "United States" means the 50 States, the District of Columbia, and outlying areas.

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- B. The Buy American Act (41 U.S.C. 10a - 10d) provides a preference for domestic end products for supplies acquired for use in the United States.
- C. The City does not maintain a list of foreign articles that will be treated as domestic for this Contract; but will consider for approval foreign articles as domestic for this product if the articles are on a list approved by another Governmental Agency. The Offeror shall submit documentation with their Offer demonstrating that the article is on an approved Governmental list.
- D. The Contractor shall deliver only domestic end products except to the extent that it specified delivery of foreign end products in the provision of the Solicitation entitled "Buy American Act Certificate".



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The following Supplemental Purchasing Provisions apply to this solicitation:

1. **EXPLANATIONS OR CLARIFICATIONS** (reference paragraph 5 in Section 0200)

All requests for explanations or clarifications must be submitted in writing to the Purchasing Office by September 1, 2011 at 4:00 pm either via e-mail to [brenda.helgren@austintexas.gov](mailto:brenda.helgren@austintexas.gov) or by FAX at (512) 974-2388.

2. **INSURANCE.** Insurance is required for this solicitation.

A. **General Requirements.** See Section 0300, Standard Purchase Terms and Conditions, paragraph 32, entitled Insurance, for general insurance requirements.

- i. The Contractor shall provide a Certificate of Insurance as verification of coverages required below to the City at the below address prior to contract execution and within 14 calendar days after written request from the City. Failure to provide the required Certificate of Insurance may subject the Offer to disqualification from consideration for award
- ii. The Contractor shall not commence work until the required insurance is obtained and until such insurance has been reviewed by the City. Approval of insurance by the City shall not relieve or decrease the liability of the Contractor hereunder and shall not be construed to be a limitation of liability on the part of the Contractor.
- iii. The Contractor must also forward a Certificate of Insurance to the City whenever a previously identified policy period has expired, or an extension option or holdover period is exercised, as verification of continuing coverage.
- iv. The Certificate of Insurance, and updates, shall contain the solicitation number and the Buyer's name and shall be mailed to the following address:

City of Austin Purchasing Office  
Attn: Brenda Helgren  
P. O. Box 1088  
Austin, Texas 78767

B. **Specific Coverage Requirements.** The Contractor shall at a minimum carry insurance in the types and amounts indicated below for the duration of the Contract, including extension options and hold over periods, and during any warranty period. These insurance coverages are required minimums and are not intended to limit the responsibility or liability of the Contractor.

- i. **Worker's Compensation and Employers' Liability Insurance.** Coverage shall be consistent with statutory benefits outlined in the Texas Worker's Compensation Act (Section 401). The minimum policy limits for Employer's Liability are \$100,000 bodily injury each accident, \$500,000 bodily injury by disease policy limit and \$100,000 bodily injury by disease each employee.
  - (1) The Contractor's policy shall apply to the State of Texas and include these endorsements in favor of the City of Austin:
    - (a) Waiver of Subrogation, Form WC 420304, or equivalent coverage

**CITY OF AUSTIN  
PURCHASING OFFICE  
SUPPLEMENTAL PURCHASE PROVISIONS**

- (b) Thirty (30) days Notice of Cancellation, Form WC 420601, or equivalent coverage
- ii. Commercial General Liability Insurance. The minimum bodily injury and property damage per occurrence are \$500,000 for coverages A (Bodily Injury and Property Damage) and B (Personal and Advertising Injuries).
  - (1) The policy shall contain the following provisions:
    - (a) Blanket contractual liability coverage for liability assumed under the Contract and all other Contracts related to the project.
    - (b) Independent Contractor's Coverage.
    - (c) Products/Completed Operations Liability for the duration of the warranty period.
    - (d) If the project involves digging or drilling provisions must be included that provide Explosion, Collapse, and Underground Coverage (X,C,U).
  - (2) The policy shall also include these endorsements in favor of the City of Austin:
    - (a) Waiver of Subrogation, Endorsement CG 2404, or equivalent coverage
    - (b) Thirty (30) days Notice of Cancellation, Endorsement CG 0205, or equivalent coverage
    - (c) The City of Austin listed as an additional insured, Endorsement CG 2010, or equivalent coverage
- iii. Business Automobile Liability Insurance. The Contractor shall provide coverage for all owned, non-owned and hired vehicles with a minimum combined single limit of \$500,000 per occurrence for bodily injury and property damage. Alternate acceptable limits are \$250,000 bodily injury per person, \$500,000 bodily injury per occurrence and at least \$100,000 property damage liability per accident.
  - (1) The policy shall include these endorsements in favor of the City of Austin:
    - (a) Waiver of Subrogation, Endorsement TE 2046A, or equivalent coverage
    - (b) Thirty (30) days Notice of Cancellation, Endorsement TE 0202A, or equivalent coverage
    - (c) The City of Austin listed as an additional insured, Endorsement TE 9901B, or equivalent coverage.
- C. Endorsements. The specific insurance coverage endorsements specified above, or their equivalents must be provided. In the event that endorsements, which are the equivalent of the required coverage, are proposed to be substituted for the required coverage, copies of the equivalent endorsements must be provided for the City's review and approval.
- D. Certificate: The following statement must be shown on the Certificate of Insurance.

The City of Austin is an Additional Insured on the general liability and the auto liability policies. A Waiver of Subrogation is issued in favor of the City of Austin for general liability, auto liability and workers compensation policies.

**3. TERM OF CONTRACT**



**CITY OF AUSTIN  
PURCHASING OFFICE  
SUPPLEMENTAL PURCHASE PROVISIONS**

- A. The Contract shall be in effect for an initial term of 12 months and may be extended thereafter for up to 2 additional 12 month periods, subject to the approval of the Contractor and the City Purchasing Officer or his designee.
- B. Upon expiration of the initial term or period of extension, the Contractor agrees to hold over under the terms and conditions of this agreement for such a period of time as is reasonably necessary to re-solicit and/or complete the project (not to exceed 120 days unless mutually agreed on in writing).
- C. Upon written notice to the Contractor from the City's Purchasing Officer or his designee and acceptance of the Contractor, the term of this contract shall be extended on the same terms and conditions for an additional period as indicated in paragraph A above. A price increase, subject to the provisions of this Contract, may be requested by the Contractor (for each period of extension) for approval by the City's Purchasing Officer or his designee.

THIS IS A 12 MONTH CONTRACT.

FIRM PRICES ARE TO BE SUBMITTED FOR THE FIRST TWELVE (12) MONTH PERIOD

**4. QUANTITIES**

The quantities listed herein are estimates for the period of the Contract. The City reserves the right to purchase more or less of these quantities as may be required during the Contract term. Quantities will be as needed and specified by the City for each order. Unless specified in the solicitation, there are no minimum order quantities.

**5. INVOICES and PAYMENT** (reference paragraphs 12 and 13 in Section 0300)

- A. Invoices shall contain a non-duplicated invoice number and the information required in Section 0300, paragraph 12, entitled "Invoices." Invoices received without all required information cannot be processed and will be returned to the vendor.

Invoices shall be mailed to the below address:

	City of Austin
Department	EGRSO
Attn:	Kevin Shaw
Address	PO Box 1088
City, State Zip Code	Austin, Texas 78767

- B. The Contractor agrees to accept payment by either credit card, check or Electronic Funds Transfer (EFT) for all goods and/or services provided under the Contract. The Contractor shall factor the cost of processing credit card payments into the Offer. There shall be no additional charges, surcharges, or penalties to the City for payments made by credit card.

**6. HAZARDOUS MATERIALS**

- A. If this Solicitation involves hazardous materials, the Offeror shall furnish with the Offer Material Safety Data Sheets (MSDS), (OSHA Form 20), on all chemicals and hazardous materials specifying the generic and trade name of product, product specification, and full hazard information including receiving and storage hazards. Instructions, special equipment

**CITY OF AUSTIN  
PURCHASING OFFICE  
SUPPLEMENTAL PURCHASE PROVISIONS**

needed for handling, information on approved containers, and instructions for the disposal of the material are also required.

- B. Failure to submit the MSDS as part of the Offer may subject the Offer to disqualification from consideration for award.
- C. The MSDS, instructions and information required in paragraph "a " must be included with each shipment under the contract.

**7. LIVING WAGES AND BENEFITS (applicable to procurements involving the use of labor)**

- A. In order to help assure low employee turnover, quality services, and to reduce costs for health care provided to uninsured citizens, the Austin City Council is committed to ensuring fair compensation for City employees and those persons employed elsewhere in Austin. This commitment has been supported by actions to establish a "living wage" and affordable health care protection. Currently, the minimum wage for City employees is \$11.00 per hour. This minimum wage is required for any Contractor employee directly assigned to this City Contract, unless Published Wage Rates are included in this solicitation. In addition, the City may stipulate higher wage rates in certain solicitations in order to assure quality and continuity of service.
- B. Additionally, the City provides health insurance for its employees, and for a nominal rate, employees may obtain coverage for their family members. Contractors must offer health insurance with optional family coverage for all Contractor employees directly assigned to this contract. Proof of the health care plan shall be provided prior to award of a Contract. In addition, an insurance certificate for Workers' Compensation Insurance Coverage must be provided if required by the solicitation.
- C. The City requires Contractors submitting Offers on this Contract to provide a signed certification (**see the Living Wages and Benefits Contractor Certification included in the Solicitation**) with their Offer certifying that all employees directly assigned to this City Contract will be paid a minimum living wage equal to or greater than \$11.00 per hour and are offered a health care plan. The certification shall include a list of all employees directly assigned to providing services under the resultant contract including their name and job title. The list shall be updated and provided to the City as necessary throughout the term of the Contract.
- D. The Contractor shall maintain throughout the term of the resultant contract basic employment and wage information for each employee as required by the Fair Labor Standards Act (FLSA). Basic employment records shall at a minimum include:
  - i. employee's full name, as used for social security purposes, and on the same record, the employee's identifying symbol or number if such is used in place of name on any time, work, or payroll records;
  - ii. time and date of week when employee's workweek begins;
  - iii. hours worked each day and total hours worked each workweek;
  - iv. basis on which employee's wages are paid;
  - v. regular hourly pay rate;
  - vi. total daily or weekly straight-time earnings;
  - vii. total overtime earnings for the workweek;
  - viii. all additions to or deductions from the employee's wages;
  - ix. total wages paid each pay period; and
  - x. date of payment and the pay period covered by the payment.



**CITY OF AUSTIN  
PURCHASING OFFICE  
SUPPLEMENTAL PURCHASE PROVISIONS**

- E. The Contractor shall provide with the first invoice and as requested by the Department's Contract Manager, individual Employee Certifications (**see the Living Wages and Benefits Employee Certification included in the Solicitation**) for all employees directly assigned to the contract containing:
- i. the employee's name and job title;
  - ii. a statement certifying that the employee is paid at a rate equal to or greater than the Living Wage of \$11.00 per hour;
  - iii. a statement certifying that the employee is offered a health care plan with optional family coverage.

Employee Certifications shall be signed by each employee directly assigned to the contract.

- A. Contractor shall submit employee certifications quarterly with the respective invoice to verify that employees are paid the Living Wage throughout the term of the contract.
- G. The Department's Contract Manager will periodically review the employee data submitted by the Contractor to verify compliance with this Living Wage provision. The City retains the right to review employee records identified in paragraph D above to verify compliance with this provision.

**8. NON-COLLUSION, NON-CONFLICT OF INTEREST, AND ANTI-LOBBYING**

- A. The Austin City Council adopted Ordinance No. 20071206-045 on December 6, 2007, adding a new Article 6 to Chapter 2-7 of the City Code relating to Anti-Lobbying and Procurement. The policy defined in this Code applies to Solicitations for goods and/or services exceeding \$5,000. During the No-Contact Period, Offerors or potential Offerors are prohibited from making a representation to anyone other than the person designated in the Solicitation as the contact for questions and comments regarding the Solicitation.
- B. If during the No-Contact Period an Offeror makes a representation to anyone other than the Authorized Contact Person for the Solicitation, the Offeror's Offer is disqualified from further consideration except as permitted in the Ordinance.
- C. The City requires Offerors submitting Offers on this Solicitation to provide a signed affidavit certifying that the Offeror has not in any way directly or indirectly made representations to anyone other than the Authorized Contact Person during the No-Contact Period as defined in the Ordinance (**see the Non-Collusion, Non-Conflict of Interest, and Anti-Lobbying Affidavit included in the Solicitation**).

**9. CONTRACT MANAGER**

The following person is designated as Contract Manager, and will act as the contact point between the City and the Contractor during the term of the Contract:

Kevin Shaw

---

EGRSO

---

974-9316

---

\*Note: The above listed Contract Manager is not the authorized Contact Person for purposes of the **NON-COLLUSION, NON-CONFLICT OF INTEREST, AND ANTI-LOBBYING Provision** of this

**CITY OF AUSTIN  
PURCHASING OFFICE  
SUPPLEMENTAL PURCHASE PROVISIONS**

Section; and therefore, contact with the Contract Manager is prohibited during the no contact period.






**View All (1 of 1) : Document submitted successfully**

**MA - 5500- NA120000003- 1- New- Final**

Action Menu

Load T and C Ship/Bill To Lines

	Commodity Line	CL Description	Description	Unit	Unit Price	Service Contract Amount	Dis Perc
  	1	Fireworks Display for Austin's New Year	Fireworks Display and Carnival Services		\$0.00	\$15,000.00	

Insert New Line Insert Copied Line

First Prev [Go To](#) Next Last

Load Catalog View/Edit Catalog Catalog Error Log

Vendor 1: VS0000032828 >



### General Information

CL Description : Fireworks Display for Austin's New Year

Lock Catalog List Price :

Lock Order Specs : ☐

Commodity : 96236 >

Fireworks Display and Carnival Services

Commodity Specs :

Line Type : Service

Quantity : 0.00000

Unit :  >

Extended Description :

Unit Price : \$0.00

Catalog :

Service Contract Amount : \$15,000.00

Discount Percentage : 0.00%

Service From :

List Unit Price : \$0.00

Service To :

Discounted Unit Price : \$0.00

T & C Template :  >

Discount Effective From :  

Tax Profile :

Discount Effective To :  

Vendor Preference Level : 99

Total Tax Amount : \$0.00

Line Total Amount : \$15,000.00

Item Sub Total Amount : \$15,000.00

Fixed Asset : ☐

Number of Attachments : 0

☐ Additional Information

☐ Reference Information

☐ Shipping & Billing

☐ Specifications

☐ Tolerance Information

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Action Menu

[Load T and C Ship/Bill To Lines](#)

### Authorized Department Summary

	Line Number	Department	Department Name	Spending Limit	Ordered Amount
  	1	5500	Economic Development	\$0.00	\$0.00

Insert New Line Insert Copied Line

First Prev [Go To](#) Next Last

### General Information

Department :  

No Limit : ☒

Economic Development

Active : ☒

Spending Limit :

Exclude Department : ☐

Ordered Amount : \$0.00

Edit

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Action Menu

Load T and C Ship/Bill To Lines



**General Information**

Document Name :	Solicitation for New Year's Eve Fireworks Display	Procurement Folder :	15984
Record Date :	10/04/2011	Procurement Type ID :	1
Budget FY :	2012	Uncla	
Fiscal Year :	2012	Cited Authority :	
Period :	1	Effective Begin Date :	10/04
Document Description :	New Year's Eve Fireworks Display	Expiration Date :	10/03
Calculated Document Total :	\$15,000.00	Board Award Number :	ADM
Total Orders :	\$0.00	Board Award Date :	
Total of Header Attachments :	0	T & C Template :	
Total of All Attachments :	0	Allow Partial Payment :	<input checked="" type="checkbox"/>
		Allow Partial Receipts :	<input checked="" type="checkbox"/>
		Replaces Award Doc Code :	
		Replaces Award Doc Dept :	
		Replaces Award ID :	
		Replaced By Award Doc Code :	
		Replaced By Award Doc Dept :	
		Replaced By Award ID :	
		Default Form :	

**Modification**

**Requestor Issuer Buyer**

Issuer ID :	helgren	Buyer Team :	
	Brenda Helgren	Buyer :	fasdcentral
	974-2500	See Solicitation	
	brenda.helgren@austintexas.gov	512-974-2500	
Requestor ID :	sanchezmo	purinfo@austintexas.gov	
Name :	Davetta Martinez		
Phone Number :	974-9317		
Email :	davetta.martinez@ci.ausi		



**▼Thresholds**

Minimum Order Amount :  Minimum Order Value : ☐  
Maximum Order Amount :  Maximum Order Value : ☐  
Not to Exceed Amount : \$15,000.00 Not to Exceed : ☒

**▼Extended Description**

Extended Description :

New Year's Eve Fireworks Display

**▼Default Shipping/Billing**Shipping Location :  >

Department Of Aviation  
MAINTENANCE  
CONTROL/WAREHOUSE  
9400 FREIGHT LANE - Suite A  
Austin  
TX  
78719-2301  
US

Billing Location :  >

Aviation Dept  
ATTN: ACCOUNTS  
411  
3600 PRESIDENTI  
Austin  
TX  
78719  
US

Shipping Method :  >Free On Board :  >Delivery Type : Estimated Delivery Days : 

Billing Additional Info :

Shipping Additional Info :

**▼Reporting**Reporting 1 :  >

Competitive Acquisition

Reporting 2 :  >

No Sustainability Impact

Reporting 3 :  >

NOT APPLICABLE

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### Renewal Period Summary

	Line Number	Renewal Period Length	Renewal Period Unit
  	1	12	Months
 	2	12	Months

Insert New Line Insert Copied Line

First Prev [Go To](#) Next Last

### General Information

Renewal Period Length : 12

Renewal Period Unit : Months

Notification Days Prior to Expiration : 180

Effective Date : 10/04/2012

Expiration Date : 10/03/2013

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Action Menu

Load T and C Ship/Bill To Lines

	Vendor Line	Vendor Customer	Legal Name	Not to Exceed Amount	Ordered Amount
  	1	VS0000032828	Pyro Engineering Inc		\$0.00
Insert New Line Insert Copied Line			First Prev <u>Go To</u> Next Last		



### General Information

Vendor Customer : VS0000032828

Vendor Contact ID : CT008

Legal Name : Pyro Engineering Inc

Vendor Contact Name : Tom Tymann

Alias/DBA : Bay Fireworks

Vendor Contact Phone : 631-390-8620

Address Code : AR010

Vendor Contact Phone Ext. :

400 Broadhollow Rd

Vendor Contact Email : tom@bayfireworks.

Ste 3

Vendor Type : Primary

Farmingdale

Master Agreement Code : MA

NY

11735

Master Agreement Department : 5500

US

Vendor Preference Level : 99

Master Agreement ID : NA120000003

### Thresholds

### Discount Information

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**Project Title: Fireworks Display**  
**Solicitation No. BKH0122**

Requisition Received by Purchasing	07/20/11
CTM Approval	N/A
Solicitation Issued	08/22/11
Solicitation Advertised and posted on the internet	08/22/11
Pre-Bid Conference (if applicable)	08/29/11
Solicitation Opens/Closes	09/14/11
RCA Finalized (IF NEEDED)	N/A
Commission Date	N/A
Council Agenda Date	N/A
New Contract Start Date	10/01/11

  
\_\_\_\_\_  
Department Representative Review/Approval

Date: 8/16/11

\_\_\_\_\_  
Buyer

Date: \_\_\_\_\_



# City of Austin

Founded by Congress, Republic of Texas, 1839

P.O. Box 1088, Austin, Texas 78767-1088

**Financial and Administrative Services Department**

September 22, 2011

To: All Respondents to IFB-BV BKH0122

RE: Contract Award  
Fireworks Display for New Year's Eve Celebration

This letter is to inform you that the Evaluation Committee has recommended to the Purchasing Office that the City award the contract to Pyro Engineering, Inc., dba "Bay Fireworks", for the services noted, as a result of the above referenced IFB-Best Value.

Although the City was impressed with all firms' bids and all firms were highly qualified, the Evaluation Committee felt that the bid presented by Pyro Engineering, Inc., dba "Bay Fireworks", will best meet the City's requirements.

The City of Austin greatly appreciates your participation in this IFB-BV process and for your interest in doing business with us. We will keep your original bid for our files.

Sincerely,

Brenda Helgren, Sr. Buyer  
Purchasing Office  
Finance and Administrative Services Department  
Enclosure



IFB-BV

BKH0122

***Fireworks Display for New Year's Eve Celebration***

Bay Fireworks  
(Pyro Eng)

Extreme  
Pyrotechnics

Pyrotecnico

Wolf

Stuntworks  
Fireworks

Farmingdale, NY

Mansfield, Tx

New Castle, PA

Austin, TX

New Castle, PA

**Possible  
Points**

Cost	50	50	48	50	50	47
Experience	15	14	8	13	10	13
References	5	5	2	3	3	4
Display Package	30	27	13	26	19	27
TOTAL POINTS	100	96	71	92	82	91

IFB-BV

BKH0122

*Fireworks Display for New Year's Eve Celebration*

	Bay Fireworks (Pyro Eng)	Extreme Pyrotechnics	Pyrotecnico	Wolf Stuntworks	Zambelli Fireworks
	Farmingdale, NY	Mansfield, Tx	New Castle, PA	Austin, TX	New Castle, PA
	Possible Points				
Cost	50	50	48	50	47
Experience	15	14	8	13	13
References	5	5	2	3	4
Display Package	30	27	13	26	27
TOTAL POINTS	100	96	71	92	91



## PURCHASING OFFICE MEETING SIGN-IN SHEET

<b>Bid No &amp; Description:</b> BKH0122	<b>Meeting Date:</b> 9/14/11
--	------------------------------

**Meeting Date:** 9/14/11

**Check Type of Meeting:** Pre Bid/Proposal \_\_\_\_\_ Bid Opening \_\_\_\_\_

**Place/Room:** Purchasing Office Conference Room

Pre Bid/Proposal \_\_\_\_\_ Bid Opening \_\_\_\_\_

**Place/Room:** Purchasing Office Conference Room

Buyer: Brenda Helgren

Please Print Legibly

[illegible]

Solicitation Type & Number: IFBBV BKH0122  
Solicitation Description: FIREWORKS DISPLAY FOR AUSTIN'S NEW YEAR  
Bid Opening Date & Time: 9/14/2011 @ 9:00 AM  
Pre-Bid Information: NA

<u>Vendor's Name</u>	<u>Rec'd By</u>	<u>Date &amp; Time Rec'd</u>
✓ 1 <u>Pyro Tynan Engineering</u>	<u>PSD</u>	<u>9-13-11 @ 11:00am - Bid Room</u>
✓ 2 <u>Extreme Pyro</u>	<u>PSD</u>	<u>9-13-11 @ 11:00am</u>
✓ 3 <u>Zambelli Fireworks</u>	<u>PSD</u>	<u>9-13-11 @ 2:04pm - Bid Room</u>
✓ 4 <u>Pyrotecnico</u>	<u>PSD</u>	<u>9-14-11 @ 7:49am - Bid Room</u>
✓ 5 <u>Wolf Stuntworks</u>	<u>PSD</u>	<u>9-14-11 @ 8:30am</u>
6 _____	_____	_____
7 _____	_____	_____
8 _____	_____	_____
9 _____	_____	_____
10 _____	_____	_____
11 _____	_____	_____
12 _____	_____	_____
13 _____	_____	_____
14 _____	_____	_____
15 _____	_____	_____
16 _____	_____	_____
17 _____	_____	_____
18 _____	_____	_____
19 _____	_____	_____
20 _____	_____	_____

Bids Distributed By:

Sam Dessett

Bids Received By:

Julia King



# CITY OF AUSTIN, TEXAS

Purchasing Office

## INVITATION FOR BID (BEST VALUE)

### Offer Sheet

SOLICITATION NO: BKH0122

COMMODITY/SERVICE DESCRIPTION: FIREWORKS DISPLAY FOR AUSTIN'S NEW YEAR

DATE ISSUED: 08/22/11

REQUISITION NO.: RQM 5500 11081600532

PRE-BID CONFERENCE TIME AND DATE: 08/29/11 @ 9:00AM

COMMODITY CODE: 96236

LOCATION: 124 W 8<sup>th</sup> St., Room 310, Austin, Texas 78701

FOR CONTRACTUAL AND TECHNICAL  
ISSUES CONTACT:

BID DUE PRIOR TO: 09/14/11 @ 9:00 AM

Brenda Helgren

COMPLIANCE PLAN DUE PRIOR TO: N/A

BID OPENING TIME AND DATE: 09/14/11 @ 9:00 AM

Senior Buyer

Phone: (512) 974-9141

LOCATION: MUNICIPAL BUILDING, 124 W 8<sup>th</sup> STREET  
RM 310, AUSTIN, TEXAS 78701

*It is the policy of the City of Austin to involve certified Minority Owned Business Enterprises (MBEs) and Woman Owned Business Enterprises (WBEs) in City contracting. MBE and WBE goals for this Solicitation are contained in Section 0900.*

*All Contractors and Subcontractors must be registered to do business with the City prior to submitting a response to a City Solicitation. In the case of Joint Ventures, each individual business in the joint venture must be registered with the City prior to submitting a response to a City solicitation. If the Joint Venture is awarded a contract, the Joint Venture must register to do business with the City. Prime Contractors are responsible for ensuring that their Subcontractors are registered. Registration can be done through the City's on-line vendor registration system.*

*Log onto <https://www.cityofaustin.org/purchase> and follow the directions.*

### SUBMIT 1 ORIGINAL AND 3 SIGNED COPIES OF RESPONSE

SOLICITATION TO:

Insert Vendor Name & Address

Signature of Person Authorized to Sign Offer

Signer's Name and Title: (please print or type)

FEDERAL TAX ID NO. \_\_\_\_\_

Date: \_\_\_\_\_

Company Name: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip Code \_\_\_\_\_

Phone No. (      )

Fax No. (      )

**BELOW INFO MUST MATCH THE NAME AND ADDRESS ON INVOICE AND IN COMPANY PROFILE WITH CITY**

Company "Remit To" Name: \_\_\_\_\_

Remit to Address: \_\_\_\_\_

City, State, Zip Code \_\_\_\_\_

Email Address \_\_\_\_\_

## Table of Contents

SECTION NO.	TITLE	PAGES
0100, 0200, 0300	See <a href="http://www.ci.austin.tx.us/purchase/standard.htm">http://www.ci.austin.tx.us/purchase/standard.htm</a> *	*
0400	SUPPLEMENTAL PURCHASE PROVISIONS	6
0500	SCOPE OF WORK	5
0505	AUDIENCE MAP	1
0510	FENCING AND STAGING PAGE 1 OF 2	1
0515	FENCING AND STAGING PAGE 2 OF 2	1
0520	FIREWORKS DOCK	1
0600	BID SHEET	1
0700	REFERENCE SHEET	1
0800	NON-DISCRIMINATION CERTIFICATION	1
0805	NON-SUSPENSION OR DEBARMENT CERTIFICATION	1
0810	NON-COLLUSION, NON-CONFLICT OF INTEREST, AND ANTI-LOBBYING AFFIDAVIT	2
0815	LIVING WAGES AND BENEFITS CONTRACTOR CERTIFICATION	1
0820	LIVING WAGES AND BENEFITS EMPLOYEE CERTIFICATION	1
0825	WORK PLACE CONDITIONS AFFIDAVIT	N/A
0830	BUY AMERICAN ACT CERTIFICATE	N/A
0835	NONRESIDENT BIDDER PROVISIONS	1
0900	MBE/WBE PROCUREMENT PROGRAM PACKAGE or NO GOALS UTILIZATION PLAN	2
1000	"NO OFFER" RESPONSE FORM	1

All other Sections may be viewed at: <https://www.cityofaustin.org/purchase> by clicking the link to "Vendor Self Service (VSS)", sign in if registered, register, or use public access to follow the links to "Business Opportunities" and "Search for Solicitation."

### **RETURN FOLLOWING DOCUMENTS WITH BID/PROPOSAL/QUOTE/RESPONSE/SUBMITTAL\*\***

- Cover Page Offer Sheet
- Section 0600 Bid Sheet(s)
- Section 0700 Reference Sheet (if required)
- Sections 0800 - 0835 Certifications and Affidavits (return all applicable Sections)
- Section 0900 MBE/WBE Procurement Program Package or No Goals Utilization Plan, if applicable
- Bid Guaranty (if required)

**\*\* See also Section 0200, Solicitation Instructions, Section 0400, Supplemental Purchase Provisions, and Section 0500, Scope of Work/Specification, for additional documents that must be submitted with the Offer.**

### **NOTES:**

The Vendor agrees, if this Offer is accepted within 120 calendar days after the Due Date, to fully comply in strict accordance with the Solicitation, specifications and provisions attached thereto for the amounts shown on the accompanying Offer.

**\* INCORPORATION OF DOCUMENTS.** Section 0100, Standard Purchase Definitions; Section 0200, Standard Solicitation Instructions; and Section 0300, Standard Purchase Terms and Conditions are hereby incorporated into this Solicitation by reference, with the same force and effect as if they were incorporated in full text. The full text versions of these Sections are available, on the Internet at the following online address: <http://www.ci.austin.tx.us/purchase/standard.htm>.

If you do not have access to the Internet, you may obtain a copy of these Sections from the City of Austin Purchasing Office at the below address. Please have the Solicitation number available so that the staff can select the proper documents. These documents can be mailed, expressed mailed, or faxed to you.

When sending a sealed Offer and/or Compliance Plan, use the proper address for the type of service desired, as shown below.

P.O. Address for US Mail	Street Address for Hand Delivery or Courier Service
City of Austin	City of Austin, Purchasing Office
Purchasing Office	Municipal Building
P.O. Box 1088	124 W 8 <sup>th</sup> Street, Rm 310



Austin, Texas 78767-8845	Austin, Texas 78701
	Reception Phone: (512) 974-2500

**Notes:** Offers (including Compliance Plans) that are not submitted in a sealed envelope or container will not be considered. Unless authorized in the Solicitation, telegraphic or facsimile Offers will not be accepted.

**CITY OF AUSTIN  
PURCHASING OFFICE  
SUPPLEMENTAL PURCHASE PROVISIONS**

The following Supplemental Purchasing Provisions apply to this solicitation:

1. **EXPLANATIONS OR CLARIFICATIONS** (reference paragraph 5 in Section 0200)

All requests for explanations or clarifications must be submitted in writing to the Purchasing Office by September 1, 2011 at 4:00 pm either via e-mail to [brenda.helgren@austintexas.gov](mailto:brenda.helgren@austintexas.gov) or by FAX at (512) 974-2388.

2. **INSURANCE.** Insurance is required for this solicitation.

A. **General Requirements.** See Section 0300, Standard Purchase Terms and Conditions, paragraph 32, entitled Insurance, for general insurance requirements.

- i. The Contractor shall provide a Certificate of Insurance as verification of coverages required below to the City at the below address prior to contract execution and within 14 calendar days after written request from the City. Failure to provide the required Certificate of Insurance may subject the Offer to disqualification from consideration for award
- ii. The Contractor shall not commence work until the required insurance is obtained and until such insurance has been reviewed by the City. Approval of insurance by the City shall not relieve or decrease the liability of the Contractor hereunder and shall not be construed to be a limitation of liability on the part of the Contractor.
- iii. The Contractor must also forward a Certificate of Insurance to the City whenever a previously identified policy period has expired, or an extension option or holdover period is exercised, as verification of continuing coverage.
- iv. The Certificate of Insurance, and updates, shall contain the solicitation number and the Buyer's name and shall be mailed to the following address:

City of Austin Purchasing Office  
Attn: Brenda Helgren  
P. O. Box 1088  
Austin, Texas 78767

B. **Specific Coverage Requirements.** The Contractor shall at a minimum carry insurance in the types and amounts indicated below for the duration of the Contract, including extension options and hold over periods, and during any warranty period. These insurance coverages are required minimums and are not intended to limit the responsibility or liability of the Contractor.

- i. **Worker's Compensation and Employers' Liability Insurance.** Coverage shall be consistent with statutory benefits outlined in the Texas Worker's Compensation Act (Section 401). The minimum policy limits for Employer's Liability are \$100,000 bodily injury each accident, \$500,000 bodily injury by disease policy limit and \$100,000 bodily injury by disease each employee.
  - (1) The Contractor's policy shall apply to the State of Texas and include these endorsements in favor of the City of Austin:
    - (a) Waiver of Subrogation, Form WC 420304, or equivalent coverage



**CITY OF AUSTIN  
PURCHASING OFFICE  
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- (b) Thirty (30) days Notice of Cancellation, Form WC 420601, or equivalent coverage
- ii. Commercial General Liability Insurance. The minimum bodily injury and property damage per occurrence are \$500,000 for coverages A (Bodily Injury and Property Damage) and B (Personal and Advertising Injuries).
  - (1) The policy shall contain the following provisions:
    - (a) Blanket contractual liability coverage for liability assumed under the Contract and all other Contracts related to the project.
    - (b) Independent Contractor's Coverage.
    - (c) Products/Completed Operations Liability for the duration of the warranty period.
    - (d) If the project involves digging or drilling provisions must be included that provide Explosion, Collapse, and Underground Coverage (X,C,U).
  - (2) The policy shall also include these endorsements in favor of the City of Austin:
    - (a) Waiver of Subrogation, Endorsement CG 2404, or equivalent coverage
    - (b) Thirty (30) days Notice of Cancellation, Endorsement CG 0205, or equivalent coverage
    - (c) The City of Austin listed as an additional insured, Endorsement CG 2010, or equivalent coverage
- iii. Business Automobile Liability Insurance. The Contractor shall provide coverage for all owned, non-owned and hired vehicles with a minimum combined single limit of \$500,000 per occurrence for bodily injury and property damage. Alternate acceptable limits are \$250,000 bodily injury per person, \$500,000 bodily injury per occurrence and at least \$100,000 property damage liability per accident.
  - (1) The policy shall include these endorsements in favor of the City of Austin:
    - (a) Waiver of Subrogation, Endorsement TE 2046A, or equivalent coverage
    - (b) Thirty (30) days Notice of Cancellation, Endorsement TE 0202A, or equivalent coverage
    - (c) The City of Austin listed as an additional insured, Endorsement TE 9901B, or equivalent coverage.
- C. Endorsements. The specific insurance coverage endorsements specified above, or their equivalents must be provided. In the event that endorsements, which are the equivalent of the required coverage, are proposed to be substituted for the required coverage, copies of the equivalent endorsements must be provided for the City's review and approval.
- D. Certificate: The following statement must be shown on the Certificate of Insurance.

The City of Austin is an Additional Insured on the general liability and the auto liability policies. A Waiver of Subrogation is issued in favor of the City of Austin for general liability, auto liability and workers compensation policies.

**3. TERM OF CONTRACT**

**CITY OF AUSTIN  
PURCHASING OFFICE  
SUPPLEMENTAL PURCHASE PROVISIONS**

- A. The Contract shall be in effect for an initial term of 12 months and may be extended thereafter for up to 2 additional 12 month periods, subject to the approval of the Contractor and the City Purchasing Officer or his designee.
- B. Upon expiration of the initial term or period of extension, the Contractor agrees to hold over under the terms and conditions of this agreement for such a period of time as is reasonably necessary to re-solicit and/or complete the project (not to exceed 120 days unless mutually agreed on in writing).
- C. Upon written notice to the Contractor from the City's Purchasing Officer or his designee and acceptance of the Contractor, the term of this contract shall be extended on the same terms and conditions for an additional period as indicated in paragraph A above. A price increase, subject to the provisions of this Contract, may be requested by the Contractor (for each period of extension) for approval by the City's Purchasing Officer or his designee.

THIS IS A 12 MONTH CONTRACT.

FIRM PRICES ARE TO BE SUBMITTED FOR THE FIRST TWELVE (12) MONTH PERIOD

**4. QUANTITIES**

The quantities listed herein are estimates for the period of the Contract. The City reserves the right to purchase more or less of these quantities as may be required during the Contract term. Quantities will be as needed and specified by the City for each order. Unless specified in the solicitation, there are no minimum order quantities.

**5. INVOICES and PAYMENT** (reference paragraphs 12 and 13 in Section 0300)

- A. Invoices shall contain a non-duplicated invoice number and the information required in Section 0300, paragraph 12, entitled "Invoices." Invoices received without all required information cannot be processed and will be returned to the vendor.

Invoices shall be mailed to the below address:

	City of Austin
Department	EGRSO
Attn:	Kevin Shaw
Address	PO Box 1088
City, State Zip Code	Austin, Texas 78767

- B. The Contractor agrees to accept payment by either credit card, check or Electronic Funds Transfer (EFT) for all goods and/or services provided under the Contract. The Contractor shall factor the cost of processing credit card payments into the Offer. There shall be no additional charges, surcharges, or penalties to the City for payments made by credit card.

**6. HAZARDOUS MATERIALS**

- A. If this Solicitation involves hazardous materials, the Offeror shall furnish with the Offer Material Safety Data Sheets (MSDS), (OSHA Form 20), on all chemicals and hazardous materials specifying the generic and trade name of product, product specification, and full hazard information including receiving and storage hazards. Instructions, special equipment



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needed for handling, information on approved containers, and instructions for the disposal of the material are also required.

- B. Failure to submit the MSDS as part of the Offer may subject the Offer to disqualification from consideration for award.
- C. The MSDS, instructions and information required in paragraph "a " must be included with each shipment under the contract.

**7. LIVING WAGES AND BENEFITS (applicable to procurements involving the use of labor)**

- A. In order to help assure low employee turnover, quality services, and to reduce costs for health care provided to uninsured citizens, the Austin City Council is committed to ensuring fair compensation for City employees and those persons employed elsewhere in Austin. This commitment has been supported by actions to establish a "living wage" and affordable health care protection. Currently, the minimum wage for City employees is \$11.00 per hour. This minimum wage is required for any Contractor employee directly assigned to this City Contract, unless Published Wage Rates are included in this solicitation. In addition, the City may stipulate higher wage rates in certain solicitations in order to assure quality and continuity of service.
- B. Additionally, the City provides health insurance for its employees, and for a nominal rate, employees may obtain coverage for their family members. Contractors must offer health insurance with optional family coverage for all Contractor employees directly assigned to this contract. Proof of the health care plan shall be provided prior to award of a Contract. In addition, an insurance certificate for Workers' Compensation Insurance Coverage must be provided if required by the solicitation.
- C. The City requires Contractors submitting Offers on this Contract to provide a signed certification (**see the Living Wages and Benefits Contractor Certification included in the Solicitation**) with their Offer certifying that all employees directly assigned to this City Contract will be paid a minimum living wage equal to or greater than \$11.00 per hour and are offered a health care plan. The certification shall include a list of all employees directly assigned to providing services under the resultant contract including their name and job title. The list shall be updated and provided to the City as necessary throughout the term of the Contract.
- D. The Contractor shall maintain throughout the term of the resultant contract basic employment and wage information for each employee as required by the Fair Labor Standards Act (FLSA). Basic employment records shall at a minimum include:
  - i. employee's full name, as used for social security purposes, and on the same record, the employee's identifying symbol or number if such is used in place of name on any time, work, or payroll records;
  - ii. time and date of week when employee's workweek begins;
  - iii. hours worked each day and total hours worked each workweek;
  - iv. basis on which employee's wages are paid;
  - v. regular hourly pay rate;
  - vi. total daily or weekly straight-time earnings;
  - vii. total overtime earnings for the workweek;
  - viii. all additions to or deductions from the employee's wages;
  - ix. total wages paid each pay period; and
  - x. date of payment and the pay period covered by the payment.

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- E. The Contractor shall provide with the first invoice and as requested by the Department's Contract Manager, individual Employee Certifications (**see the Living Wages and Benefits Employee Certification included in the Solicitation**) for all employees directly assigned to the contract containing:
- i. the employee's name and job title;
  - ii. a statement certifying that the employee is paid at a rate equal to or greater than the Living Wage of \$11.00 per hour;
  - iii. a statement certifying that the employee is offered a health care plan with optional family coverage.

Employee Certifications shall be signed by each employee directly assigned to the contract.

- A. Contractor shall submit employee certifications quarterly with the respective invoice to verify that employees are paid the Living Wage throughout the term of the contract.
- G. The Department's Contract Manager will periodically review the employee data submitted by the Contractor to verify compliance with this Living Wage provision. The City retains the right to review employee records identified in paragraph D above to verify compliance with this provision.

**8. NON-COLLUSION, NON-CONFLICT OF INTEREST, AND ANTI-LOBBYING**

- A. The Austin City Council adopted Ordinance No. 20071206-045 on December 6, 2007, adding a new Article 6 to Chapter 2-7 of the City Code relating to Anti-Lobbying and Procurement. The policy defined in this Code applies to Solicitations for goods and/or services exceeding \$5,000. During the No-Contact Period, Offerors or potential Offerors are prohibited from making a representation to anyone other than the person designated in the Solicitation as the contact for questions and comments regarding the Solicitation.
- B. If during the No-Contact Period an Offeror makes a representation to anyone other than the Authorized Contact Person for the Solicitation, the Offeror's Offer is disqualified from further consideration except as permitted in the Ordinance.
- C. The City requires Offerors submitting Offers on this Solicitation to provide a signed affidavit certifying that the Offeror has not in any way directly or indirectly made representations to anyone other than the Authorized Contact Person during the No-Contact Period as defined in the Ordinance (**see the Non-Collusion, Non-Conflict of Interest, and Anti-Lobbying Affidavit included in the Solicitation**).

**9. CONTRACT MANAGER**

The following person is designated as Contract Manager, and will act as the contact point between the City and the Contractor during the term of the Contract:

Kevin Shaw

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EGRSO

---

974-9316

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\*Note: The above listed Contract Manager is not the authorized Contact Person for purposes of the **NON-COLLUSION, NON-CONFLICT OF INTEREST, AND ANTI-LOBBYING Provision** of this



**CITY OF AUSTIN  
PURCHASING OFFICE  
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Section; and therefore, contact with the Contract Manager is prohibited during the no contact period.

**CITY OF AUSTIN, TEXAS**

**SCOPE OF SERVICES**

**FOR**

**FIREWORKS DISPLAY FOR AUSTIN'S NEW YEAR**

**Introduction:**

The City of Austin is seeking bids for a Fireworks Display for its New Year's Eve celebration, Austin's New Year, in accordance with the Scope of Services contained in this solicitation.

**Scope of Services:**

FIREWORKS FOR AUSTIN'S NEW YEAR

**Date/Time of event:** December 31, at 10:15 PM.

**Event Location:** Auditorium Shores, Austin, TX 78701

**Staging and Firing Locations:** Barge on Lady Bird Lake, next to Auditorium Shores and / or on a land mass just North and West of Auditorium Shores

**Set-up Time:** December 31, after 8:00 AM

**Budget:** Not to exceed \$16,000 in addition to no City of Austin fees

**1.0 APPLICABLE SPECIFICATIONS**

- A. The services provided under this agreement must comply with all applicable State of Texas requirements as outlined in Article 5.43-4 Insurance Code and Firework rules. This booklet is available from the Texas State Fire Marshal's Office. (<http://www.tdi.state.tx.us/fire/>)

**2.0 PERFORMANCE REQUIREMENTS**

- A. Provide all labor, transportation, equipment and supervision necessary to set-up and implement a 12 minute fireworks display including a 1 minute finale.
- B. Viewing audience will be on Auditorium Shores as well as the South 1<sup>st</sup> Street Bridge.



- C. To ensure the safety of the contractor's crew as well as that of the general public, the contractor will have to provide approximately 1,800 feet of standard temporary metallic fencing surrounding the staging area to direct the public away from the staging and firing areas. Please see the attached maps "Fireworks – Fencing and Staging". Orange lines indicate the fence line. Snow fencing is not acceptable. Austin police Department will be present to secure the east and west fence line. The contractor will have to be vigilant for anyone who may be trespassing on the site.
- D. Work with City of Austin Fire Department and Police Department personnel on site and follow their instructions.
- E. Staging will take place on a land mass just Northwest of Auditorium Shores and / or a barge attached to the land mass. Barge will be provided by the City of Austin and is a wooden dock approximately 6' wide by 25' to 30' long by 1' high. Barge can be pulled out into the middle of the Ladybird Lake by the City of Austin. The land mass will be closed off to pedestrian traffic through the mandatory fencing.
- F. Caesar Chavez from South 1st Street to Mopac will be closed approximately one hour before to fireworks show begins to 1 hour after the fireworks show ends. These closures may be extended at APD discretion.
- G. Fallout area directly North and West of the staging site is acceptable. Caesar Chavez from South 1<sup>st</sup> Street to Mopac will be closed to help mitigate fallout.
- H. Be responsible for ensuring that all assistants are trained in the performance of their assigned tasks and that they are educated with regard to safety.
- I. Provide all labor and material necessary to dismantle display and to clear site of all debris caused by show.
- J. The City reserves the right to cancel the firework show in any given year upon a (30) day notice.

### 3.0 **VENDOR REQUIREMENTS**

- A. Designate a Single Point of Contact who will meet and continue to work with City of Austin New Year's Eve Coordinator and City Department personnel from Austin Fire Department (AFD), Parks and Recreation

Department (PARD), Emergency Medical Service (EMS), Transportation and Austin Police Department (APD) prior to event to discuss and approve site selection, regulations and fireworks display.

- B. Obtain a City of Austin Permit from the City of Austin Fire Department (vendor not responsible for permitting fee). The following forms must be submitted to AFD no later than 10 days before the event.
  - i. A site plan of the grounds where the display is to be held must be submitted and approved by AFD Emergency Prevention.
  - ii. A copy of a pyrotechnic operator license issued by a State Fire Marshal's Office submitted with the bid.
  - iii. A list of the fireworks to be used along with an MSDS for each.
  - iv. The \$50 permit fee and permit application form from the Austin Fire Department will be waived by the City of Austin.
  - v. A public display permit must be obtained from the State Fire Marshal's Office if conducting and 1.3G display. 1.4G displays do not need a State permit.
- C. Submit copies of all permits and permitting paperwork to the City of Austin New Year's Eve Coordinator by no later than 5 days before the event.

#### 4.0 **BID SUBMITTAL**

It is important to understand that all responses should be submitted in the following format. Responses that do not follow the format listed below may be considered incomplete and non-responsive and the response may be rejected.

- A. Submit one original, plus 3 (three) copies of your response.

#### 5.0 **RESPONSE FORMAT**

- A. Name of Company
- B. Brief Company History
- C. Proposed Fireworks Display Package to include but not be limited to the following information:
  - i. Objectives and length of the display



- ii. The size, type, brand, and quantity of each shell fired of proposed display.
- iii. Designation on whether this is a 1.4G or a 1.3G display
- iv. Designation of the firing locations: Land Mass and / or Barge and how each location would be used
- v. Total number of total shells fired
- vi. Explanation of artistic impression
- vii. Firing method and plat plan of proposed plan
- viii. Contingency plan for inclement weather

D. References

Vendor should provide a minimum of five (5) current references for same or similar services as outlined in this proposal document. Please provide the following information for each reference.

- ix. Company Name
- x. Contact Name
- xi. Company Address
- xii. Contact Phone Number
- xiii. Contract Date

E. Experience

5 years experience working for large scale events with over 10,000 attendees is required. Enclose a document that outlines this experience. Describe past large scale firework displays that your company has produced. Include photos, lengths, attendance estimates and sizes of these displays.

F. Additional Forms

- i. Photocopy of Bidder's Pyrotechnic Operator's License from the Texas Commission on Fire Protection

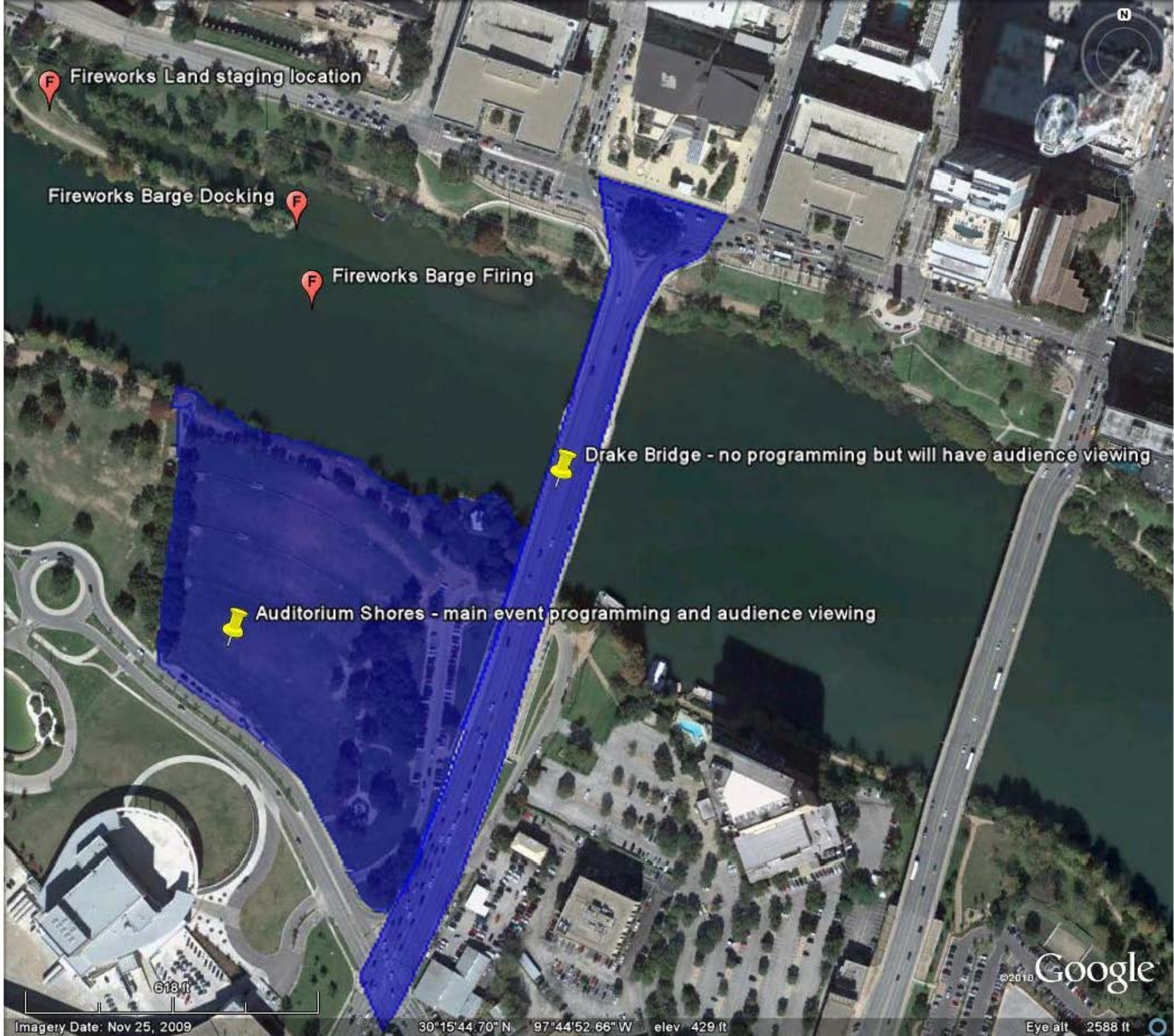
**6.0 EVALUATION CRITERIA**

All bids will be evaluated based on the following criteria and ranking:  
Possible 100 points.

A. Experience	15 points
B. References	5 points
C. Display Package	30 points
D. Cost	50 points

Interviews

Interviews may be conducted at the discretion of the City with an additional maximum of 25 points.



Fireworks Land staging location



Fireworks Barge Docking



Fireworks Barge Firing



Drake Bridge - no programming but will have audience viewing



Auditorium Shores - main event programming and audience viewing

©2010 Google





APD

Fireworks Land staging and firing location

F

Fireworks Barge Staging  
©2010 Google

227 ft

Imagery Date: Nov 25, 2009

30°15'54.24" N 97°45'04.64" W elev 429 ft

Eye alt 1215 ft





Fireworks Barge Staging

Fireworks Barge Firing

APD

227 ft

Imagery Date: Nov 25, 2009

30°15'51.13" N 97°44'57.01" W elev 431 ft

Eye alt 1215 ft

©2010 Google







**CITY OF AUSTIN  
BID SHEET  
FIREWORKS DISPLAY FOR NEW YEAR'S EVE CELEBRATION**

<b>BID NO.</b>	BKH0122
<b>RX NO.</b>	RQS 5500 10100100008
<b>CLOSING DATE &amp; TIME:</b>	09/14/11 @ 9:00 am
<b>BUYER:</b>	Brenda Helgren

Item	Description			Total Cost	
	<b>EVALUATION CRITERIA FOR COST (50 POINTS)</b>				
1.0	TOTAL COST IN ACCORDANCE WITH SCOPE OF WORK, 0500.			\$	
2.0	<b>EXPERIENCE (15 points)</b>				
3.0	<b>REFERENCES (5 POINTS)</b>				
4.0	<b>DISPLAY PACKAGE ( 30 POINTS)</b>				

**INTERVIEWS, OPTIONAL:** Interviews may be conducted at the discretion of the City. Maximum 25 points.

<b>For Informational Purposes Only</b>	<b>CANCELLATION COSTS IF NOTIFIED WITHIN 7 DAYS</b>	\$
	<b>CANCELLATION COSTS IF CANCELLED ON DAY OF THE SHOW</b>	\$

COMPANY NAME: \_\_\_\_\_

SIGNATURE OF AUTHORIZED REPRESENTATIVE: \_\_\_\_\_

PRINTED NAME: \_\_\_\_\_

EMAIL ADDRESS: \_\_\_\_\_

**CITY OF AUSTIN  
PURCHASING OFFICE  
REFERENCE SHEET**  
**Please Complete and Return This Form with the Offer**

**SOLICITATION NUMBER:** BKH0122

**OFFEROR'S NAME:** \_\_\_\_\_ **DATE:** \_\_\_\_\_

The Offeror shall furnish, with the Offer, the following information, for at least insert # recent customers to whom products and/or services have been provided that are similar to those required by this Solicitation.

1. Company's Name \_\_\_\_\_  
Name and Title of Contact \_\_\_\_\_  
Present Address \_\_\_\_\_  
City, State, Zip Code \_\_\_\_\_  
Telephone Number (       ) Fax Number (       )  
Email Address \_\_\_\_\_
2. Company's Name \_\_\_\_\_  
Name and Title of Contact \_\_\_\_\_  
Present Address \_\_\_\_\_  
City, State, Zip Code \_\_\_\_\_  
Telephone Number (       ) Fax Number (       )  
Email Address \_\_\_\_\_
3. Company's Name \_\_\_\_\_  
Name and Title of Contact \_\_\_\_\_  
Present Address \_\_\_\_\_  
City, State, Zip Code \_\_\_\_\_  
Telephone Number (       ) Fax Number (       )  
Email Address \_\_\_\_\_
4. Company's Name \_\_\_\_\_  
Name and Title of Contact \_\_\_\_\_  
Present Address \_\_\_\_\_  
City, State, Zip Code \_\_\_\_\_  
Telephone Number (       ) Fax Number (       )  
Email Address \_\_\_\_\_
5. Company's Name \_\_\_\_\_  
Name and Title of Contact \_\_\_\_\_  
Present Address \_\_\_\_\_  
City, State, Zip Code \_\_\_\_\_  
Telephone Number (       ) Fax Number (       )  
Email Address \_\_\_\_\_



**City of Austin, Texas**  
**EQUAL EMPLOYMENT/FAIR HOUSING OFFICE**  
**NON-DISCRIMINATION CERTIFICATION**  
**SOLICITATION NO. BKH0122**

**City of Austin, Texas**  
**Human Rights Commission**

To: City of Austin, Texas, ("OWNER")

I hereby certify that our firm conforms to the Code of the City of Austin, Section 5-4-2 as reiterated below:

Chapter 5-4. Discrimination in Employment by City Contractors.

**Sec. 4-2 Discriminatory Employment Practices Prohibited.** As an Equal Employment Opportunity (EEO) employer, the Contractor will conduct its personnel activities in accordance with established federal, state and local EEO laws and regulations and agrees:

- (B) (1) Not to engage in any discriminatory employment practice defined in this chapter.
- (2) To take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without discrimination being practiced against them as defined in this chapter. Such affirmative action shall include, but not be limited to: all aspects of employment, including hiring, placement, upgrading, transfer, demotion, recruitment, recruitment advertising; selection for training and apprenticeship, rates of pay or other form of compensation, and layoff or termination.
- (3) To post in conspicuous places, available to employees and applicants for employment, notices to be provided by OWNER setting forth the provisions of this chapter.
- (4) To state in all solicitations or advertisements for employees placed by or on behalf of the Contractor, that all qualified applicants will receive consideration for employment without regard to race, creed, color, religion, national origin, sexual orientation, gender identity, disability, veteran status, sex or age.
- (5) To obtain a written statement from any labor union or labor organization furnishing labor or service to Contractors in which said union or organization has agreed not to engage in any discriminatory employment practices as defined in this chapter and to take affirmative action to implement policies and provisions of this chapter.
- (6) To cooperate fully with OWNER's Human Rights Commission in connection with any investigation or conciliation effort of said Human Rights Commission to ensure that the purpose of the provisions against discriminatory employment practices are being carried out.
- (7) To require compliance with provisions of this chapter by all subcontractors having fifteen or more employees who hold any subcontract providing for the expenditure of \$2,000 or more in connection with any contract with OWNER subject to the terms of this chapter.

For the purposes of this Offer and any resulting Contract, Contractor adopts the provisions of the City's Minimum Standard Nondiscrimination Policy set forth below.

**City of Austin**  
**Minimum Standard Non-Discrimination in Employment Policy:**

*As an Equal Employment Opportunity (EEO) employer, the Contractor will conduct its personnel activities in accordance with established federal, state and local EEO laws and regulations.*

*The Contractor will not discriminate against any applicant or employee based on race, creed, color, national origin, sex, age, religion, veteran status, gender identity, disability, or sexual orientation. This policy covers all aspects of employment, including hiring, placement, upgrading, transfer, demotion, recruitment, recruitment advertising, selection for training and apprenticeship, rates of pay or other forms of compensation, and layoff or termination.*

*Further, employees who experience discrimination, sexual harassment, or another form of harassment should immediately report it to their supervisor. If this is not a suitable avenue for addressing their complaint, employees are advised to contact another member of management or their human resources representative. No employee shall be discriminated against, harassed, intimidated, nor suffer any reprisal as a result of reporting a violation of this policy. Furthermore, any employee, supervisor, or manager who becomes aware of any such discrimination or harassment should immediately report it to executive management or the human resources office to ensure that such conduct does not continue.*

*Contractor agrees that to the extent of any inconsistency, omission, or conflict with its current non-discrimination employment policy, the Contractor has expressly adopted the provisions of the City's Minimum Non-Discrimination Policy contained in Section 5-4-2 of the City Code and set forth above, as the Contractor's Non-Discrimination Policy or as an amendment to such Policy and such provisions are intended to not only supplement the Contractor's policy, but will also supersede the Contractor's policy to the extent of any conflict.*

UPON CONTRACT AWARD, THE CONTRACTOR SHALL PROVIDE A COPY TO THE CITY OF THE CONTRACTOR'S NON-DISCRIMINATION POLICY ON COMPANY LETTERHEAD, WHICH CONFORMS IN FORM, SCOPE, AND CONTENT TO THE CITY'S MINIMUM NON-DISCRIMINATION POLICY, AS SET FORTH HEREIN, **OR** THIS NON-DISCRIMINATION POLICY, WHICH HAS BEEN ADOPTED BY THE CONTRACTOR FOR ALL PURPOSES (THE FORM OF WHICH HAS BEEN APPROVED BY THE CITY'S EQUAL EMPLOYMENT/FAIR HOUSING OFFICE), WILL BE CONSIDERED THE CONTRACTOR'S NON-DISCRIMINATION POLICY WITHOUT THE REQUIREMENT OF A SEPARATE SUBMITTAL.

**Sanctions:**

Our firm understands that non-compliance with Chapter 5-4 may result in sanctions, including termination of the contract and suspension or debarment from participation in future City contracts until deemed compliant with the requirements of Chapter 5-4.

**Term:**

The Contractor agrees that this Section 0800 Non-Discrimination Certificate or the Contractor's separate conforming policy, which the Contractor has executed and filed with the Owner, will remain in force and effect for one year from the date of filing. The Contractor further agrees that, in consideration of the receipt of continued Contract payments, the Contractor's Non-Discrimination Policy will automatically renew from year-to-year for the term of the underlying Contract.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

CONTRACTOR \_\_\_\_\_

Authorized Signature \_\_\_\_\_

Title \_\_\_\_\_



**City of Austin, Texas**  
**NON-SUSPENSION OR DEBARMENT CERTIFICATION**  
**SOLICITATION NO. BKH0122**

The City of Austin is prohibited from contracting with or making prime or sub-awards to parties that are suspended or debarred or whose principals are suspended or debarred from Federal, State, or City of Austin Contracts. Covered transactions include procurement contracts for goods or services equal to or in excess of \$25,000.00 and all non-procurement transactions. This certification is required for all Vendors on all City of Austin Contracts to be awarded and all contract extensions with values equal to or in excess of \$25,000.00 or more and all non-procurement transactions.

The Offeror hereby certifies that its firm and its principals are not currently suspended or debarred from bidding on any Federal, State, or City of Austin Contracts.

Contractor's Name:

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Signature of Officer  
or Authorized  
Representative:

Date:

---

Printed Name:

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Title

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**CITY OF AUSTIN, TEXAS**  
**LIVING WAGES AND BENEFITS CONTRACTOR CERTIFICATION**  
*(Please duplicate as needed)*

**SOLICITATION NO. BKH0122**

Pursuant to the Living Wages and Benefits provision (reference Section 0400, Supplemental Purchase Provisions) the Contractor is required to pay to all employees directly assigned to this City contract a minimum Living Wage equal to or greater than \$11.00 per hour.

I hereby certify under penalty of perjury that all of the below listed employees of the Contractor who are directly assigned to this contract:

- (1) are compensated at wage rates equal to or greater than \$11.00 per hour; and
- (2) are offered a health care plan with optional family coverage.

Employee Name	Employee Job Title

- (3) all future employees assigned to this Contract will be paid a minimum Living Wage equal to or greater than \$11.00 per hour and offered a health care plan with optional family coverage.

- (4) Our firm will not retaliate against any employee claiming non-compliance with the Living Wage provision.

A Contractor who violates this Living Wage provision shall pay each employee affected the amount of the deficiency for each day the violation continues. Willful or repeated violations of the provision may result in termination of this Contract for Cause and subject the firm to possible suspension or debarment.

Contractor's Name: \_\_\_\_\_

Signature of Officer  
or Authorized  
Representative: \_\_\_\_\_

Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title \_\_\_\_\_

**CITY OF AUSTIN, TEXAS  
LIVING WAGES AND BENEFITS EMPLOYEE CERTIFICATION**

Contract Number: BKH0122	Description of Services: Fireworks Display for Austin's New Year
Contractor Name: Insert Contractor's Name	

Pursuant to the Living Wages and Benefits provision of the contract (reference Section 0400, Supplemental Purchase Provisions), the Contractor is required to pay to all employees directly assigned to this City contract a minimum Living Wage equal to or greater than \$11.00 per hour. In addition, employees are required to certify that they are compensated in accordance with the Living Wage provision. Contractors are prohibited from retaliating against any employee claiming non-compliance with the Living Wage provision.

I hereby certify under penalty of perjury that I am directly assigned to this contract and that I am:

- (1) compensated at wage rates equal to or greater than \$11.00 per hour; and
- (2) offered a health care plan with optional family coverage.

Employee's Title: Insert Employee's Title	
Signature of Employee	Date
Type or Print Name Insert Employee's Name	

\_\_\_\_\_  
(Witness Signature)

\_\_\_\_\_  
(Printed Name)



**City of Austin, Texas**  
**NONRESIDENT BIDDER PROVISIONS**  
**SOLICITATION NO. BKH0122**

- A. Bidder must answer the following questions in accordance with Vernon's Texas Statutes and Codes Annotated Government Code 2252.002, as amended:

Is the Bidder that is making and submitting this Bid a "Resident Bidder" or a "Non-resident Bidder"?

Answer: \_\_\_\_\_

(1) Texas Resident Bidder – A Bidder whose principal place of business is in Texas and includes a Contractor whose ultimate parent company or majority owner has its principal place of business in Texas.

(2) Nonresident Bidder – A Bidder who is not a Texas Resident Bidder.

- B. If the Bidder is a "Nonresident Bidder" does the state, in which the Nonresident Bidder's principal place of business is located, have a law requiring a Nonresident Bidder of that state to bid a certain amount or percentage under the Bid of a Resident Bidder of that state in order for the nonresident Bidder of that state to be awarded a Contract on such bid in said state.

Answer: \_\_\_\_\_ Which State: \_\_\_\_\_

- C. If the answer to Question B is "yes", then what amount or percentage must a Texas Resident Bidder bid under the bid price of a Resident Bidder of that state in order to be awarded a Contract on such bid in said state?

Answer: \_\_\_\_\_

Bidder's Name: \_\_\_\_\_

Signature of Officer or  
Authorized  
Representative: \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title \_\_\_\_\_

**MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISE (MBE/WBE)  
PROCUREMENT PROGRAM  
NO GOALS FORM**

<b>SOLICITATION NUMBER:</b>	<b>BKH0122</b>
<b>PROJECT NAME:</b>	<b>Fireworks Display for Austin's New Year</b>

**The City of Austin has determined that no goals are appropriate for this project.** Even though no goals have been established for this solicitation, the Bidder/Proposer is required to comply with the City's MBE/WBE Procurement Program, if areas of subcontracting are identified.

If any service is needed to perform the Contract and the Bidder/Proposer does not perform the service with its own workforce or if supplies or materials are required and the Bidder/Proposer does not have the supplies or materials in its inventory, the Bidder/Proposer shall contact the Small and Minority Business Resources Department (SMBR) at (512) 974-7600 to obtain a list of MBE and WBE firms available to perform the service or provide the supplies or materials. The Bidder/Proposer must also make a Good Faith Effort to use available MBE and WBE firms. Good Faith Efforts include but are not limited to contacting the listed MBE and WBE firms to solicit their interest in performing on the Contract; using MBE and WBE firms that have shown an interest, meet qualifications, and are competitive in the market; and documenting the results of the contacts.

**Will subcontractors or sub-consultants or suppliers be used to perform portions of this Contract?**

**No \_\_\_\_\_** If no, please sign the No Goals Form and submit it with your Bid/Proposal in a sealed envelope.

**Yes \_\_\_\_\_** If yes, please contact SMBR to obtain further instructions and an availability list and perform Good Faith Efforts. Complete and submit the No Goals Form and the No Goals Utilization Plan with your Bid/Proposal in a sealed envelope.

After Contract award, if your firm subcontracts any portion of the Contract, it is a requirement to complete Good Faith Efforts and the No Goals Utilization Plan, listing any subcontractor, subconsultant, or supplier. Return the completed Plan to the Project Manager or the Contract Manager.

I understand that even though no goals have been established, I must comply with the City's MBE/WBE Procurement Program if subcontracting areas are identified. I agree that this No Goals Form and No Goals Utilization Plan shall become a part of my Contract with the City of Austin.

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Name and Title of Authorized Representative (Print or Type)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISE (MBE/WBE)  
PROCUREMENT PROGRAM  
NO GOALS UTILIZATION PLAN**  
*(Please duplicate as needed)*

SOLICITATION NUMBER:	BKH0122
PROJECT NAME:	Fireworks Display for Austin's New Year

**PRIME CONTRACTOR/CONSULTANT COMPANY INFORMATION**

Name of Contractor/Consultant			
Address			
City, State Zip			
Phone		Fax Number	
Name of Contact Person			
Is company City certified?	Yes <input type="checkbox"/> No <input type="checkbox"/>	MBE <input type="checkbox"/> WBE <input type="checkbox"/>	MBE/WBE Joint Venture <input type="checkbox"/>

I certify that the information included in this No Goals Utilization Plan is true and complete to the best of my knowledge and belief. I further understand and agree that the information in this document shall become part of my Contract with the City of Austin.

\_\_\_\_\_  
**Name and Title of Authorized Representative (Print or Type)**

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Date**

Provide a list of all proposed subcontractors/subconsultants/suppliers that will be used in the performance of this Contract. **Attach Good Faith Efforts documentation if non MBE/WBE firms will be used.**

<b>Sub-Contractor/Consultant</b>			
City of Austin Certified	MBE <input type="checkbox"/> WBE <input type="checkbox"/>	Ethnic/Gender Code:	<input type="checkbox"/> NON-CERTIFIED
Vendor ID Code			
Contact Person	Phone Number:		
Amount of Subcontract	\$		
List commodity codes & description of services			

<b>Sub-Contractor/Consultant</b>			
City of Austin Certified	MBE <input type="checkbox"/> WBE <input type="checkbox"/>	Ethnic/Gender Code:	<input type="checkbox"/> NON-CERTIFIED
Vendor ID Code			
Contact Person	Phone Number:		
Amount of Subcontract	\$		
List commodity codes & description of services			

**FOR SMALL AND MINORITY BUSINESS RESOURCES DEPARTMENT USE ONLY:**

Having reviewed this plan, I acknowledge that the proposer (HAS) or (HAS NOT) complied with City Code Chapter 2-9A/B/C/D, as amended.

**Reviewing Counselor** \_\_\_\_\_ **Date** \_\_\_\_\_ **Director/Deputy Director** \_\_\_\_\_ **Date** \_\_\_\_\_



**CITY OF AUSTIN  
PURCHASING OFFICE  
"NO OFFER" REPLY FORM**

**SOLICITATION NUMBER:** BKH0122

**Please Complete and Return This Form to the following address to Indicate a "No Offer" Reply**

City of Austin  
Purchasing Office  
P.O. Box 1088  
Austin, Texas 78767-8845

**(DO NOT RETURN ALONG WITH OFFER)**

Please check the appropriate box to indicate why your firm is submitting a "no offer" response. Failure to respond to three (3) consecutive solicitations may result in your company being removed from the source list for this commodity or service. Completion of this form will assist us in maintaining an accurate, up-to-date source list.

**COMMODITY CODE:** 96236

**DESCRIPTION:** Fireworks Display for Austin's New Year

- ☐ Unable to supply item(s) specified. Remove my company from the source list for the Commodity / Service Group
- ☐ Unable to supply item(s) specified. Retain my company on the vendor list for this commodity / service.
- ☐ Cannot meet the Scope of Work / Specifications.
- ☐ Cannot provide required Insurance.
- ☐ Cannot provide required Bonding.
- ☐ Job too small.
- ☐ Job too large.
- ☐ Do not wish to do business with the City. Remove my company from the City's Vendor list.
- ☐ Other reason (please state why you will not submit a bid):

\_\_\_\_\_  
\_\_\_\_\_

Contractor's Name:

Street Address

City, State, Zip Code

Signature of Officer or  
Authorized

Representative:

Date:

Printed Name:

Title



INVITATION FOR BID-BEST VALUE  
PURCHASING OFFICE  
CITY OF AUSTIN, TEXAS

DESCRIPTION: FIREWORKS DISPLAY-AUSTIN'S NEW YEAR  
IFB-BV NO. BKH0122 ADDENDUM NO. 1 DATE OF ADDENDUM 09/01/11

This Invitation for Bid-Best Value is hereby amended to incorporate the following:

1. The written questions received and the answers thereto are listed below.

Q. Is actual fencing required or is taping off of the area and patrolling sufficient?

**A. Standard metallic fencing is required. Snow fencing and taping is not acceptable. Patrolling of the area will be done by APD though fireworks staff should practice due diligence for any trespassers.**

Q. Inclement weather-Does the City of Austin not want to have the performance in the rain?

**A. The decision to cancel the fireworks display due to inclement weather by the City of Austin will depend on many different factors including the severity of weather and any potential risk to vendor, City staff or public safety.**

Q. 12 minute show-Last year's requirement was a 20-minute show. Can the vendor propose a show that is longer than the 12 minutes stated in the Scope of Work?

**A. Yes**

Q. What is the City's "dream show"?

**A. Vendor should present their best show for the budgeted amount.**

Q. Section 0810 is missing from the solicitation document.

**A. Section 0810 has been attached to this Addendum.**

Q. Can videos be submitted?

**A. CDs may be submitted of previous shows .**

2. All other terms and conditions shall remain the same.

APPROVED BY: \_\_\_\_\_

Brenda Helgren, (512) 974-9141 Purchasing Office, Finance and  
Administrative Services Department

ACKNOWLEDGED BY:

BIDDER	AUTHORIZED SIGNATURE	DATE
--------	----------------------	------

RETURN ONE (1) COPY TO PURCHASING OFFICE, CITY OF AUSTIN,  
PRIOR TO CLOSING DATE OR WITH YOUR BID; FAILURE TO DO SO  
MAY CONSTITUTE GROUNDS FOR REJECTION OF YOUR BID.



**REQUISITION**

RQS CITY MULTI

**PAGE NO:** 1**REFERENCE NUMBER:** RQM 5500 11081600532**P.O DATE:****V  
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O**SEE COMMODITY LINE FOR  
SHIP TO INFORMATION**Requestor:** Davetta Martinez, 974-9317**Buyer:**

THE CITY'S STANDARD PURCHASE TERMS AND CONDITIONS (T & Cs) ARE HEREBY INCORPORATED INTO THIS PURCHASE ORDER (PO) BY REFERENCE, WITH THE SAME FORCE AND EFFECT AS IF THEY WERE INCORPORATED IN FULL TEXT. THE FULL TEXT VERSIONS OF THE T&Cs ARE AVAILABLE AT <http://www.ci.austin.tx.us/purchase/standard.htm> OR CALL THE PURCHASING OFFICE AT (512) 974-2500. PLEASE INCLUDE ABOVE REFERENCE NUMBER ON ALL PACKAGES, DELIVERIES AND INVOICES.

Line	Quantity	Unit	Commodity Information / Description (s)	Unit Price	Extended Amount
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1

**Commodity:** 96236 2011 New Year's Eve

\$ .00

\$ 18,000.00

**Ship To:** Economic Growth & Redevpmnt  
301 W. 2ND ST., 2ND FLOOR

Austin TX 78701-3906

**Order Total: \$** 18,000.00**VENDOR INSTRUCTIONS:**

1. SEND ORIGINAL INVOICE WITH DUPLICATE COPY TO THE CITY DEPARTMENT TO WHICH THE GOOD(S) WERE DELIVERED.
2. SHIPPING INSTRUCTIONS: F.O.B. DESTINATION UNLESS OTHERWISE SPECIFIED.
3. NO FEDERAL OR STATE SALES TAX SHALL BE INCLUDED IN PRICES BILLED. LIMITED SALES TAX #74-6000085.

**Authorized Agent for City Manager**

By acceptance of this purchase order, you agree to comply with the terms and conditions incorporated herein by reference and made a part of this order.

**Date**