

# TAB 5



# City of Palmetto Agenda Item

**Meeting Date**

1/4/10

**Presenter:** Allen Tusing, Director of Public Works

**Department:** Public Works / Parks

**Title:**

**Contract for the 2009 Fireworks display from Pyrotecnico**

The 2009/2010 budget has \$30,000. for the 2010 fireworks with \$10,00. from city revenues and the reaming to be funded from Bradenton \$10,000 and Manatee County \$10,000. This amount will be invoiced within the next few months.

This is a three year renewable contract with Pyrotecnico, 2010 is the second year of three.

<b>Budgeted Amount:</b>	\$30,000. 00	<b>Budget Page No(s):</b>		<b>Available Amount:</b>	\$30,000. 00	<b>Expenditure Amount:</b>	\$30,000. 00
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**Additional Budgetary Information:** Revenue source - \$10,000. 1/3 from the city of Bradenton, \$10,000. 1/3 from Manatee County - 190-347-4500

<b>Funding Source(s):</b>	CRA	<b>Sufficient Funds Available:</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<b>Budget Amendment Required:</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<b>Source:</b>	CRA
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<b>City Attorney Reviewed:</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A	<b>Advisory Board Recommendation:</b>	<input type="checkbox"/> For <input type="checkbox"/> Against <input checked="" type="checkbox"/> N/A	<b>Consistent With:</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A	
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**Potential Motion/ Direction Requested:** Approval for the Mayor to execute the contract with Pyrotecnico

**Staff Contact:** Allen Tusing 723-4580

**Attachments:** Yes





A Proposal for  
**City of Palmetto**  
**Fourth of July**  
**Palmetto, Florida**

Event Dates  
**July 4, 2010**

Prepared for  
**Mr. Geoff Segar**  
**City of Palmetto**

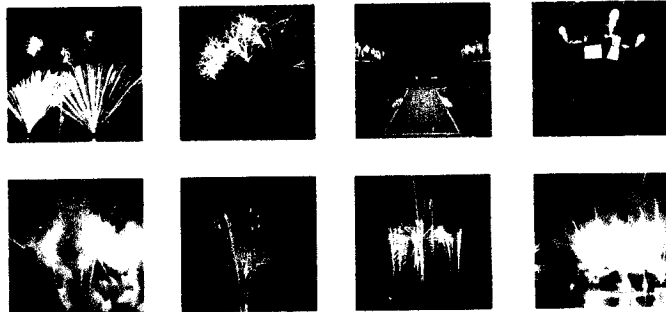
To Provide  
**\$30,000.00 Aerial Display Presentation**





### **This Presentation Includes**

- All necessary insurance to include 10 million dollar general liability insurance, 10 million in commercial transportation insurance, and state worker's compensation.
- Our trained technicians to produce the display.
- All transportation and delivery costs. Transportation provided by our commercially licensed drivers.
- All materials and equipment to fire the display.
- All necessary safety precautions to provide a safe and spectacular display, assistance with local and state firework display permits.
- Highly choreographed display design.
- The widest variety of top quality shell and special effects from around the globe that includes our own American products





## Your Opening Presentation

Your Opening Presentation will start your display off "with a bang." A "mini-finale" will excite the crowd and get them energized for a great show.

60	3-inch Color Changing Star Shells and Titanium Salutes
18	4-inch Color Peony Shells
10	5-inch Multi Color Peony Shells
8	6-inch Large Spreading Chrysanthemum Shells
96	Shells Total

## Body

The majority of your display will be fired during the Body presentation. It will have a balanced pace with constant action. Radiant color combinations like Violet & Lemon, Aqua & Pink, and the always treasured Red, White, & Blue. Amazing effects such as Crossette, Twitter Glittering, Rings, and Color Changing Chrysanthemums will be mixed in to illuminate your skies!

### 3-inch shells

20	Extra Loud Titanium Salutes
80	Multi Color Star Shells
80	Fancy and Color Changing Shells
80	Special Effect Shells
20	Variegated Crackling Shells
20	Pattern Shells
300	Shells Total

### 4-inch Shells

100	Multi Color Star Shells
100	Fancy and Color Changing Shells
100	Special Effect Shells





50 Variegated Crackling Shells  
50 Pattern Shells  
400 Shells Total

#### 5-inch Shells

70 Multi Color Star Shells  
60 Fancy and Color Changing Shells  
60 Special Effect Shells  
30 Pattern Shells  
220 Shells Total

#### 6-inch Shells

30 Multi Color Star Shells  
30 Fancy and Color Changing Shells  
30 Special Effect Shells  
10 Pattern Shells  
100 Shells Total

#### 8-inch Shells

5 Multi Color Star Shells  
5 Fancy and Color Changing Shells  
5 Special Effect Shells  
5 Variegated Crackling Shells  
4 Pattern Shells  
24 Shells Total

12/21/2009

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C of P 7/4/2010 \$30,000



"Rock 'n Roll energy took center stage at the world's most prestigious fireworks venue: LaRonde in Montreal, Canada. Pyrotecnico's design team developed "Rock Loves...", a five-act thriller that brought the international crowd to its feet and were awarded the coveted Gold Jupiter.

### **10-inch Shells**

- 1 Fancy and Color Changing Shells
- 1 Special Effect Shells
- 1 Pattern Shells
- 3 Shells Total

### **12-inch Shells**

- 1 Fancy and Color Changing Shells
- 1 Special Effect Shells
- 1 Pattern Shells
- 3 Shells Total

## **Your Grand Finale Presentation**

The Grand Finale Presentation is the ultimate crowd pleaser and most exhilarating part of your display. When the sky erupts with Multi-Color Peonies and Thunderous Salutes, there is no better visual experience. They will end your event in style and leave the audience wanting more!

- 1000 1-1/4-inch Assorted Color Star Shells with Titanium Salutes
- 600 3-inch Color Star Shells with Titanium Salutes
- 60 4-inch Color Changing Chrysanthemum Shells
- 25 5-inch Two Color Peony Shells
- 20 6-inch Large Spreading Chrysanthemum Shell
- 2 8-inch Special Effect Shells
- 1707 Shells Total

## **100 YEARS**

The Vitale family has been thrilling audiences for four generations. We produce more than 2,000 shows a year for customers who expect ingenuity and drama. The pride we feel for our work shows in the events we produce and in every customer interaction.





## Special Entertainment Presentation Recap

### Opening

60	3-inch Shells
18	4-inch Shells
10	5-inch Shells
8	6-inch Shells
<b>96</b>	<b>Total Opening Shells</b>

### Body

300	3-inch Shells
400	4-inch Shells
220	5-inch Shells
100	6-inch Shells
24	8-inch Shells
3	10-inch Shells
3	12-inch Shells
<b>1,050</b>	<b>Total Body Shells</b>

### Grand Finale

1000	1-1/4-inch Shells
600	3-inch Shells
60	4-inch Shells
25	5-inch Shells
20	6-inch Shells
2	8-inch Shells
<b>1707</b>	<b>Total Finale Shells</b>

**2853 TOTAL SHELLS**





## Fireworks Display Contract

THIS CONTRACT (this "Contract") is made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by and between **PYROTECNICO**, a Florida LLC ("Pyrotecnico"), and **City of Palmetto** ("Sponsor"), with its principal place of business located in **Palmetto, Florida**.

WHEREAS, Pyrotecnico is desirous of providing Sponsor with a fireworks exhibition and display for Sponsor's benefit under such terms and conditions as provided herein, and thereby, the parties agree as follows:

### 1. Fireworks Display.

Pyrotecnico shall sell, furnish and deliver to Sponsor certain fireworks which Pyrotecnico agrees to exhibit and display on **July 4, 2010** 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 the "Fireworks Exhibition and Display Program" attached hereto and incorporated herein by reference thereto (the "Fireworks Display").

### 2. Payment Schedule.

For and in consideration of the Fireworks Display, Sponsor agrees to pay Pyrotecnico the sum of **\$30,000.00** (the "Contract Price") paid as follows: a. 50% of the Contract Price due upon the signing of this Contract; b. the balance of the Contract Price due within ten (10) days of completion of the Fireworks Display.

Sponsor agrees to pay interest at the rate of 1½ % per month on any delinquent balance of the Contract Price until paid in full. Payment shall be made by certified check or otherwise as agreed by Pyrotecnico to Pyrotecnico at P.O. Box 149, New Castle, PA 16103. Furthermore, in the event Sponsor fails to perform its obligations and responsibilities as set forth herein and it becomes necessary for Pyrotecnico to enforce its rights by hiring an attorney, Sponsor shall be responsible for all attorneys' fees and costs incurred by Pyrotecnico to collect said sums.

### 3. Display Responsibilities.

Pyrotecnico and Sponsor will collaborate in the performance of all tasks relating to the Fireworks Display. These tasks include, but are not limited to, (i) procuring and furnishing a place suitable for the Fireworks Display (the "Display Site"), (ii) applying for, obtaining and securing 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) providing adequate private and/or public security, police and fire protection, (iv) securing an acceptable location with private and/or public security personnel to park the Pyrotecnico fireworks truck(s) overnight (or for such longer or shorter period as Pyrotecnico may reasonably require in order to effectively provide the Fireworks Display), (v) securing adequate protection to preclude all individuals, other than those authorized by Pyrotecnico, from entering the security area designated by Pyrotecnico, (vi) keeping unauthorized persons or personal or real property of any kind, including, without limitation, motor vehicles, outside of the Display Site, fallout area or safe zone. Pyrotecnico 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.

Sponsor shall indemnify, defend and hold Pyrotecnico and its shareholders, directors, officers, employees, agents, representatives and insurers 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 (a) the gross negligence or willful misconduct of Sponsor or its employees, agents, contractors or representatives, or (b) the failure of Sponsor to comply with its obligations and responsibilities as set forth herein. Pyrotecnico 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 the gross negligence or willful misconduct of Pyrotecnico or its employees, agents, contractors or representatives. Sponsor shall not under any circumstances be entitled to recover any consequential, incidental, exemplary, special and/or punitive damages from Pyrotecnico, including, without limitation, loss of income, business or profits.

### 5. Postponement.

In the event that weather is such that Pyrotecnico, 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. In the event the mutually satisfactory postponement time and/or date is beyond the day following the scheduled Fireworks Display and it is impracticable for the personnel and equipment of





Pyrotecnico to remain at Sponsor's location until the rescheduled Fireworks Display date, then Sponsor shall pay the actual expenses incurred by Pyrotecnico related to the postponement, which shall not exceed forty percent (40%) of the Contract Price. Actual expenses include, but are not limited to, expenses for travel, lodging, labor, meals, rentals, permit fees, set-up and/or dismantling of display, additional taxes or surcharges, or any other additional expenses that incurred prior to and/or as a result of the postponement or cancellation. In the event a mutually satisfactory postponement date for the Fireworks Display cannot be determined, this Contract shall become null and void and neither party shall have any further obligation or responsibility hereunder, provided however, that in such event Sponsor shall pay to Pyrotecnico a sum equal to seventy-five (75%) of the Contract Price as liquidated damages.

**6. Cancellation.**

If (i) Sponsor cancels this Contract for any reason, or (ii) Pyrotecnico is unable to timely complete all tasks relating to the Fireworks Display in accordance with this Contract with the assistance of Sponsor and cancels this Contract despite both parties best efforts, liquidated damages for such cancellation shall be paid by Sponsor to Pyrotecnico as follows: a. In the event the Fireworks Display is cancelled more than thirty (30) days before the date scheduled for the Fireworks Display, twenty-five percent (25%) 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 Pyrotecnico, P.O. Box 149, New Castle, PA 16103. Notice shall be effective upon receipt of said written notice by Pyrotecnico. 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. Venue.**

In any action on or relating to this Contract, the parties hereto consent to the exclusive jurisdiction and venue of the state courts located in Lawrence County, Pennsylvania and of the federal courts located in the United States District Court for the Western District of Pennsylvania.

**8. 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 obligations of the parties shall be construed and enforced accordingly, preserving to the fullest extent the intent and agreements of the parties set forth herein.

**9. Entire Agreement.**

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

IN WITNESS WHEREOF, the undersigned executed this Contract by and through their authorized representatives whose names appear below.

**PYROTECNICO:**

**SPONSOR: City of Palmetto**

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_



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