

Agenda Item: Discuss and Consider Award of Contract for 2017 July 4th Fireworks Display to Sky Wonder Pyrotechnics in the budgeted amount of \$22,000.

Background: For the past several years, the Park Board has contracted a professional fireworks provider to produce the annual July 4th fireworks display for Galveston.

Staff conducted a sealed bid for this process and sent it to all three vendors that bid on the 2016 July Fourth fireworks. Staff ran the bid for two weeks and received one sealed bid and one letter declining the ability to bid the job.

Sky Wonder Pyrotechnics submitted a bid to provide 1778 shells for \$22,000.

The remaining companies solicited either did not respond or declined to bid due to lack of personnel.

Staff Recommendation:

Sky Wonder Pyrotechnics has provided the service for the 2015 and 2016 fireworks shows and have proven to be a safe and professional company. In addition, their bid for 2017 represents a better overall value of the package which includes 21 more shells.

Staff recommends approval of the bid submitted by Sky Wonder Pyrotechnics to provide 1,778 shells for \$22,000.

Funding Source:

Budget item – TD Special Projects budget (TD65-7000)

FIREWORKS DISPLAY AGREEMENT

THIS CONTRACT (this "Contract") is made this **14th day of March, 2017** by and between

SKY WONDER PYROTECHNICS, LLC and **GALVESTON PARK BOARD OF TRUSTEES** ("Sponsor").

1. Fireworks Display.

Sky Wonder Pyrotechnics shall furnish and deliver to Sponsor certain fireworks which Sky Wonder Pyrotechnics agrees to exhibit and display on **July 4, 2017 @ 9:15PM** in accordance with the program set forth and agreed upon at the time of the signing of this Contract, the specifics of which are set forth in this Contract.

2. Payment Schedule.

For and in consideration of the Fireworks Display, Sponsor agrees to pay Sky Wonder Pyrotechnics the sum of **\$22,000.00** (the —"Contract Price") paid as follows: a. **50% of the Contract Price due on or before May 1, 2017** b. the balance of the Contract Price due the day of the Fireworks Display. NOTE: A 6% penalty will incur for each month invoice is past due.

3. Display Responsibilities.

Sky Wonder Pyrotechnics and Sponsor will collaborate in the performance of all tasks relating to the Fireworks Display. These tasks include, but are not limited to, (i) Galveston Park Board shall procure and furnish a place suitable for the Fireworks Display (the —"Display Site"), (ii) Sky Wonder Pyrotechnics shall apply for, obtain and secure all permits, licenses and approvals required by all applicable local, state and federal laws and regulations as well as those required by any local police and fire departments for the Fireworks Display (collectively, the —"Required Approvals"), (iii) Galveston Park Board shall provide adequate private and/or public security, police and Sky Wonder Pyrotechnics shall provide fire protection upon contracting with the fire department; (iv) Galveston Park Board shall secure an acceptable location with private and/or public security personnel to park the Sky Wonder Pyrotechnics fireworks trailer overnight (or for such longer or shorter period as Sky Wonder Pyrotechnics may reasonably require in order to effectively provide the Fireworks Display), (v) Galveston Park Board shall secure adequate protection to preclude all individuals, other than those authorized by Sky Wonder Pyrotechnics, from entering the security area designated by Sky Wonder Pyrotechnics, (vi) Galveston Park Board shall keep unauthorized persons or personal or property of any kind, including, without limitation, motor vehicles, outside of the Display Site, fallout area or safe zone. Sky Wonder will be responsible for cleaning up the launch area after the show. Sky Wonder Pyrotechnics and Sponsor shall fulfill their responsibilities as set forth herein in accordance with all local, state and federal rules, laws, orders and regulations, including those of the National Fire Protection Association (NFPA).

4. Indemnification and Limitation of Liability.

Sky Wonder Pyrotechnics shall indemnify, defend and hold Sponsor harmless from any and all demands, claims, causes of action, judgments or liability (including, without limitation, the costs of suit and reasonable costs of experts and attorneys) arising from damage to or destruction of property (including, without limitation, real and personal) or bodily or personal injuries (including, without limitation, death), whether arising from tort, contract or otherwise, that occur directly or indirectly from negligence, gross negligence or willful misconduct of Sky Wonder Pyrotechnics or its employees, agents, contractors or representatives.

Sky Wonder Pyrotechnics, LLC
3626 CR 203, Liverpool, TX 77577
Email: sales@skywonderpyro.com
www.skywonderpyro.com



FIREWORKS DISPLAY AGREEMENT CONT.

5. Postponement.

In the event that weather is such that Sky Wonder Pyrotechnics, in its sole and absolute discretion, determines that the Fireworks Display would be impossible, impractical or would unnecessarily increase the risk of damage or danger to person and/or property, the parties agree to immediately hold a postponement meeting at which time an attempt to reschedule the Fireworks Display shall be discussed with a view toward reaching a mutually satisfactory postponement time and/or date within 180 days of the original date contracted. If the display is not rescheduled within 180 days, Sky Wonder Pyrotechnics will retain the full 50% deposit.

6. Cancellation.

If Sponsor cancels this Contract for any reason, liquidated damages for such cancellation shall be paid by Sponsor to Sky Wonder Pyrotechnics as follows: a. In the event the Fireworks Display is cancelled more than thirty (30) days before the date scheduled for the Fireworks Display, thirty-five percent (35%) of the amount of the Contract Price; b. In the event the Fireworks Display is cancelled no more than thirty (30) days and no less than four (4) days before the Contract, fifty percent (50%) of the Contract Price; c. If the Fireworks Display is cancelled no more than three (3) days but before the day scheduled for the Fireworks Display, seventy-five percent (75%) of the Contract Price; or d. On the day scheduled for the Fireworks Display, one hundred percent (100%) of the Contract Price.

In the event that Sponsor chooses to terminate this Contract, it shall do so by written notice via certified mail addressed to Sky Wonder Pyrotechnics, 3626 CR 203, Liverpool, TX 77577. Notice shall be effective upon receipt of said written notice by Sky Wonder Pyrotechnics. Except as provided in Section 5 above with respect to weather postponement, in the event of circumstances beyond the control of either party, such as fire, strikes, delay, acts of God or similar causes which prevent the delivery of materials or performances as set forth herein, the parties hereto release one another from any and all obligations and responsibilities contained herein.

7. Legal Construction.

If any provision of this contract is held to be illegal, invalid or otherwise unenforceable, then: (a) the same shall not affect other terms or provisions of this Contract; and (b) such term or provision shall be deemed modified to the extent necessary to render such term or provision enforceable and the rights and obligation of the parties shall be constructed and enforced accordingly, preserving to the fullest extent the intent and agreements of the parties set forth herein.

8. Entire Agreement.

This Contract constitutes the entire agreement between the parties hereto, and there are no other understandings, either oral or written, regarding to the subject matter hereof.

Sky Wonder Pyrotechnics, LLC
3626 CR 203, Liverpool, TX 77577
Email: sales@skywonderpyro.com
www.skywonderpyro.com



FIREWORKS DISPLAY AGREEMENT CONT.

Name of Client (s): Galveston Park Board of Trustees

Agent: Chris Saddler

Address: 601 Tremont, Galveston, Texas 77550

Telephone: 409-797-5182

Email: csaddler@galvestonparkboard.org

Date of Agreement: 03/14/2017

Date of Display: July 4, 2017

Time of Display: 9:15 PM

Time Length of Display: 20 - 25 minutes

Rain Date: July 5, 2017

Time of Rain Date Display: 9:15 PM

Type of Display(s): 1.3G Fireworks Display

Location of Display(s): 37th Street Rock Pier/jetty on the beach, Galveston, Texas

Agreed Price for Display(s): \$22,000.00

ALL CHECKS ARE PAYABLE TO SKY WONDER PYROTECHNICS

Remit to: Sky Wonder Pyrotechnics, LLC 3626 CR 203, Liverpool, TX 77577

Notes: Sky Wonder Pyrotechnics LLC agrees to provide a certificate of general liability insurance to the Sponsor in the amount of \$5,000,000.00. Those entities/individuals listed on the certificate of insurance shall be deemed an additional insured per this contract: **Galveston Park Board of Trustees, City of Galveston**

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed.

Aaron Hoot, Sky Wonder Pyrotechnics

Client: Galveston Park Board of Trustees

By: Aaron Hoot

By: _____

Aaron Hoot, President

Printed Name:

Date: 3/16/2017

Date: _____

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