


CITY MANAGER'S OFFICE MEMORANDUM
#40-2022

DATE: July 11, 2022
TO: Honorable Mayor Meredith Leighty and City Council Members
FROM: Heather Geyer, City Manager 
SUBJECT: 2022 Fourth of July Fireworks

PURPOSE

To discuss City Council's options in response to the Fourth of July fireworks cancelation that was the result of a technical equipment failure. The City Manager and Director of Communications Diana Wilson met with Tri-State Fireworks (Tri-State) on Thursday, July 7, 2022, to discuss the technical issue and options moving forward. Tri-State is taking full responsibility for the cancelation of the show. Representatives Sharon and Joe Diaz are unable to attend the July 11, 2022 Council meeting due to other show commitments and have provided a formal apology statement included below.

Dear Mayor, City Council, City Manager Geyer, City of Northglenn Staff, Residents, and July 4 Guests,

We deeply apologize the Northglenn July 4 Fireworks show failed. We know this is a small gesture when your community is so deeply disappointed, yet please know we feel horrible and will do whatever we are able to do to make this right.

I know many ask "What happened? Why couldn't it be fixed right then?" We tried our best to trouble shoot on the spot, but after 40 minutes of trying, resulting in less than a minute of show firing, it was clear the issue was a component. The Northglenn fireworks show is run electronically and specially manufactured for you as a proximate show. There is not a simple fuse to light.

Hearing the disappointment of the crowd was terrible when we pride ourselves on our professionalism. We have been in business for over 30 years, and we have worked with the City of Northglenn for nearly 20 years. In the thousands of shows we've done; we have only had one other "failure to fire" up until now. If there had been any way to fix it, we would have.

We are still not positive about the cause, but have narrowed it down to an electrical issue (one of two controls or the cable between them), and are returning those components to the manufacturer to determine the issue if possible.

We are sorry we cannot be there in person to share our sincere apology; we are out of state conducting fireworks shows at this time. Please let us know what option you decide is best for your community, and we will work to make it happen.

*Sincerely,
Sharon and Joe Diaz*

BACKGROUND

Technical Issue

As described above, Tri-State believes the failure to fire was an electrical issue. The evening of the event, it was suspected that a line (or some other critical component) got wet by the rain and caused the failure. Tri-State has since ruled out that theory. The technical issue is believed to be the result of an electrical issue where one (or more) of three components did not function properly. Tri-State has sent the equipment back to the manufacturer for review. When the show did not start as initially scheduled at 9:00 p.m., on-site work was done, and all hoped it would succeed. Following this effort, the show started at 9:50 p.m. and then stopped after 54 seconds. The remainder of the show failed and could not be ignited despite additional efforts. The Lead Shooter was unable fix the issue, and we now know it could not be fixed without replacing at least one of the specialty components.

About Tri-State Fireworks

Tri-State is a family-owned business that has been in existence for over 30 years. The City has worked with Tri-State for almost 20 years. The Northglenn fireworks issue is the second failure they have experienced in the history of their business. Their first failure was many years ago. They put on 40 fireworks shows over the holiday weekend and the Northglenn show is the only show to experience the technical issue.

Fireworks Contract

The City has a long-standing partnership with Tri-State to provide a fireworks show annually at the end of the City's Fourth of July festival at E.B. Rains, Jr., Memorial Park. The current contract is part of a three-year agreement following a competitive bid process in 2019. The contract was extended one year due to COVID-19 health department regulations. Instead of the original July 4 shows in 2019, 2020 and 2021, one show was held July 4, 2019, a second for the grand opening of the recreation center in October 2021, and the third was to be July 4, 2022. The contract amount for the 2022 show is \$50,000 for a 13-minute show. Per the contract, the City has paid the first payment of \$25,000. The City has not made the second payment per City Manager direction and pending direction by City Council.

The Fourth of July festival typically draws over 10,000 attendees throughout the day. This year, at the time the fireworks were to start, it is estimated there were 7,000 people in the park and civic center area. The fireworks display consists of proximate fireworks due to the size of the park area and nearby homes and businesses. This provides for a more intimate viewing experience for attendees. The fireworks are shot off of barges on Webster Lake in coordination with music that is heard throughout the park.

Regardless of the option (except for option 3) selected below by City Council, the City is required to bid out the fireworks contract for 2023 after the first of the year.

Options

City Council has the following options available in moving forward:

1. Schedule a new stand-alone date for the Fourth of July show in 2022 – staff asked if additional time could be added to the show for no additional cost. It is unlikely due to the production time needed for specialty proximate fireworks and increased costs, though Tri-State will inquire with their suppliers. Tri-State may be able to provide a discount.

Possible dates for option 1 include:

- Saturday, August 27 (Healing Hoop Pow Wow event is this same weekend)

- Saturday, September 3 (Labor Day weekend)
- Saturday, September 10 (weekend before Pirate Fest)

The fireworks show is a patriotic themed program. If the City wanted a different program, it would require additional cost and lead time of 30 – 90 days for production. Tri-State needs at least 30 days to replace the first 54 seconds of the show. Staff can add additional programmatic elements to include a band, food trucks and giveaways (such as glow sticks), staffing needs, equipment, etc. The additional funding needed for this piece is estimated at \$25,000. A rain date would be included in the event planning. The other option is to invite residents to the park and enjoy the show without the additional programmatic pieces. Staff believes these pieces will help the City say thank you for understanding and reinforce our commitment to providing an enjoyable event experience.

2. Reschedule the fireworks show for an existing event planned for 2022 such as Pirate Fest or Noel Northglenn presents Night of Lights.
3. Do not reschedule the fireworks show and take a credit for the show to use for the 2023 Fourth of July show. In this instance the City will not pay the remaining \$25,000 per the contract until the show is successfully executed on July 4, 2023. If this option is selected, staff will not rebid the service out until 2024.
4. Terminate the contract with Tri-State for failure to perform based on the technical difficulty and collect a refund of \$25,000; do not host a rescheduled show in 2022. If Council wanted to pursue this option and then go through the process of finding a new contractor, the process will take at minimum 3 months to have a new contract approved. The City would retain the second half of the contractual amount for a total of \$50,000. Additional funding may be needed depending on what bids are received from other vendors.

Engagement Opportunity

If City Council decides to reschedule the fireworks show (option 1 or 2), staff suggests asking residents their preferred date. For example:

When would you like to enjoy fireworks, Northglenn? Let's turn the fireworks fizzle into a chance to sizzle on a different date. Vote for the option you like best:

1. *Saturday, Sept. 3 to light up Labor Day (new event)*
2. *Saturday, Sept. 17 to wrap up the Pirate Fest*
3. *Friday, Dec. 2 during Noel Northglenn presents Night of Lights*

This would support awareness that there is going to be a rescheduled date and build some excitement around the announcement. A survey could be promoted on all social media channels, the City website and in the August Connection. It would help shift the focus from the fireworks failure to a fun community event. The survey could start as soon as Council makes a recommendation and end around August 10.

Location

Staff has received the suggestion/inquiry about moving the fireworks show to Northwest Open Space (NWOS). Staff has identified three challenges with this option.

1. Infrastructure. NWOS is not conducive to holding events; it was not developed for festival use or to support large crowds for extended periods of time. There are no lights, limited parking, few power outlets, low visibility access to the south side and traffic flow would be difficult.

2. Fire concerns. The City is currently working through responding to concerns by residents who live in the area regarding fire mitigation. Fireworks at this site would likely send a conflicting message and there is potential risk of fire given the proximity to the open space.
3. Turf. Maintenance of the turf for the athletic ballfields looks very different than maintenance of the grassy areas of E.B. Rains, Jr. Memorial Park. Hosting a regional event on the ballfields could result in thousands of dollars of damage and potential closure to user groups until fields are repaired.

Moving forward, fireworks will not be shot off of Webster Lake. They will be shot off of land at E.B. Rains, Jr. Memorial Park which will reduce the likelihood of failure by removing one variable, water.

Community Feedback

Regarding the failure of the July 4, 2022 fireworks show, the City received 185 comments on social media (less than half negative, the remainder neutral or questions/comments); two comments via the Access Northglenn CRM; one email to staff; and two phone calls. Some social media comments included hopes the show would be rescheduled this year and on a weekend.

The email to staff included a suggestion to reschedule the show to Saturday, July 30 to coincide with the celebrating of Colorado becoming part of the U.S. on August 1. Unfortunately, this will not be possible due to the lead time needed to reproduce the portion of the show that went off.

2023 Fourth of July Festival

Related to the festival but unrelated to the fireworks show, staff received some questions about morning activities such as the pancake breakfast, bake sale and bike parade. These activities were not held in 2022 because the organizations that support these activities were not interested in hosting them or unable to provide them this year.

If Council wants to revisit any elements of the event for the 2023 festival, the appropriate time to have that discussion would be during the 2023 proposed budget discussions beginning August 1, 2022 with department presentations.

BUDGET/TIME IMPLICATIONS

Options	Budget	Timeline
1 – Stand-alone event	Additional funding of \$25,000 (estimated) needed for additional programming elements and staff support	Event would take place on one of the dates outlined above
2 – Reschedule show for an existing event planned for 2022	No additional funding would be needed. The City will make the second payment per the contract following execution of the show.	Potentially Pirate Fest on September 17 or Noel Northglenn presents Night of Lights on December 2
3 – Credit for 2023 Fourth of July show	The \$25,000 paid to date would be credited to the July 4, 2023 show, and the second payment would be made following execution of the show. In this instance the City would not rebid services until 2024.	A rescheduled show would not take place in 2022
4 – Terminate contract	City would be refunded the \$25,000 paid to date. This funding would go back into the General Fund.	Immediately following Council direction

STAFF RECOMMENDATION

Staff recommends City Council move forward with option 1 outlined above.

STAFF REFERENCE

If Council members have any questions, please contact Heather Geyer, City Manager, at hgeyer@northglenn.org or 303.450.8706.

ATTACHMENT

1. Tri-State Contract for Professional Services

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT is made and entered into this 20th day of February, 2019, by and between the City of Northglenn, State of Colorado (hereinafter referred to as the "City") and Tri State Fireworks, Inc (hereinafter referred to as "Contractor").

RECITALS:

A. The City requires professional services.

B. Contractor has held itself out to the City as having the requisite expertise and experience to perform the required work for the Project.

NOW, THEREFORE, it is hereby agreed for the consideration hereinafter set forth, that Contractor shall provide to the City, professional consulting services for the Project.

I. SCOPE OF SERVICES

Contractor shall furnish all labor and materials to perform the work and services required for the complete and prompt execution and performance of all duties, obligations, and responsibilities for the Project which are described or reasonably implied from **Exhibit A** which is attached hereto and incorporated herein by this reference.

II. THE CITY'S OBLIGATIONS/CONFIDENTIALITY

The City shall provide Contractor with reports and such other data as may be available to the City and reasonably required by Contractor to perform hereunder. No project information shall be disclosed by Contractor to third parties without prior written consent of the City or pursuant to a lawful court order directing such disclosure. All documents provided by the City to Contractor shall be returned to the City. Contractor is authorized by the City to retain copies of such data and materials at Contractor's expense.

III. OWNERSHIP OF WORK PRODUCT

The City acknowledges that the Contractor's work product is an instrument of professional service. Nevertheless, the products prepared under this Agreement shall become the property of the City upon completion of the work.

IV. COMPENSATION

A. In consideration for the completion of the services specified herein by Contractor, the City shall pay Contractor an amount not to exceed fifty thousand dollars (\$50,000.00). Payment shall be made in accordance with the schedule of charges in **Exhibit B** which is attached hereto and incorporated herein by this reference. Invoices will be itemized and include hourly breakdown for all personnel and other charges. The maximum fee specified herein shall include all fees and expenses incurred by Contractor in performing all services hereunder.

B. Contractor may submit monthly or periodic statements requesting payment. Such request shall be based upon the amount and value of the work and services performed by Contractor under this Agreement except as otherwise supplemented or accompanied by such supporting data as may be required by the City.

1. All invoices, including Contractor's verified payment request, shall be submitted by Contractor to the City no later than the twenty-fourth (24th) day of each month for payment pursuant to the terms of this Agreement. In the event Contractor fails to submit any invoice

on or before the twenty-fourth (24th) day of any given month, Contractor defers its right to payment pursuant to said late invoice until the twenty-fourth (24th) day of the following month.

2. Progress payments may be claimed on a monthly basis for reimbursable costs actually incurred to date as supported by detailed statements, including hourly breakdowns for all personnel and other charges. The amounts of all such monthly payments shall be paid within thirty (30) days after the timely receipt of invoice as provided by this Agreement.

C. The City has the right to ask for clarification on any Contractor invoice after receipt of the invoice by the City.

D. In the event payment for services rendered has not been made within forty-five (45) days from the receipt of the invoice for any uncontested billing, interest will accrue at the legal rate of interest. In the event payment has not been made within ninety (90) days from the receipt of the invoice for any uncontested billing, Contractor may, after giving seven (7) days written notice and without penalty or liability of any nature, suspend all work on all authorized services specified herein. In the event payment in full is not received within thirty (30) days of giving the seven (7) days written notice, Contractor may terminate this Agreement. Upon receipt of payment in full for services rendered, Contractor will continue with all authorized services.

E. Final payment shall be made within sixty (60) calendar days after all data and reports (which are suitable for reproduction and distribution by the City) required by this Agreement have been turned over to and approved by the City and upon receipt by the City of Contractor's certification that services required herein by Contractor have been fully completed in accordance with this Agreement and all data and reports for the Project.

V. COMMENCEMENT AND COMPLETION OF WORK

Within seven (7) days of receipt from the City of a Notice to Proceed, Contractor shall commence work on all its obligations as set forth in the Scope of Services or that portion of such obligations as is specified in said Notice. Except as may be changed in writing by the City, the Project shall be complete and Contractor shall furnish the City the specified deliverables as provided in Exhibit A.

VI. CHANGES IN SCOPE OF SERVICES

A change in the Scope of Services shall constitute any material change or amendment of services or work which is different from or additional to the Scope of Services specified in Section I of this Agreement. No such change, including any additional compensation, shall be effective, or paid unless authorized by written amendment executed by the City. If Contractor proceeds without such written authorization, then Contractor shall be deemed to have waived any claim for additional compensation, including a claim based on the theory of unjust enrichment, quantum merit or implied contract. Except as expressly provided herein, no agent, employee, or representative of the City shall have the authority to enter into any changes or modifications, either directly or implied by a course of action, relating to the terms and scope of this Agreement.

VII. PROFESSIONAL RESPONSIBILITY

A. Contractor hereby warrants that it is qualified to assume the responsibilities and render the services described herein and has all requisite corporate authority and professional licenses in good standing, required by law.

B. The work performed by Contractor shall be in accordance with generally accepted professional practices and the level of competency presently maintained by other practicing professional firms in the same or similar type of work in the applicable community.

C. Contractor shall be responsible for the professional quality, technical accuracy, timely completion, and the coordination of all designs, drawings, specifications, reports, and other services furnished by Contractor under this Agreement. Contractor shall, without additional compensation, correct or resolve any errors or deficiencies in his designs, drawings, specifications, reports, and other services, which fall below the standard of professional practice, and reimburse the City for construction costs caused by errors and omissions which fall below the standard of professional practice.

D. Approval by the City of drawings, designs, specifications, reports, and incidental work or materials furnished hereunder shall not in any way relieve Contractor of responsibility for technical adequacy of the work. Neither the City's review, approval or acceptance of, nor payment for, any of the services shall be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement, and Contractor shall be and remain liable in accordance with applicable performance of any of the services furnished under this Agreement.

E. The rights and remedies of the City provided for under this Agreement are in addition to any other rights and remedies provided by law.

VIII. ILLEGAL ALIENS

A. Certification. By entering into this Agreement, Contractor hereby certifies that, at the time of this certification, it does not knowingly employ or contract with an illegal alien who will perform work under the Agreement and that Contractor will participate in either the E-Verify Program administered by the United States Department of Homeland Security and Social Security Administration or the Department Program administered by the Colorado Department of Labor and Employment in order to confirm the employment eligibility of all employees who are newly hired for employment to perform work under the Agreement.

B. Prohibited Acts. Contractor shall not:

1. Knowingly employ or contract with an illegal alien to perform work under this Agreement; or

2. Enter into a contract with a subcontractor that fails to certify to Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Agreement.

C. Verification.

1. Contractor has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement through participation in either the E-Verify Program or the Department Program.

2. Contractor shall not use the E-Verify Program or the Department Program procedures to undertake pre-employment screening of job applicants while this Agreement is being performed.

3. If Contractor obtains actual knowledge that a subcontractor performing work under this Agreement knowingly employs or contracts with an illegal alien who is performing work under the Agreement, Contractor shall:

a. Notify the subcontractor and the City within three (3) days that Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien who is performing work under the Agreement; and

b. Terminate the subcontract with the subcontractor if within three (3) days of receiving the notice required pursuant to subparagraph (a) hereof, the subcontractor does not stop employing or contracting with the illegal alien who is performing work under the Agreement; except that Contractor shall not terminate the contract with the subcontractor if during such three (3) days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien who is performing work under the Agreement.

D. Duty to Comply with Investigations. Contractor shall comply with any reasonable request by the Colorado Department of Labor and Employment made in the course of an investigation conducted pursuant to C.R.S. § 8-17.5-102(5)(a) to ensure that Contractor is complying with the terms of this Agreement.

E. If Contractor does not currently employ any employees, Contractor shall sign the NO Employee Affidavit attached hereto.

F. If Contractor wishes to verify the lawful presence of newly hired employees who perform work under the Agreement via the Department Program, Contractor shall sign the Department Program Affidavit attached hereto.

IX. INDEMNIFICATION

A. INDEMNIFICATION – GENERAL: The City cannot and by this Agreement does not agree to indemnify, hold harmless, exonerate or assume the defense of the Contractor or any other person or entity whatsoever, for any purpose whatsoever. Provided that the claims, demands, suits, actions or proceedings of any kind are not the result of professional negligence, the Contractor, to the fullest extent permitted by law, shall defend, indemnify and hold harmless the City, its Council members, officials, officers, directors, agents and employees from any and all claims, demands, suits, actions or proceedings of any kind or nature whatsoever, including worker's compensation claims, in any way resulting from or arising from the services rendered by Contractor, its employees, agents or subcontractors, or others for whom the Contractor is legally liable, under this Agreement; provided, however, that the Contractor need not indemnify or save harmless the City, its Council members, its officers, agents and employees from damages resulting from the negligence of the Council members, officials, officers, directors, agents and employees.

B. INDEMNIFICATION FOR PROFESSIONAL NEGLIGENCE: The Contractor shall, to the fullest extent permitted by law, defend, indemnify and hold harmless the City, its Council members, and any of its officials, officers, directors, and employees from and against damages, liability, losses, costs and expenses, including reasonable attorneys fees, but only to the extent caused by or arising out of the negligent acts, errors or omissions of the Contractor, its employees, agents or subcontractors, or others for whom the Contractor is legally liable, in the performance of professional services under this Agreement. The Contractor is not obligated under this subparagraph IX.B. to indemnify the City for the negligent acts of the City, its Council members, or any of its officials, officers, directors, agents and employees.

C. INDEMNIFICATION – COSTS: Contractor shall, to the fullest extent permitted by law, defend, investigate, handle, respond to, and provide defense for and defend against, any such liability, claims or demands at the sole expense of Contractor or, at the option of the City, agrees to pay the City or reimburse the City for the defense costs incurred by the City in connection with any such liability, claims or demands. Contractor shall, to the fullest extent permitted by law, defend and

bear all other costs and expenses related thereto, including court costs and attorney fees, whether or not any such liability, claims or demands alleged are groundless, false or fraudulent. If it is determined by the final judgment of a court of any competent jurisdiction that such injury, loss or damage was caused in whole or in part by the act, omission or other fault of the City, its Council members, officials, officers, directors, agents and employees, the City shall reimburse Contractor for the portion of the judgment attributable to such act, omission or other fault of the City, its Council members, officials, officers, directors, agents and employees.

D. To the extent this Agreement is subject to C.R.S. § 13-50.5-102(8), Contractor's liability under this provision shall be to the fullest extent of, but shall not exceed, that amount represented by the degree or percentage of negligence or fault attributable to Contractor, any subcontractor of Contractor, or any officer, employee, representative, or agent of Contractor or of any subcontractor of Contractor. If Contractor is providing architectural, engineering, surveying or other design services under this Agreement, the extent of Contractor's obligation to defend, indemnify and hold harmless the Town may be determined only after Contractor's liability or fault has been determined by adjudication, alternative dispute resolution or otherwise resolved by mutual agreement of the Parties, as provided by C.R.S. § 13-50.5-102(8)(c).

X. INSURANCE

A. The Contractor agrees to obtain and maintain during the life of this Contract, a policy or policies of insurance against all liability, claims, demands, and other obligations assumed by Contractor pursuant to Section IX. above. Such insurance shall be in addition to any other insurance requirements imposed by this Contract or by law. The Contractor shall not be relieved of any liability, claims, demands, or other obligations assumed pursuant to Section IX above, by reason of its failure to obtain or maintain during the life of this Contract insurance in sufficient amounts, durations, or types.

B. Contractor shall obtain and maintain during the life of this Contract, and shall cause any subcontractor to obtain and maintain during the life of this Contract, the minimum insurance coverages listed below. Such coverages shall be obtained and maintained with forms and insurers acceptable to the City. All coverages shall be continuously maintained to cover all liability, claims, demands, and other obligations assumed by the Contractor pursuant to Section IX. above. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage.

1. Worker's Compensation Insurance to cover obligations imposed by applicable law for any employee engaged in the performance of the work under this Contract, and Employers Liability Insurance with minimum limits of five hundred thousand dollars (\$500,000) each incident, five hundred thousand dollars (\$500,000) disease - policy limit, and five hundred thousand dollars (\$500,000) disease - each employee.

2. Commercial general liability insurance with minimum combined single limits of one million dollars (\$1,000,000) each occurrence and two million dollars (\$2,000,000) general aggregate. The policy shall be applicable to all premises and operations. The policy shall include coverage for bodily injury, broad form property damage (including completed operations), personal injury (including coverage for contractual and employee acts), blanket contractual, products, and completed operations. The policy shall contain a severability of interests provision.

3. Professional liability insurance on projects over \$1,000,000 with minimum limits of six hundred thousand dollars (\$600,000) each claim and one million dollars (\$1,000,000) general aggregate.

C. The policy required by paragraph 2. above shall be endorsed to include the City and

the City's officers, employees, and Contractors as additional insureds. Every policy required above shall be primary insurance, and any insurance carried by the City, its officers, its employees, or its Contractors shall be excess and not contributory insurance to that provided by Contractor. No additional insured endorsement to the policy required by paragraph 1. above shall contain any exclusion for bodily injury or property damage arising from completed operations. Contractor shall be solely responsible for any deductible losses under any policy required above.

D. The certificate of insurance provided for the City shall be completed by Contractor's insurance agent as evidence that policies providing the required coverages, conditions, and minimum limits are in full force and effect, and shall be reviewed and approved by the City prior to commencement of the Agreement. No other form of certificate shall be used. If the City is named as an additional insured on any policy which does not allow for the automatic addition of additional insureds, the Contractor's insurance agent shall also provide a copy of all accompanying endorsements recognizing the City as an additional insured. The certificate shall identify this Agreement and shall provide that the coverages afforded under the policies shall not be cancelled, terminated or materially changed until at least thirty (30) days prior written notice has been given to the City. The completed certificate of insurance shall be sent to:

City of Northglenn
Attn: Steven Stokes
11701 Community Center Drive
Northglenn, Colorado 80233-8061

E. Failure on the part of Contractor to procure or maintain policies providing the required coverages, conditions, and minimum limits shall constitute a material breach of agreement upon which the City may immediately terminate this Agreement, or at its discretion, the City may procure or renew any such policy or any extended reporting period thereto and may pay any and all premiums in connection therewith, and all monies so paid by the City shall be repaid by Contractor to the City upon demand, or the City may offset the cost of the premiums against any monies due to Contractor from the City.

F. The City reserves the right to request and receive a certified copy of any policy and any endorsement thereto.

G. The parties hereto understand and agree that the City, its officers, and its employees, are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations (presently three hundred fifty thousand dollars (\$350,000) per person and nine hundred ninety thousand dollars (\$990,000) per occurrence) or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, Colo. Rev. Stat. §§ 24-10-101, et seq., as from time to time amended, or otherwise available to the City, its officers, or its employees.

XI. NON-ASSIGNABILITY

Neither this Agreement, nor any of the rights or obligations of the parties hereto, shall be assigned by either party without the written consent of the other.

XII. TERMINATION

This Agreement shall terminate at such time as the work in Section I is completed and the requirements of this Agreement are satisfied, or upon the City's providing Contractor with seven (7) days advance written notice, whichever occurs first. In the event the Agreement is terminated by the City's issuance of said written notice of intent to terminate, the City shall pay Contractor for all work previously authorized and completed prior to the date of termination. If, however, Contractor has substantially or materially breached the standards and terms of this Agreement, the City shall have any remedy or right of set-off available at law and equity. If the Agreement is terminated for any

reason other than cause prior to completion of the Project, any use of documents by the City thereafter shall be at the City's sole risk, unless otherwise consented to by Contractor.

XIII. CONFLICT OF INTEREST

The Contractor shall disclose any personal or private interest related to property or business within the City. Upon disclosure of any such personal or private interest, the City shall determine if the interest constitutes a conflict of interest. If the City determines that a conflict of interest exists, the City may treat such conflict of interest as a default and terminate this Agreement.

XIV. VENUE

This Agreement shall be governed by the laws of the State of Colorado, and any legal action concerning the provisions hereof shall be brought in the County of Adams, State of Colorado.

XV. INDEPENDENT CONTRACTOR

Contractor is an independent contractor. Notwithstanding any provision appearing in this Agreement, all personnel assigned by Contractor to perform work under the terms of this Agreement shall be, and remain at all times, employees or agents of Contractor for all purposes. Contractor shall make no representation that it is the employee of the City for any purposes.

XVI. NO WAIVER

Delays in enforcement or the waiver of any one or more defaults or breaches of this Agreement by the City shall not constitute a waiver of any of the other terms or obligation of this Agreement.

XVII. ENTIRE AGREEMENT

This Agreement and the attached Exhibits A and B is the entire Agreement between Contractor and the City, superseding all prior oral or written communications. None of the provisions of this Agreement may be amended, modified, or changed, except as specified herein.

XVIII. SUBJECT TO ANNUAL APPROPRIATION

Consistent with Article X, Section 20 of the Colorado Constitution, any financial obligations of the City not to be performed during the current fiscal year are subject to annual appropriation, and thus any obligations of the City hereunder shall extend only to monies currently appropriated.

XIX. NOTICE

Any notice or communication between Contractor and the City which may be required, or which may be given, under the terms of this Agreement shall be in writing, and shall be deemed to have been sufficiently given when directly presented or sent pre-paid, first class United States Mail, addressed as follows:

The City: City of Northglenn
11701 Community Center Drive
Northglenn, Colorado 80233-8061

Contractor: Tri State Fireworks, Inc.
P.O. Box 31
Brighton, CO 80601

IN WITNESS WHEREOF, the parties hereto each herewith subscribe the same in duplicate.

CITY OF NORTHGLENN, COLORADO

By: Heather Geyer 2-20-19
Name Date

ATTEST:

Heather Geyer
Print Name

Johanna Small 02/20/2019
Johanna Small, CMC Date
City Clerk

City Manager
Title

APPROVED AS TO FORM:

Corey Y. Hoffmann 2/25/19
Corey Y. Hoffmann Date
City Attorney

CONTRACTOR:

By: Sharon K. Dermody
Sharon K. Dermody
Print Name
Vice President 2/8/19
Title Date

ATTEST:

Joe Diaz
Print Name
President 2/8/19
Title Date

SCOPE OF SERVICES

Name and Description of Event:

The July 4th Festival is a signature event of the City of Northglenn. The festival draws 3,000 – 5,000 people during the day and approximately 15,000 – 20,000 in the evening for the booths, free summer concert, and fireworks show.

Date and Location:

Thursday, July 4th, 2019

Saturday, July 4th, 2020

Sunday, July 4th, 2021

This family friendly Independence Day celebration is held in the Northglenn Civic Center and E.B. Rains Jr. Memorial Park, located at 117th and Community Center Drive in Northglenn, Colorado.

The fireworks will be shot off of barges set up on Webster Lake. The show will commence between 9:00 – 9:30 p.m. with proper approval and timing from the city, North Metro Fire, and Tri State Fireworks.

Tri-State Fireworks will provide:

Proximate fireworks show choreographed to music for approximately 14-18 minutes on each July 4th listed above, weather permitting. If the show is delayed due to inclement weather, the show will be shot on Tuesday, July 5th at 9:30 p.m.

The City of Northglenn will provide:

Overnight security for the product and equipment that has been set up in the park and on the lake on the evening of July 3rd.

A secure area at the east section of the lake to set up the equipment and vehicles needed for the fireworks show.

A professional sound system to include sound at the stage in the park and three satellite sound stations set up other locations to create optimum sound effect for the show.

The pedal boats will not be available for public use after 5:00 p.m. so that the barges can be set up on the lake.

EXHIBIT "B" – Contract #2015-170

Amount of Compensation

Proximate fireworks for the July 4th Family Festival: \$50,000 made in two payments. \$25,000 to be paid by April 1 each year and the final payment of \$25,000 to be paid after the fireworks are shot on July 4.

PROSPECTIVE CONTRACTOR'S CERTIFICATE REGARDING EMPLOYING OR CONTRACTING WITH AN ILLEGAL ALIEN

FROM: Tri-State Fireworks, Inc.
(Prospective Contractor)

TO: City of Northglenn
PO Box 330061
11701 Community Center Drive
Northglenn, CO 80233

Project Name 2019, 2020, 2021 July 4th Fireworks

Bid Number IFB 2019-025 Project No. _____

As a prospective Contractor for the above-identified bid, I (we) do hereby certify that, as of the date of this certification, I (we) do not knowingly employ or contract with an illegal alien who will perform work under the Agreement and that I (we) will confirm the employment eligibility of all employees who are newly hired for employment to perform work under the Agreement through participation in either the E-Verify Program administered by the United States Department of Homeland Security and Social Security Administration or the Department Program administered by the Colorado Department of Labor and Employment.

Executed this 8th day of February, 2019.

Prospective Contractor Tri-State Fireworks, Inc

By: [Signature]

Title: Vice President

NO EMPLOYEE AFFIDAVIT

1. Check and complete one:

I, _____, am a sole proprietor doing business as _____ I do not currently employ any individuals. Should I employ any individuals during the term of my Agreement with the City, I certify that I will comply with the lawful presence verification requirements outlined in that Agreement.

OR

I, Sharon Dermody, am an owner/member/shareholder of LA State Fireworks a Corporation [specify type of entity-i.e, corporation, limited liability company], that does not currently employ any individuals. Should I employ any individuals during the term of my Agreement with the City, I certify that I will comply with the lawful presence verification requirements outlined in that Agreement.

2. Check one.

I, _____, am a United States citizen or legal permanent resident.

The City must verify this statement by reviewing one of the following items:

- o *A valid Colorado Driver's license or a Colorado identification card*
- o *A United States military card or a military dependent's identification card*
- o *A United States Coast Guard Merchant Mariner card*
- o *A Native American tribal document or*
- o *In the case of a resident of another state, the driver's license or state-issued identification card from the state of residence, if that state requires the applicant to prove lawful presence prior to the issuance of the identification card*
- o *Any other documents or combination of documents listed in the City's "Acceptable Documents for Lawful Presence Verification" chart that prove both the contractor's citizenship/lawful presence and identity.*

OR

I am otherwise lawfully present in the United States pursuant to federal law.

Contractor must verify this statement through the federal systematic alien verification of entitlement program, the "SAVE" program, and provide such verification to the City.

Sharon Dermody
Signature

2/8/19
Date

