



AGENDA ITEM # 7E

AGENDA ITEM EXECUTIVE SUMMARY

Village Board Meeting

February 26, 2018

Item Title: **Contract for Licensed Fireworks Display Services**

Staff Contact: Jeffrey D. O'Dell, Village Administrator

VILLAGE BOARD ACTION

Adopt a resolution authorizing the Mayor to execute a contract for licensed fireworks display services between the Village of Roselle and Melrose Pyrotechnics, Inc.

Executive Summary:

At its February 12, 2018 Committee of the Whole meeting, the Village Board directed me to prepare a contract authorizing Melrose Pyrotechnics, Inc. to provide all the labor, supervision, materials, and equipment necessary to produce the July 3, 2018 Party in the Park Fireworks Display.

The contract provides for a Fireworks Display cost of \$24,000, the same as in 2017, all of the required insurance and indemnification/hold harmless provisions, and a tiered reimbursement schedule should the Village require the contractor to cancel the event at any time prior to launching the display. The Village's Fire Chief or his designee will approve the Fireworks Display set-up prior to the Display being launched and have final authority to launch or stop the Display at any time during the day of the event.

Implications:

Is this item budgeted? Yes, \$24,000 (10312240-63330)

Any other implications to be considered? N/A

Attachments:

Resolution

Contract for Licensed Fireworks Display Services

RESOLUTION NO. 2018-

**A RESOLUTION AUTHORIZING THE MAYOR
TO EXECUTE A CONTRACT FOR LICENSED FIREWORKS
DISPLAY SERVICES BETWEEN THE VILLAGE OF ROSELLE AND
MELROSE PYROTECHNICS, INC.**

WHEREAS, the corporate authorities of the Village of Roselle deem it in the best interests of the Village to enter into an agreement with Melrose Pyrotechnics, Inc., 1 Kingsbury Industrial Park, P.O. Box 302, Kingsbury, IN 46345 for Fireworks Display services associated with the July 3, 2018 Party in the Park Band Concert and Fireworks Display; and

NOW, THEREFORE, be it resolved by the Mayor and Board of Trustees of the Village of Roselle that the Mayor is hereby authorized to sign and the Village Clerk is hereby directed to attest that certain "Contract for Licensed Fireworks Display Services between the Village of Roselle and Melrose Pyrotechnics, Inc., which is attached hereto and incorporated as fully set forth as Exhibit A.

ADOPTED this ____ day of _____, 2018

AYES:
NAYS:
ABSTAIN:
ABSENT:

Andrew J. Maglio, Mayor

ATTEST:

Patricia Burns, Village Clerk

CONTRACT NO. _____ FOR LICENSED FIREWORKS DISPLAY SERVICES

THIS CONTRACT is made and entered into by and between the Village of Roselle, a body politic and corporate (hereinafter the "Village"), and Melrose Pyrotechnics, Inc. (hereinafter "Contractor").

WITNESSETH:

WHEREAS, the Village of Roselle (hereinafter "Village") has determined that it is reasonable, necessary, and desirable to obtain the services of a contractor to provide Fireworks Display services associated with its July 3, 2018 Party in the Park Band Concert and Fireworks Display; and

WHEREAS, Melrose Pyrotechnics, Inc. (hereinafter "Contractor") agrees to provide the necessary Fireworks Display services upon the terms set forth herein.

NOW, THEREFORE, in consideration of the mutual promises, terms and conditions set forth herein, the parties agree as follows:

1. Scope of Services. Village hereby retains Contractor, and Contractor hereby agrees to act as the independent contractor for the Village performing those Fireworks Display services, which are described in the Melrose Pyrotechnics, Inc. Proposal Specification (hereinafter the "Work"), attached hereto and incorporated herein as if fully set forth as Exhibit A.

The Contractor agrees to provide all labor, supervision, materials, and equipment necessary for the Fireworks Display on July 3, 2018. The Fireworks Display shall begin promptly at 9:30 pm. In the event of inclement weather which renders the Fireworks Display unsafe, the Fireworks Display shall be rescheduled to Sunday, July 8, 2018 at 9:30 pm or another date mutually agreeable to the Village and Contractor. The Village will provide for police protection in order to ensure adequate crowd control and prevent unauthorized individuals from entering the area where the Fireworks Display will be launched. The Village's Fire Chief or his designee will approve all Fireworks Display setup prior to the Display being launched and have final authority to launch or

stop the Display at any time during the day of the event. Proof of the Office of the State Fire Marshal pyrotechnic distributor and operator licensing will be required upon execution of this contract and on the site on July 3, 2018.

In the event the Fireworks Display is cancelled by the Village of Roselle at any time prior to the Contractor leaving its facilities to begin setup of the Fireworks Display in Roselle, the Village shall reimburse the Contractor a total of 10% of the total contract price. If, however, the Fireworks Display is cancelled by the Village of Roselle, after the Contractor has arrived on site in Roselle and prior to launching the Fireworks Display, the Village shall reimburse the contractor a total of 20% of the total contract price. In the event the Village does not reschedule the Fireworks Display to a mutually agreed upon date by both parties within six months, the Village shall reimburse the Contractor a total of 50% of the total contract price.

2. Standard of Care. Contractor represents and warrants that it shall perform its Fireworks Display services in a manner consistent with the level of care and skill customarily exercised by other licensed professional pyrotechnic distributors and operators under similar circumstances at the time the services are performed. Where this Contract is inconsistent with any provision of Exhibit A this Contract shall control.

3. Compensation. The Village shall pay the Contractor an amount not-to-exceed \$ 24,000. A breakdown of the size and number of shells launched for this Fireworks Display is summarized in Exhibit A. Contractor shall submit an invoice containing sufficient detail of the Work performed to enable the Village to properly evaluate the payout request and the Village shall pay Contractor in accordance with the Local Government Prompt Payment Act.

4. Additional Services. Additional services that are not part of the Work may be assigned subject to prior written approval or direction of the Village. Payment for additional services shall be as mutually agreed upon by the parties before the commencement of any additional services. Any

additional services shall be subject to the terms and conditions of this Contract.

5. Hold Harmless and Indemnification. To the fullest extent permitted by law, the Contractor shall defend, hold harmless, and indemnify the Village, the DuPage County School Board of Trustees, and the Board of Education of School District 108, their officers, agents, employees and elected officials, from any loss, damage, demand, liability, cause of action, fine, judgment or settlement, together with all costs and expenses related thereto (including reasonable expert witness and attorney fees), that may be incurred as a result of bodily injury, sickness, death or property damage or as a result of any other claim or suit of any nature whatsoever arising from or in any manner connected with the negligent acts, errors, omissions, or intentional acts or omissions of Contractor in performing the Fireworks Display services provided for in this Contract. The obligation on the part of the Contractor to defend, hold harmless, and indemnify the Village shall survive the expiration or termination of this contract.

6. Insurance. Unless otherwise authorized in writing by the Village Administrator, the Contractor shall purchase and maintain insurance coverage which will satisfactorily insure the Contractor and, where appropriate, the Village against claims and liabilities which may arise out of the services referred to in this Contract. Such insurance shall be issued by companies authorized to do business in the State of Illinois and approved by the Village. The insurance coverages shall include, but not necessarily be limited to, the following:

(A) Worker's Compensation insurance with limits as required by the applicable statutes of the State of Illinois. The Employer's Liability coverage under the Worker's Compensation policy shall have limits of not less than \$500,000 each accident/injury; \$500,000 each employee/disease; \$500,000 policy limit.

(B) Commercial general liability insurance, Commercial Automobile Liability Insurance covering Contractor's owned, non-owned, and leased vehicles which protects Contractor against

automobile liability claims, whether on or off, the premises of the Fireworks Display, and Umbrella or Excess Liability insurance shall be provided in amounts no less than those amounts identified in the Certificate of Insurance attached hereto and incorporated herein as fully set forth as Exhibit B. The Umbrella or Excess coverage shall apply in excess of the other limits specified above and shall either include an endorsement naming the Village, The DuPage County School Board of Trustees, and the Board of Education of School District 108, as additional insureds or provide “following form” coverage for the primary insurance.

7. Evidence of Insurance. The Contractor shall furnish the Village with a certificate of insurance and all endorsements thereto evidencing the coverages stated above no less than 21 days prior to the Fireworks Display. The Contractor shall provide the Village with copies of the insurance policies upon request. The insurance certificates and policies shall provide that no cancellation or modification of the policies shall occur without at least 30 days' written notice to the Village. The Contractor shall not commence any services under this Contract until evidence of the required insurance is received and approved by the Village. No policy shall require contribution by the Village's insurance.

The Contractor shall provide evidence of coverage for the use of the Lake Park High School West Campus fields for the Fireworks Display. The County School Board of Trustees of DuPage County, Illinois, members of the Board of Education of District 108, and their respective officers, agents, and employees are named as additional insured for liability arising out of the use of the Lake Park High School West Campus fields.

The Contractor shall assume liability for all injury to or death of any person or persons including employees of the Contractor, any sub-contractor, any supplier, or any other person and assumes liability for all bodily injury and property damage sustained by any person or persons occasioned by or in any way arising out of any Work performed pursuant to this Contract.

8. Compliance with Laws. Contractor shall comply with all applicable federal, state, and local laws, rules and regulations, and with all Village ordinances, rules and regulations now in force or hereafter enacted in the performance of the services required under this Contract.

9. Control of Services. The Village shall not be responsible for or have control over the means, methods, techniques, or procedures with respect to the performance by the Contractor of the Work in this Contract.

10. Damage to Public or Private Property. Any damage of public or private property caused by the Contractor's work shall be resolved with the property owner within ten (10) days after damage occurs to the satisfaction of the Village. The Contractor shall inform the Village of any damage caused by Contractor's work on the day such damage occurs. Should the damage not be rectified within the time frame agreed upon, or to the satisfaction of the Village, the Village reserves the right to repair or replace that which was damaged or assess the Contractor such cost as may be reasonable and related to damage caused by the Contractor and deduct these costs from any payment due the Contractor.

11. Integration. The provisions set forth herein represent the entire Contract between the parties and supersede all prior agreements, promises and representations, as it is the intent of the parties to provide for a complete integration within the terms of this Contract. This Contract may be modified only by a further written agreement between the parties, and no modification shall be effective unless properly approved and executed by each party.

12. Exclusive Jurisdiction. Any disputes under this Contract shall be in the 18th Judicial Circuit Court, Wheaton, and DuPage County, Illinois.

IN WITNESS WHEREOF, the parties have entered into this Contract as of the ____ day of _____, 2018.

VILLAGE OF ROSELLE
VILLAGE ADMINISTRATOR
31 S. PROSPECT STREET

MELROSE PYROTECHNICS, INC.
1 KINGSBURY INDUSTRIAL PARK
PO BOX 302

ROSELLE, IL 60172

KINGSBURY, IN 46345

BY: _____

Mayor

BY: _____

(INSERT)

ATTEST: _____

Clerk

ATTEST: _____