

AGREEMENT FOR CONTRACTOR SERVICES

THIS AGREEMENT is made as of the ___ day of _____ in the year 2009, between The City of Leesburg, a Florida Municipal Corporation, whose address is 501 West Meadow Street, Post Office Box 490630, Leesburg, Florida 34749-0630 (hereinafter referred to as the "CITY"), and **LELA PARTIN, d/b/a DRAGONWORKS PROFESSIONAL FIREWORKS DISPLAYS UNLIMITED**, whose address is P.O. Box 1397, Homosassa Springs, Florida 34447 (hereinafter referred to as the "CONTRACTOR").

NOW, THEREFORE, in consideration of the mutual benefits accruing to the parties to this Agreement, and for other good and valuable considerations, the parties agree as follows:

1. Services. The CONTRACTOR shall perform the following services: **SEE EXHIBIT "A"**. Nothing herein shall limit the CITY's right to obtain proposals or services from other contractors for similar projects. The services shall be performed for a total price of \$15,000.00 per show. The cost of the services shall not exceed this amount unless the CITY has executed a written change order approving any increase in price.

2. Labor and Materials. All work will be done in a competent and workmanlike manner, using quality, new materials.

3. Insurance. The PROFESSIONAL will maintain throughout this Agreement the following insurance:

A. The original of each such policy of insurance, or a complete duplicate, shall be delivered to the CITY by CONTRACTOR prior to starting work, together with evidence that the premiums have been paid.

B. All required insurance shall be provided by insurers acceptable to the CITY with an A.M. Best rating of at least "A."

C. The CONTRACTOR shall require, and shall be responsible for assuring that any and all of its subcontractors secure and maintain such insurance that are required by law to be provided on behalf of their employees and others until the completion of that subcontractors work.

D. The required insurance shall be secured and maintained for not less than the limits required by the CITY, or as required by law, whichever is greater.

E. The required insurance shall not limit the liability of the CONTRACTOR. The CITY does not represent these coverages or amounts to be adequate or sufficient to protect the CONTRACTOR'S interests or liabilities, but are merely required minimums.

F. All liability insurance, except professional liability, shall be written on an occurrence basis.

G. The CONTRACTOR waives its right of recovery against the CITY to the extent permitted by its insurance policies.

H. Insurance required of the CONTRACTOR, or any other insurance of the CONTRACTOR shall be considered primary, and insurance of the CITY, if any, shall be considered excess as applicable to any claims, which arise out of the agreement, contract or lease.

I. Except for workers' compensation and professional liability, the CONTRACTOR'S insurance policies shall be endorsed to name the CITY OF LEESBURG as additional insured to the extent of the agreement, contract or lease.

J. The Certificate(s) of Insurance shall designate the CITY as certificate holder as follows:

**City of Leesburg
Attention: Mike Thornton, Purchasing Manager
P.O. Box 490630
Leesburg, Florida 34749-0630**

K. The Certificate(s) of Insurance shall include a reference to the project and/or purchase order number.

L. The Certificate(s) of Insurance shall indicate that the CITY shall be notified at least thirty (30) days in advance of cancellation.

M. The Certificate(s) of Insurance shall include all deductibles and/or self-insurance retentions for each line of insurance coverage.

N. The CONTRACTOR, at the discretion of the Risk manager for the CITY, shall provide information regarding the amount of claims payments or reserves chargeable to the aggregate amount of the CONTRACTOR'S liability coverage(s).

4. Indemnification. The CONTRACTOR agrees to make payment of all proper charges for labor required in the aforementioned work and CONTRACTOR shall indemnify CITY and hold it harmless from and against any loss or damage, claim or cause of action, and any attorneys' fees and court costs, arising out of: any unpaid bills for labor, services or materials furnished to this project; any failure of performance of CONTRACTOR under this Contract; or the negligence of the CONTRACTOR in the performance of its duties under this Contract, or any act or omission on the part of the CONTRACTOR, his agents, employees, or servants. CONTRACTOR shall defend, indemnify, and save harmless the CITY or any of their officers, agents, or servants and each and every one of them against and from all claims, suits, and costs of every kind and description, including attorney's fees, and from all damages to which the CITY or any of their officers, agents, or servants may be put by reason of injury to the persons or property of others resulting from the performance of CONTRACTOR'S duties under this Contract, or through the negligence of the CONTRACTOR in the performance of its duties under this

Contract, or through any act or omission on the part of the CONTRACTOR, his agents, employees, or servants.

5. Codes, Laws, and Regulations. CONTRACTOR will comply with all applicable codes, laws, regulations, standards, and ordinances in force during the term of this Agreement.

6. Permits, Licenses, and Fees. CONTRACTOR will obtain and pay for all permits and licenses required by law that are associated with the CONTRACTOR'S performance of the Scope of Services.

7. Access to Records. CONTRACTOR will maintain accounting records, in accordance with generally accepted accounting principles and practices, to substantiate all invoiced amounts. Said records will be available for examination by the CITY during CONTRACTOR'S normal business hours. Said records will be maintained for a period of three (3) years after the date of the invoice.

8. Contingent Fees Prohibited. The CONTRACTOR warrants that he or she has not employed or retained any company or person, other than a bona fide employee working solely for the CONTRACTOR, to solicit or secure this Agreement and that he or she has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the CONTRACTOR any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. In the event of a breach of this provision, the CITY shall have the right to terminate this Agreement without further liability and at its discretion, deduct from the contract price, or otherwise recover, the full amount of any such fee, commission, percentage, gift or consideration paid in breach of this Agreement.

9. Payment. CITY shall compensate CONTRACTOR for their services in the following manner: **SEE EXHIBIT "A"**.

10. Ownership of Documents. All data, specifications, calculations, estimates, plans, drawings, construction documents, photographs, summaries, reports, memoranda, and other documents, instruments, information and material prepared or accumulated by the CONTRACTOR (or by such sub-consultants and specialty consultants) in rendering services hereunder shall be the sole property of the CITY who may have access to the reproducible copies at no additional cost other than printing. Provided, that the CONTRACTOR shall in no way be liable or legally responsible to anyone for the CITY's use of any such materials for another PROJECT, or following termination. All original documents shall be permanently kept on file at the office of the CONTRACTOR.

11. Independent Contractor. The CONTRACTOR is an independent contractor and as such will be responsible for paying his own Federal income tax and self-employment tax, or any other taxes applicable to the compensation paid under this agreement.

12. Assignment. Neither party shall have the power to assign any of the duties or rights or any claim arising out of or related to the Agreement, whether arising in tort, contract, or

otherwise, without the written consent of the other party. These conditions and the entire Agreement are binding on the heirs, successors, and assigns of the parties hereto.

13. No Third Party Beneficiaries. This Agreement gives no rights or benefits to anyone other than the CONTRACTOR and the CITY.

14. Jurisdiction. The laws of the State of Florida shall govern the validity of this Agreement, its interpretation and performance, and any other claims related to it. In the event of any litigation arising under or construing this Agreement, venue shall lie only in Lake County, Florida.

15. Term and Termination. The term of this Agreement shall be for an initial term, up through and including three (3) years. The City shall have the option to renew this Agreement for three (3) additional one year periods with the same pricing for services and goods provided hereunder for the additional three (3) one year periods. All or part of this Agreement may be terminated by the CITY for its convenience on fifteen (15) days written notice to the CONTRACTOR. In such event, the CONTRACTOR will be entitled to compensation for services competently performed up to the date of termination.

16. Nonappropriation. The CONTRACTOR understands and agrees that this Contract is subject to the availability of funds to the CITY to purchase the specified products/services. As used herein, a "nonappropriation" shall be defined as an occurrence wherein the CITY, in any fiscal period, does not allocate funds in its budget for the purchase of the specified products/services or other amounts owed pursuant to this Contract, from the source of funding which the CITY anticipates using to pay its obligations hereunder, and the CITY has not other funds, from sources other than ad valorem taxes, which it deems to be available to pay its obligations under this Contract. The CITY may terminate this Contract, with no further liability to the CONTRACTOR, effective the first day of a fiscal period provided that:

- (a) a nonappropriation has occurred, and
- (b) the CITY has provided the CONTRACTOR with written notice of termination of less than fifteen (15) days before the proposed termination date.

Upon the occurrence of such nonappropriation the CITY shall not be obligated for payment for any fiscal period for which funds have not been appropriated.

17. Contact Person. The primary contact person under this Agreement for the CONTRACTOR shall be Leah Partin. The primary contact person under this Agreement for the CITY shall be Bruce Ericson.

18. Approval of Personnel. The CITY reserves the right to approve the contact person and the persons actually performing the services on behalf of CONTRACTOR pursuant to this Agreement. If CITY, in its sole discretion, is dissatisfied with the contact person or the person or persons actually performing the services on behalf of CONTRACTOR pursuant to this Agreement, CITY may require CONTRACTOR assign a different person or persons be designated to be the contact person or to perform the CONTRACTOR services hereunder.

19. **Disclosure of Conflict.** The CONTRACTOR has an obligation to disclose to the CITY any situation that, while acting pursuant to this Agreement, would create a potential conflict of interest between the CONTRACTOR and his duties under this Agreement.

20. **Authority to Sign.** Each person signing this agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and bind and obligate such party with respect to all provisions contained in this agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the respective dates under each signature.

THE CITY OF LEESBURG, FLORIDA

By: _____
Mayor

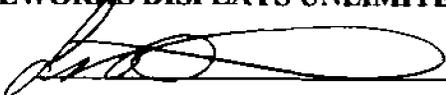
ATTEST:

City Clerk

Approved as to form:

City Attorney

LELA PARTIN
d/b/a DRAGONWORKS PROFESSIONAL
FIREWORKS DISPLAYS UNLIMITED

By:  _____

Printed Name: LELA N. PARTIN

Its: SO-OWNER

Date: 2-07-09

EXHIBIT "A"
SCOPE OF SERVICES

The Contractor shall, for the term of this Agreement, furnish all labor, materials, equipment, and supervision necessary for an annual fourth of July fireworks Program, hereafter referred to as "Program", as specified in this scope of Services and in Exhibit "B" hereto.

I. GENERAL PROGRAM REQUIREMENTS

A. LICENSES AND PERMITS

1. Contractor shall ensure that they possess a valid general public display license.
2. Contractor shall, at their own cost, procure all permits and/or licenses required by Federal, State, and County authorities, provided that the CITY shall both obtain and pay the normal fee(s) associated with any required City permits.

B. SHOW DATE AND TIME

The Contractor shall perform the Program, as specified herein, on July 4, 2009, July 4, 2010 and July 4, 2011, at approximately 9:15 p.m. on each date, unless the City, at its sole discretion, either postpones the display due to inclement weather, or postpones or cancels the display due to a local ban on burning and/or fireworks.

1. **POSTPONEMENT:** If the City postpones the Program, then Contractor agrees to perform the Program on July 5th of the respective year, at approximately 9:15 p.m., unless the City, at its sole discretion further postpones the Program due to inclement weather.
 2. **ALTERNATE DATE:** If the City postpones the program on both July 4th and July 5th of the respective year, then the City shall attempt to reschedule the Program with Contractor to a mutually acceptable date and time.
 3. **DELAYS:** Contractor understands that delays or rescheduling may occur due to inclement weather and/or local restriction on fireworks and/or burning. Contractor shall not be entitled to any additional fees and/or expenses due to any delays or rescheduling of the Program.
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other than as set forth below in Section I(E)(6), of this Scope of Services.

4. **RIGHT TO CANCEL:** If the Contractor is unable to perform the Program on a date acceptable to the City, then the City reserves the right to cancel the Program at no cost to the City.

C. CONTRACTORS GENERAL REQUIREMENTS FOR THE PROGRAM

Contractor shall perform the Program, as outlined herein subject to the following requirements:

1. **PROGRAM DURATION:** The Contractor shall ensure that the Program consists of a minimum of three sections. The sections shall consist of an opening display, a main display, and a grand finale. The total program shall last no less than thirty (30) minutes.
 2. **LOCATION:** The Contractor shall perform the Program from Monkey Island in Lake Harris.
 3. **TRANSPORTATION:** The Contractor is responsible for and must arrange for transportation of their staff, supplies, and equipment to the launch site on Monkey Island in Lake Harris.
 4. **SETUP TIME:** The Contractor shall ensure that all equipment and or materials required for the Program are properly setup no later than 5:00 p.m. on the day of the show.
 5. **LAUNCH RATE:** The Contractor shall launch shells at a moderate rate without long periods of hesitation.
 6. **GRAND FINALE:** The Grand Finale must be designed and launched in a manner that makes it obvious that it is the Grand Finale for Program.
 7. **WEATHER CONDITIONS:** The Contractor shall perform Program in all weather conditions except for torrential rain and wind of greater than 15 mph.
 8. **CLEAN-UP:** The Contractor shall be responsible for setting up, tearing down, and cleaning the area around the Program, including removal of all "dud" material. However, the City shall, upon request of the Contractor, assist in the clean up of the Program display area.
 9. **SAFETY PRECAUTIONS:** The Contractor shall take all necessary precautions for the safety of, and shall provide the necessary
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protection to prevent damage, injury, or loss to all employees on or near the Program site and other persons including, but not limited to, the general public who may be affected thereby.

10. **UNSAFE CONDITIONS:** If the Contractor deems that the location of the firing site, spectators' location, parking areas, or structures is unsuitable or unsafe, then the Contractor may refuse to fire the Program display until such conditions are corrected. If such conditions are not corrected or are unable to be corrected in a reasonable time by the City, then the Contractor may cancel the Program display without liability to the City for such cancellation.

D. CITY'S GENERAL REQUIREMENTS FOR PROGRAM

1. The City shall secure the firing site location and fall-out area.
2. The City shall provide necessary police and/or fire protections.
3. The City shall endeavor to keep all persons, other than those persons employed by Contractor, away from any areas designated as "danger areas" by the Contractor and, as directed by the Contractor, behind safety zone lines and limits.

E. POSTPONEMENT AND/OR CANCELLATION:

1. The City shall reserve the right to postpone the Program due to inclement weather.
 2. The City shall reserve the right to either postpone or cancel the Program if a local ban on either burning or fireworks is in effect.
 3. If the City postpones the Program, then the Contractor shall perform the Program on a date acceptable to the City pursuant to Section B(4) of this Scope of Services.
 4. If the Program is postponed and Contractor cannot perform the Program on a date acceptable to the City, then the CITY may, at its sole discretion cancel the Program.
 5. If, pursuant to this Section, the Program is cancelled by the City, then the city shall not be liable to the Contractor for any fees, expenses, or costs associated with either the Program or the cancellation thereof, other than as set forth below.
 6. The parties understand and agree that if Contractor has not set up to perform the Program prior to the postponement, rescheduling, and/or
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cancellation, then the CITY shall not be liable to pay any rescheduling fee to Contractor. If the equipment and personnel are required to tear down and return at a latter date mutually agreed upon, the CITY shall be obligated to pay an additional charge for transportation and travel of material and personnel to the display site, not to exceed fifteen percent (15%) of the annual display program.

II. COST AND PAYMENT FOR SERVICES

The Contractor shall perform the services outlined in the Scope of Services and Exhibit "B" hereto, and shall be paid by the CITY in the following manner:

- A. July 4, 2009 Program:** The CITY shall pay to the Contractor a deposit of \$6,000.00 due June 1, 2009. The CITY shall then pay the balance due of \$9,000.00 to the Contractor within 30 days of completion of the fireworks display. Such payment is for any and all materials provided, labor performed and expenses incurred by Contractor pursuant to this Agreement to perform the Program scheduled on or about July 4, 2009.
- B. July 4, 2010 Program:** The CITY shall pay a \$6,000.00 deposit to the Contractor by June 1, 2010. The CITY shall pay the balance due of \$9,000.00 within 30 days of completion of the fireworks display. Such payment is for any and all materials provided, labor performed and expenses incurred by Contractor pursuant to this Agreement to perform the program scheduled on or about July 4, 2010.
- C. July 4, 2011 Program:** The CITY shall pay a \$6,000.00 deposit to the Contractor by June 1, 2011. The CITY shall pay the balance due of \$9,000.00 within 30 days of completion of the fireworks display. Such payment is for any and all materials provided, labor performed and expenses incurred by Contractor pursuant to this Agreement to perform the program scheduled on or about July 4, 2011.

III. NON-PERFORMANCE

- A.** The parties understand that time is of the essence in this Agreement and a failure to perform within the time period specified herein shall be considered a default.
 - B.** If a default occurs, then the CITY may, at its sole discretion, procure the required equipment and services from other sources and hold the Contractor responsible for any excess costs occasioned thereby and may immediately cancel the Agreement.
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DRAGONWORKS
PROFESSIONAL FIREWORKS DISPLAYS UNLIMITED
Federally Licensed certified & Fully Insured
22 years experience creating and presenting fireworks displays

2009

JULY 4 TH. FIREWORKS BID
FOR CITY OF LEEsburg FLORIDA
SYNOPSIS

GRAND OPENING PARADE

100 - 2.5" & 3" ast color and report
10 - 4" ast. color and reports
5 - 5" ast color shells
2 - 6" ast. color changing shells
2 - 150 shot silver cascade

TOTAL OPENING of 415 SHELLS

MAIN AERIAL DISPLAY

The main body of your show will be fired at a fast pace. Many pairs, and flights of same type. This creates a fire in the sky approach to your event.

504 - 3" ast color and salute
144 - 4" ast color and salute
72 - 5" ast. color changing
56 - 6" ast. color changing imports
6 - 8" ast. color changing imports
1 - 16" color changing imports
2 - 100 shot golden cascade
1 - 600 shot silvery swallow

MAIN BODY OF 1593 SHELLS

WORLD CLASS FINALE

Your finale will be the best assortment of import shell available. Consisting of 2.5" to 16" diameter shells.

360 - 2.5" & 3" ast color and report
36 - 4" ast color and report
18 - 5" ast color and report
9 - 6" ast color import shells
2 - 8" ast color changing imports
1 - 16" import color changing
2 - 100 shot thunder and rain
1 - 150 red crackling cascade
1 - 300 shot colorful salute
1 - 1000 shot multi tube professional effect

FINALE TOTAL OF 2076 SHELLS

GRAND TOTAL OF 4084 SHELLS AND EFFECTS with a show of 30 minutes duration.

P. O. Box 1397 Homosassa Springs, FL 34447

Tel. 1-352-628-6894

Shipping address:

Fax, 1-352-628-6894

11314 West Parrin Trail, Homosassa FL 34448

E-Mail dragonworks@bcsouthweb.net

ORIGINAL

DRAGONWORKS
PROFESSIONAL FIREWORKS DISPLAYS UNLIMITED
Federally Licensed certified & Fully Insured
23 years experience creating and presenting fireworks displays

2010

JULY 4 TH FIREWORKS BID
For CITY OF LEESBURG FLORIDA
SYNOPSIS

GRAND OPENING PARADE

100 - 2.5" & 3" asst color and report
10 - 4" asst. color and reports
5 - 5" asst color shells
2 - 6" asst. color changing shells
2 - 150 shot red crackling cracker

TOTAL OPENING of 425 SHELLS

MAIN AERIAL DISPLAY

The main body of your show will be fired at a fast pace. Many colors, and flights of same type. This creates a fire in the sky approach to your event.

504 - 3" asst color and saluts
144 - 4" asst. color and saluts
71 - 5" asst. color changing
56 - 6" asst. color changing imports
6 - 8" asst. color changing imports
1 - 10" color changing imports
2 - 100 shot assorted effects
1 - 600 IZW cake

MAIN BODY OF 1583 SHELLS

WORLD CLASS FINALE

Your finale will be the best assortment of import shell available. Consisting of 2.5" to 10" diameter shells.

360 - 2.5" & 3" asst color and report
36 - 4" asst color and report
18 - 5" asst color and report
9 - 6" asst color import shells
2 - 8" asst color changing imports
1 - 10" import color changing
2 - 100 shot thunder and rain
1 - 150 Z shape red/white and blue
1 - 300 shot colorful salute
1 - 1000 shot multi color professional effect

FINALE TOTAL OF 2076 SHELLS

GRAND TOTAL OF 4084 SHELLS AND EFFECTS with a show of 30 minutes duration.

P. O. Box 1397 Homosassa Springs, FL, 34447 Tel. 1-352-628-6824
Shipping address Fax, 1-352-628-6824
11314 West Partin Trail, Homosassa FL, 34448 E-Mail: dragonworks@bionetweb.net

ORIGINAL

