

# **REQUEST FOR PROPOSALS**

**RFQ 2017-REC1**

**Fireworks Display for the City of Irwindale**

**Date Issued: January 9, 2017**

**Mandatory Site Walk: Wed., January 18, 2017 @ 8:00 am (PST)**

**Proposal Due Date: February 1, 2017 @ 2 pm (PST)**

**CITY OF IRWINDALE, CALIFORNIA**  
**REQUEST FOR PROPOSALS NO. 2017-REC1**

Notice is hereby given that the City of Irwindale ("City") through its Purchasing Department is seeking Requests for Formal Proposals (RFP) from qualified firms to submit proposals to provide:

**FIREWORKS DISPLAY**

The RFP sets forth relevant information regarding the detailed and specific information about the scope of services, submission requirements and selection procedures. The RFP will be available for pick up at the City Clerk's Office, 5050 N. Irwindale Avenue, Irwindale, CA 91706 beginning at 8:00 a.m. (PST) on Monday, January 9, 2017 or it may be downloaded from the City's Website at <http://www.irwindaleca.gov>.

A mandatory pre-proposal meeting is scheduled for Wednesday, January 18, 2017 at 8am. All questions relating to the RFP are due Monday, January 23, 2017 by 5:00 p.m. (PST), via e-mail to [Dgrijalva@irwindaleca.gov](mailto:Dgrijalva@irwindaleca.gov). Phone calls will not be accepted. The Recreation Department expects to respond to all questions by 5:00 p.m. (PST) on Wednesday, January 25, 2017. The Recreation Department will post a copy of all questions received and their answers on the City of Irwindale Website at <http://www.irwindaleca.gov>

The RFP is due on Wednesday, February 1, 2017 and must be received at the City Clerk's Office by 2:00 p.m. (PST). No electronic submissions or facsimile transmissions will be accepted. Qualifications must be submitted in sealed envelopes or boxes. Respondents are advised to carefully review submission instructions contained in the RFP.

The City reserves the right to reject proposals with or without cause and for any reason, to waive any irregularities or informalities, and to solicit and re-advertise for other proposals. Incomplete or non-responsive proposals may be rejected by the City as non-responsive or irregular. The City reserves the right to reject any proposal for any reason, including, but without limitation, if the Proposer fails to submit any required documentation, if the Proposer is in arrears or in default upon any debt or contract to the City or has failed to perform faithfully any previous contract with the City or with other governmental jurisdictions. All information required by this RFP must be supplied to constitute a proposal.

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# FIREWORKS DISPLAY

## City of Irwindale RFP No. 2017-REC1

### I. INTRODUCTION

The City of Irwindale ("City") is a community with a resident population of about 1,600. The City is seeking proposals from qualified firms, hereinafter referred to as "the Proposer," to provide all materials and services necessary to produce a safe custom aerial fireworks display annually for three (3) years beginning on July 4, 2017 ("Project") at approximately 9 p.m. (local) ("Performance Date"), at 5100 Allen Drive, Irwindale, CA ("Site"). The City is seeking to enter into a three (3) year contract with options to renew for (2) additional (1) year periods at City's discretion, in accordance with the terms, conditions, and specifications contained in this Request for Proposals ("RFP") No. 2017-REC1. Renewal notice will be provided in advance in accord with the terms of the contract.

The City's budget for the annual July 4<sup>th</sup> aerial fireworks show is \$25,000 per year. The City will not consider proposals that exceed this amount. The City will select the Proposer offering the maximum value for the budgeted price. The City will consider the variety of color, mortar size, number of shells, and overall effect of the proposed fireworks show.

### II. TIMELINE

Selection Schedule: The RFP tentative schedule is as follows:

Issue RFP	1/9/17
Mandatory Pre-Proposal Meeting	1/18/17 @ 8am (PST)
Deadline to submit questions	1/23/17 @ 5pm (PST)
RFP responses due	2/1/17 @ 2pm (PST)
Review Committee Interviews/Selection	Week of 2/6/17
City Council Consideration (Review Committee Recommendations)	2/22/17

The City may postpone scheduled due dates in its sole discretion. The City will attempt to notify all registered Proposers of all changes in scheduled due dates by written addenda.

### III. INSTRUCTIONS TO PROPOSERS

- A. Any individual/firm that would like to submit a proposal shall follow the instructions outlined in this RFP. The City shall competitively solicit RFPs and award the contract to the Proposer that provides the best overall value, considering price and quantity and quality of the overall proposed fireworks show as described in this RFP..

has been executed by both the City (with Council approval, if applicable) and the successful Proposer.

- B. A fully responsive proposal is due to the City of Irwindale City Clerk's Department not later than Wednesday, February 1, 2017 by 2:00 p.m. (PST) ("Deadline").
- C. Proposers shall submit three (3) originals and one (1) electronic pdf file of the proposal in a sealed package. Proposals may be mailed or hand delivered. No e-mailed or faxed copies will be accepted. The package shall be clearly marked on the outside as follows:

City of Irwindale  
Attn: City Clerk  
5050 N Irwindale Avenue  
Irwindale, CA 91706

RFP No. 2017-REC1  
**Project: Fireworks Display**

Late submissions, additions, or changes will not be accepted and will be returned to the Proposer unopened.

Due to the irregularity of mail service, the City cautions Proposers to assure actual delivery of proposals to the City prior to the deadline set for receiving proposals. Telephone confirmation of timely receipt of the proposal may be made by calling the Office of the City Clerk before the Deadline. Proposers may withdraw their proposals by notifying the City in writing at any time prior to the Deadline. Proposals, once opened, become property of the City and will not be returned.

- D. The City will not respond to oral inquiries. Proposers should e-mail any inquiries for interpretation of this RFP to Dan Grijalva, Recreation Manager at [Dgrijalva@irwindaleca.gov](mailto:Dgrijalva@irwindaleca.gov). Please mark the correspondence "RFP No. 2017-REC1 QUESTION".

The City will respond to written inquiries received at least 7 working days prior to the Deadline. The City will record its responses to inquiries and any supplemental instructions in the form of a written addendum. If addenda are issued, the City will email, mail or fax written addenda to any potential Proposer who has provided their contact information to the Purchasing Officer. Although the City will make an attempt to notify each prospective Proposer of the addendum, it is the sole responsibility of a Proposer to remain informed as to any changes to the RFP.

- E. Neither the City nor its representatives shall be liable for any expenses incurred in connection with preparation of a response to this RFP. Proposers should prepare their proposals simply and economically, providing a straightforward and concise description of the Proposer's ability to meet the requirements of the RFP.

## IV. SCOPE OF WORK

### A. **Fireworks Display:**

Proposer shall design and furnish a custom aerial fireworks display consisting of a grand opening, aerial display and grand finale ("Show"). The Show to be provided by the Proposer shall include all labor, equipment, materials, and other miscellaneous items necessary to provide a first-class aerial fireworks display of at least 15 to 20 minutes in duration without breaks, and includes transportation, set-up, firing, and clean-up of the area. The Show will take place at approximately 9 p.m. (PST) at 5100 Allen Drive, Irwindale, CA 91706.

Proposer agrees that all services to be performed must be in compliance with all applicable laws and regulations, including without limitations, using one licensed pyrotechnic operator in connections with the handling or display of fireworks, combing the grounds for any live materials around the site immediately preceding the fireworks display, providing sufficient personnel at fireworks discharge site in order to ensure a safe public display, and obtaining all necessary licenses and permits.

### B. **Firing Area:**

The City has identified the Site to be used to launch the fireworks show as 5100 Allen Drive, Irwindale, CA 91706. A picture of the Site is attached (**Exhibit 1**). Site is subject to change, based on availability.

### C. **Personnel:**

a. **Pyrotechnics Crew:** Proposer shall furnish an appropriate number of operating personnel, which shall include a minimum of a supervisor and sufficient qualified additional personnel as required to competently provide the Show required herein.

Cellular phone contact shall be maintained between the pyrotechnical staff and the City at all times during setup, discharge of pyrotechnics display, and cleanup. The Proposer shall be responsible for supplying cellular telephones to its personnel.

Proposer must provide all safety equipment for themselves and their crew. (Ear plugs, hard hats, eye protection, gloves, long sleeve protective clothing, etc.)

b. **Supervisor:** The supervisor shall be available for pre-show logistics and safety meetings with representatives of the Los Angeles County Fire Department, City's police personnel and City event staff, as necessary prior to the date of the show.

c. **Representation:** A representative of the company that has the authority to bind and make decisions for the company shall be present and available to City representatives on the Performance Date.

### D. **Set-up and Clean-Up:**

Proposer shall be responsible for all set-up, breakdown and clean up of the areas used by the Proposer. The timing of the delivery of the fireworks to the Site shall be coordinated with City representatives to ensure maximum public safety.

The Proposer shall also be responsible for the removal and disposal of all spent casings and debris created by the display. The firing location must be restored to its original condition after the Show. Proposer shall conduct a search of the fallout area and remove any shell debris.

Proposer shall remove all dud material. The Proposer shall search the fallout area for duds immediately after the Show using adequate lighting to ensure that the material is readily visible. All dud material must be disposed of in a safe manner, taking care to ensure against explosions or other similar safety considerations.

**E. Inspections:**

Proposer shall be prepared for inspection on the Performance Date at a time agreed upon between Proposer and Fire Chief or designee to inspect and count the shells. Proposer shall provide total access to Fire Marshall at all times on the Performance Date.

Proposer shall email to designated City staff by June 19, 2017, a detailed, itemized, inventory shipping list of all shells for the Show. The fireworks material list will be compared to actual inventory on site and shells originally bid. Failure to deliver and ignite and launch all shells will result in a prorated amount being paid to the Proposer. Designated City staff shall verify the shell count after the Show, insuring all shells were discharged during the Show.

**F. Safety Zone:**

The City understands that NFPA Code 1123, Los Angeles County Fire Department, and any other government agencies require a fall out zone and City understands from past approvals that the firing area conforms to this requirement. Proposer will adjust the fireworks display for the event as necessary in order to comply with the NFPA standards.

**G. Cancellation or Postponement of Events:**

City has the right to cancel or postpone the Show at any time for any one of the following reasons: (a) inclement weather; (b) winds exceeding 20 miles per hour; (c) governmental prohibition of fireworks displays due to inadequate rain, excessive dryness or other causes or (d) availability of site. If City cancels the Show, City will pay the agreed upon cancellation fee.

## **V. SUBMITTAL REQUIREMENTS**

**A. Pre-Proposal Meeting:**

Proposers must attend a mandatory site walk to fully understand the logistics of the firing area location. The City will not accept any proposal from Proposers that do not attend the mandatory site walk. A site walk has been scheduled for Wednesday, January 18, 2017 at 8am (PST) at 5100 Allen Drive, Irwindale, CA 91706. Please call Dan Grijalva, Recreation Manager at (626) 430-2225 two working days in advance to confirm attendance.

**B. Fireworks Display Description:**

Proposer shall describe in its proposal the offered Show (grand opening, main program, and grand finale).

**C. Shell Count:**

Proposer shall include in its proposal a complete list describing all of the shell types offered and include quantity, item/description, and size of shell or effect. Proposer shall offer a variety of shell types. Shells must have different functions, patterns of break, colors and sizes. 50% of the shells offered for the show shall have a mortar size of 4" or less. No shells over 6" or less than 2.5" shall be included in the proposal

All firework shells and boxes shall be clearly marked for identification, including size and what shells contain multiple projections so that inventory can be confirmed prior to set up. All types of firework shells used shall bear the California State Fire Marshall seal as required by State Law.

**D. Delay:**

Proposer shall describe the timing of the fireworks display and what constitutes dead time or a delay in firing and what adjustments to the contract price shall be made for significant delay to the Show start or excessive dead time.

**E. Firing Systems:**

The Show is to be shot manually and the proposal shall describe the firing system and equipment.

**F. Personnel:**

Proposer shall describe in its proposal the number of personnel that will operate this Show and how they will interact with City staff and its agents. Proposer shall include in its proposal the name and license number of the supervising pyrotechnician who will be assigned to this event and/or list of pyrotechnicians available on the Performance Date. The City reserves the right to choose the pyrotechnician for this Show.

**G. Licenses and Permits:**

The Proposer shall secure any and all necessary and required permits and permissions to conduct the Show, including, by example and not limitation, all Federal (Environmental Protection, DOT, etc.), State, County and City Permits. The Proposer represents that it holds the license ("License") required by the United States Department of Treasury, Bureau of Alcohol, Tobacco and Firearms to perform the Show.

Proposer warrants and represents to City that the License shall be in full force and effect on the Performance Date and further represents that it holds and will hold on the Performance Date any other licenses required by any other governmental authority or agency to perform the Show. Proposer will provide City with copies of any license renewals and any additional permits that may be required during the term of the contract.

Proposer shall include the cost of all required permits to conduct the Show within the bid pricing. The City shall not be responsible for the cost of any permits related to the production of the Show. Fees for all permits issued by the City will be provided without cost to the Proposer.

**H. Credit Calculation:**

Proposer shall describe in its proposal how a credit to the contract price for unexploded, unused or misfired shells will be calculated.

I. **Cancellation Fee:**

Proposer shall specify in its proposal firm, fixed fees for cancellation and describe how such fees are calculated.

J. **Technical Requirements:**

Proposer must demonstrate that they have been regularly engaged in the business of providing fireworks displays for a minimum of five (5) years and must demonstrate that they, or the principals assigned to this Show, have successfully completed services similar to those specified in this RFP.

K. **References:**

Proposer must provide five (5) references of current projects with names and telephone numbers of contact persons, including at least one customer similar in size and complexity to the City.

L. **Insurance and Licenses:**

The successful Proposer shall maintain in full force and effect throughout the contract: (a) insurance coverage reflecting the minimum amounts and conditions required by the City, and (b) any required licenses. Name the City as additional insured and provide 30 day notice of cancellation.

**1. Comprehensive General Liability Insurance** - Consultant shall maintain commercial general liability insurance with coverage at least as broad as Insurance Services Office form CG 00 01, in an amount not less than \$5,000,000 per occurrence, \$10,000,000 general aggregate, for bodily injury, personal injury, and property damage, including without limitation, blanket contractual liability. The policy must include contractual liability that has not been amended. Any endorsement restricting standard ISO "insured contract" language will not be accepted.

**2. Workers' Compensation Insurance** – Consultant shall maintain Workers' Compensation Insurance (Statutory Limits) and Employer's Liability Insurance (with limits of at least \$1,000,000).

**3. Comprehensive Automobile Liability Insurance** - Consultant shall maintain automobile insurance at least as broad as Insurance Services Office form CA 00 01 covering bodily injury and property damage for all activities of the Consultant arising out of or in connection with services to be performed under this Agreement, including coverage for any owned, hired, non-owned or rented vehicles, in an amount not less than \$1,000,000 combined single limit for each accident.

**4. Professional Liability** - Consultant shall maintain professional liability insurance that covers the Services to be performed in connection with this Agreement, in the minimum amount of \$1,000,000 per claim and in the aggregate. Any policy inception date, continuity date, or retroactive date must be before the effective date of this agreement and Consultant agrees to maintain continuous coverage through a period no less than three years after completion of the services required by this Agreement.

**M. Compliance With Law and Other Requirements:**

Proposer will comply with all governmental and third party requirements and standards now in effect or enacted during the term of the contract award and applicable to Proposer, its employees, agents, and subcontractors, with respect to the Project, including the standards of the National Fire Protection Association ("NFPA"). The Proposer is assumed to be familiar with and shall comply with all applicable Federal, State, and local laws, including, without limitation, NFPA Code 1123 and the Building Code as adopted by the City, ordinances, rules, and regulations that may in any manner affect the Show.

**N. Claim Record:**

The top ranked Proposer shall, prior to contract award, provide its insurance claims record for the last (3) three years. Information required will be name of cities where Proposer provided displays resulting in a claim; and a brief description of the claims.

**VI. PROPOSAL FORMAT:**

In order to insure a uniform review process and to obtain the maximum degree of comparability, it is required that the proposals be organized in the manner specified herein. Unless otherwise specified, Proposers shall use the proposal forms provided by the City herein. These forms may be duplicated, but failure to use the forms may cause your Proposal to be rejected. Any erasures or corrections on the form must be made in ink and initialed by Proposer in ink. All information submitted by the Proposer shall be printed, typewritten or completed in ink. Proposals shall be signed in ink. When an RFP requires multiple copies they may be included in a single envelope or package properly sealed and identified.

All proposals shall be submitted as specified in this RFP. Any attachments shall be clearly identified. To be considered, the proposal must respond to all parts of the RFP. Any other information thought to be relevant, but not applicable to the enumerated categories, should be provided as an appendix to the proposal. If publications are supplied by a Proposer to respond to a requirement, the response should include reference to the document number and page number. Proposals lacking this reference may be considered to have no reference material included in the additional documents.

Proposers shall prepare their proposals using the following format:

**1. Letter of Transmittal**

This letter will summarize in a brief and concise manner, the Proposer's understanding of the scope of work and make a positive commitment to provide its services on behalf of the City. The letter must name all of the persons authorized to make representations for or on behalf of the Proposer, and must include their titles, addresses, and telephone numbers. An official authorized to negotiate and execute a contract on behalf of the Proposer must sign the letter of transmittal.

**2. Title Page**

The title page shall show the name of Proposer's agency/firm, address, telephone number, name of contact person, date, and the RFP No. and the Project name.

**3. Table of Contents**

Include a clear identification of the material by section and by page number.

#### **4. Organization Profile and Qualifications**

This section of the proposal must describe the Proposer, including the size, range of activities, and experience providing similar services.

Each Proposer must include:

- Documentation indicating that it is authorized to do business in the State of California and, if a corporation, is incorporated under the laws of one of the States of the United States.
- A description of the primary individuals responsible for supervising the work including the percentage of time each primary individual is expected to contribute to this work.
- Resumes and professional qualifications of all primary individuals and identify the person(s) who will be the City's primary contact and provide the person(s)' background, training, experience, qualifications and authority.
- Completed RFP Forms A, B, C, and D. All RFP forms are included as exhibits this document.

#### **5. Experience**

The Proposer must describe its expertise in and experience with providing goods and/or services similar to those required by this RFP. Describe previous experience relating to the Scope of Work requested in this RFP. Has the firm worked for other governmental entities, particularly municipalities? If so, please describe the work performed and include contact information for references, the time the firm was engaged and a list of accomplishment for each.

#### **6. Approach to Providing Services**

This section of the proposal should explain the Scope of Work as understood by the Proposer and detail the approach, activities and work products to be provided.

#### **7. Compensation**

The proposal shall document the fee proposal for the goods and/or services on RFP Form C.

#### **8. Additional Information**

Any additional information which the Proposer considers pertinent for consideration should be included in a separate section of the proposal.

### **VII. PROCEDURAL INFORMATION**

#### **A. Interviews:**

The City reserves the right to conduct personal interviews or require presentations prior to selection. The City is not responsible for any expenses which Proposers may incur in connection with a presentation to the City or related in any way to this RFP.

#### **B. Request for Additional Information:**

The Proposer shall furnish such additional information as the City may reasonably require. This includes information that indicates financial resources as well as ability to provide the services. The City reserves the right to make investigations of the qualifications of the Proposer as it deems appropriate, including but not limited to, a

background investigation. Failure to provide additional information requested may result in disqualification of the proposal.

**C. Proposals Binding:**

All proposals submitted shall be binding for at least one hundred twenty (120) calendar days following opening.

**D. Proposer's Certification Form:**

Each Proposer shall complete the "Proposer's Certification" form included as RFP Form D and submit the form with the proposal. This form must be acknowledged before a notary public with notary seal affixed on the document.

**E. Public Records**

Proposals are public documents and subject to public disclosure in accordance with the Public Records Law. Certain exemptions to the Public Records Law are statutorily provided for and it is the Proposer's responsibility to become familiar with these concepts. The contract will include a provision wherein the Proposer releases and agrees to defend, indemnify, and hold harmless the City and the City's officers, employees, and agents, against any loss or damages incurred by any person or entity as a result of the City's treatment of records as public records.

**F. Irregularities; Rejection of Proposals**

The City reserves the right to reject proposals with or without cause and for any reason, to waive any irregularities or informalities, and to solicit and re-advertise for other proposals. Incomplete or non-responsive proposals may be rejected by the City as non-responsive or irregular. The City reserves the right to reject any proposal for any reason, including, but without limitation, if the Proposer fails to submit any required documentation, if the Proposer is in arrears or in default upon any debt or contract to the City or has failed to perform faithfully any previous contract with the City or with other governmental jurisdictions. All information required by this RFP must be supplied to constitute a proposal.

**G. Evaluation Method and Criteria**

**1. General**

The City shall be the sole judge of its own best interests, the proposals, and the resulting negotiated contract or agreement, if any. The City reserves the right to investigate the financial capability, reputation, integrity, skill, business experience and quality of performance under similar operations of each Proposer, including shareholders, principals and senior management, before making an award. Awards, if any, will be based on both an objective and subjective comparison of proposals and Proposers. The City's decisions will be final. The City's evaluation criteria may include, but shall not be limited to, consideration of the following:

- a. ability to meet set standards;
- b. availability of qualified personnel;
- c. compensation;
- d. expertise of personnel;
- e. financial resources and capabilities;
- f. past contracts with other governmental jurisdictions;
- g. past performance records;

- c. compensation;
- d. expertise of personnel;
- e. financial resources and capabilities;
- f. past contracts with other governmental jurisdictions;
- g. past performance records;
- h. qualifications of Proposer;
- i. references;
- j. related experience in California;
- k. technical soundness of proposal; and,
- l. time frames.
- m. Scope of the proposed show

## **2. Selection**

The City Manager may conduct the selection process, or at the option of the City Manager, it may be referred to a selection committee (the "Committee"). Either the City Manager or the Committee will review all proposals received and establish a list of selected Proposers deemed to be the most qualified to provide the service requested based in part on the criteria set forth above. The City Manager may submit a recommended firm or a "short list" or a combination of a recommended firm and the "short list" to the City Council and the City Council shall make a final award. The City Manager may request an oral presentation from the Proposers. Proposers are advised that the City reserves the right to conduct negotiations with the most qualified Proposer, but may not do so. Therefore, each Proposer should endeavor to submit its best proposal initially.

## **H. Representations and Warranties**

In submitting a proposal, Proposer warrants and represents that:

1. Proposer has examined and carefully studied all data provided, and any applicable addenda; receipt of which is hereby acknowledged.
2. Proposer has visited the Site, if any, and is familiar with and satisfied as to the general locale and Site conditions that may affect cost, progress, and performance of goods and/or services in their proposal.
3. Proposer is familiar with and is satisfied as to all federal, state and local laws and regulations that may affect cost, progress and performance of the goods and/or services in their proposal.
4. If applicable, Proposer has obtained and carefully studied (or assumes responsibility for having done so) all documents available related to the subject of the RFP and performed any examinations, investigations, explorations, tests, studies and data concerning conditions that may affect cost, progress, or performance of the goods and/or services that relate to any aspect of the means, methods, techniques, sequences, and procedures to be employed by Proposer, including safety precautions and programs incident thereto.
5. Proposer has given City written notice of all conflicts, errors, ambiguities, or discrepancies that Proposer has discovered in this RFP and any addenda thereto, and the written resolution thereof by the City is acceptable to Proposer.

contingent fee, and no employee or officer of the City has any interest, financially or otherwise, in the RFP or contract.

I. **Indemnification**

Proposer agrees to indemnify City, its officers, agents and employees against, and will hold and save them and each of them harmless from, any and all actions, suits, claims, damages to persons or property, losses, costs, penalties, obligations, errors, omissions or liabilities, including paying any legal costs, attorneys fees, or paying any judgment (herein "claims or liabilities") that may be asserted or claimed by any person, firm or entity arising out of or in connection with the negligent performance of the work or services of Proposer, its agents, employees, subcontractors, or invitees, provided for herein, or arising from the negligent acts or omissions of Proposer hereunder, or arising from Proposer's negligent performance of or failure to perform any term, provision covenant or condition of this Agreement, but excluding such claims or liabilities to the extent caused by the sole negligence or willful misconduct of City.

J. **City Contract**

The selected Proposer is expected to execute the City's standard professional services contract, in the form approved by the City Attorney (Attachment "A").

**FIREWORKS DISPLAY**

City of Irwindale RFP No. 2017-REC1

**RFP FORM A**

Proposer: \_\_\_\_\_

**QUALIFICATIONS STATEMENT**

**Note: Forms A, B & C are available in WORD format from the City Clerk upon request.**

**THIS FORM MUST BE SIGNED AND SUBMITTED WITH PROPOSAL TO BE DEEMED RESPONSIVE.**  
The undersigned guarantees the truth and accuracy of all statements and the answers contained herein.

1. State the full and correct name of the partnership, corporation or trade name under which you do business and the address of the place of business. (If a corporation, state the name of the president and secretary. If a partnership, state the names of all partners. If a trade name, state the names of the individuals who do business under the trade name.)

The correct and full legal name of the Proposer is:

\_\_\_\_\_

\_\_\_\_\_ (address) \_\_\_\_\_ (City, State) \_\_\_\_\_ (Zip)

\_\_\_\_\_ Telephone Number \_\_\_\_\_ Fax Number

E-mail: \_\_\_\_\_

The business is a  Sole Proprietorship  Partnership  Corporation

The names of the corporate officers, or partners, or individuals doing business under a trade name, are as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Please describe your company in detail.

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3. Number of employees:

4. Name of employees to be assigned to this Project:

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5. Company identification numbers for the Internal Revenue Service:

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6. Provide City of Irwindale business license number, if applicable, and expiration date:

License Number: \_\_\_\_\_ Expiration Date \_\_\_\_\_

7. How many years has your organization been in business? Does your organization have a specialty?

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8. List the last three project of this nature that the firm has completed? Please provide project description, reference and cost of work completed.

**PROJECT #1**

Project Description:

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Reference Name: \_\_\_\_\_ Telephone: \_\_\_\_\_

Cost: \_\_\_\_\_

**PROJECT #2**

Project Description:

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Reference Name: \_\_\_\_\_ Telephone: \_\_\_\_\_

Cost: \_\_\_\_\_

**PROJECT #3**

Project Description:

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Reference Name: \_\_\_\_\_ Telephone: \_\_\_\_\_

Cost: \_\_\_\_\_

9. Have you ever failed to complete any work awarded to you? If so, where and why?

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10. Provide the following information concerning all contracts **in progress** as of the date of submission of this Proposal for your company, division or unit as appropriate.

Name of Project	Contract with:	Contract Amount	Estimated Completion Date	% of Completion to Date

*(Continue list as necessary)*

11. Provide the following information for any subconsultants you will engage if awarded the contract.

Subcontractor Name	Address	Work to be Performed

*The foregoing list of subconsultants may not be amended after award of the contract without the prior written approval of the City Manager, whose approval shall not be unreasonably withheld.*

**FIREWORKS DISPLAY**

City of Irwindale RFP No. 2017-REC1

**RFP FORM B**

Proposer: \_\_\_\_\_

**REFERENCE FORM**

Forms A, B & C are available in WORD format from the City Clerk upon request.

**THIS FORM MUST BE SUBMITTED WITH PROPOSAL TO BE DEEMED RESPONSIVE.** The Proposer guarantees the truth and accuracy of all statements and the answers contained herein.

Give names, addresses and telephone numbers of four individuals, corporations, agencies, or institutions for which you have performed work similar to what is proposed in this RFP:

1. Name of Contact \_\_\_\_\_  
Title of Contact \_\_\_\_\_  
Telephone Number \_\_\_\_\_ Fax Number \_\_\_\_\_

2. Name of Contact \_\_\_\_\_  
Title of Contact \_\_\_\_\_  
Telephone Number \_\_\_\_\_ Fax Number \_\_\_\_\_

3. Name of Contact \_\_\_\_\_  
Title of Contact \_\_\_\_\_  
Telephone Number \_\_\_\_\_ Fax Number \_\_\_\_\_

4. Name of Contact \_\_\_\_\_  
Title of Contact \_\_\_\_\_  
Telephone Number \_\_\_\_\_ Fax Number \_\_\_\_\_

**FIREWORKS DISPLAY**

City of Irwindale RFP No. 2017-REC1

**RFP FORM C**

Proposer: \_\_\_\_\_

**PRICE PROPOSAL FORM**

**Note: Forms A, B & C are available in WORD format from the City Clerk upon request.**

**THIS FORM MUST BE SIGNED AND SUBMITTED WITH PROPOSAL TO BE DEEMED RESPONSIVE.**  
The undersigned guarantees the truth and accuracy of all statements and the answers contained herein.

Name of Proposer: \_\_\_\_\_

Name of authorized representative of Proposer: \_\_\_\_\_

<b>Project Cost</b>	
<b>DELIVERABLES</b>	<b>ANNUAL FEE MANUAL SHOW</b>
2017 Show	\$ _____
2018 Show	\$ _____
2019 Show	\$ _____
2020 Show	\$ _____
2021 Show	\$ _____
<b>Five Year Total</b>	<b>\$ _____</b>

**Please ensure your Proposal include the cost of all necessary expenditures to provide fireworks display.**

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

Name: \_\_\_\_\_

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

**FIREWORKS DISPLAY**

City of Irwindale RFP No. 2017-REC1

**RFP FORM D**

Proposer: \_\_\_\_\_

**BIDDER'S CERTIFICATION**

**THIS FORM MUST BE SIGNED AND SUBMITTED WITH PROPOSAL TO BE DEEMED RESPONSIVE.**

The undersigned guarantees the truth and accuracy of all statements and the answers contained herein.

I have carefully examined the Request for Proposal referenced above ("RFP") and any other documents accompanying or made a part of this RFP.

I hereby propose to furnish the goods or services specified in the RFP. I agree that my proposal will remain firm for a period of 120 days in order to allow the City adequate time to evaluate the proposals.

I certify that all information contained in this proposal is truthful to the best of my knowledge and belief. I further certify that I am duly authorized to submit this proposal on behalf of the firm as its act and deed and that the firm is ready, willing and able to perform if awarded the contract.

The firm and/or Proposer hereby authorizes the City of Irwindale, its staff or consultants, to contact any of the references provided in the proposal and specifically authorizes such references to release, either orally or in writing, any appropriate data with respect to the firm offering this proposal.

I further certify, under oath, that this proposal is made without prior understanding, agreement, connection, discussion, or collusion with any other person, firm or corporation submitting a proposal for the same product or service; no officer, employee or agent of the City or any other Proposer is interested in said proposal; and that the undersigned executed this Proposer's Certification with full knowledge and understanding of the matters therein contained and was duly authorized to do so.

If this proposal is selected, I understand that I will be expected to execute the City's standard professional services contract, in the form approved by the City Attorney.

\_\_\_\_\_  
Name of Business

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

\_\_\_\_\_  
Print Name and Title

\_\_\_\_\_  
Mailing Address

\_\_\_\_\_  
City State, Zip

**CITY OF IRWINDALE  
CONTRACT SERVICES AGREEMENT FOR**

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THIS PROFESSIONAL SERVICES AGREEMENT (herein "Agreement") is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2017, by and between the CITY OF IRWINDALE, a California municipal corporation ("City") and \_\_\_\_\_ (herein "Consultant").

NOW, THEREFORE, the parties hereto agree as follows:

**1. SERVICES OF CONSULTANT**

1.1 Scope of Services. In compliance with all of the terms and conditions of this Agreement, the Consultant shall perform the work or services set forth in the "Scope of Services" attached hereto as Exhibit "A" and incorporated herein by reference. Consultant warrants that it has the experience and ability to perform all work and services required hereunder and that it shall diligently perform such work and services in a professional and satisfactory manner.

1.2 Compliance With Law. All work and services rendered hereunder shall be provided in accordance with all ordinances, resolutions, statutes, rules, and regulations of the City and any Federal, State or local governmental agency of competent jurisdiction.

1.3 Licenses, Permits, Fees and Assessments. Consultant shall obtain at its sole cost and expense such licenses, permits, and approvals as may be required by law for the performance of the services required by the Agreement.

1.4 Special Requirements. Additional terms and conditions of this Agreement, if any, which are made a part hereof are set forth in the "Special Requirements" attached hereto as Exhibit "B" and incorporated herein by this reference. In the event of a conflict between the provisions of Exhibit "B" and any other provisions of this Agreement, the provisions of Exhibit "B" shall govern.

**2. COMPENSATION**

2.1 Contract Sum. For the services rendered pursuant to this Agreement, Consultant shall be compensated in accordance with the "Schedule of Compensation" attached hereto as Exhibit "C" and incorporated herein by this reference, but not exceeding the maximum contract amount of \_\_\_\_\_ Dollars (\$\_\_\_\_\_) ("Contract Sum").

2.2 Invoices. Each month Consultant shall furnish to City an original invoice for all work performed and expenses incurred during the preceding month in a form approved by City's Director of Finance. By submitting an invoice for payment under this Agreement, Consultant is certifying compliance with all provisions of the Agreement. The invoice shall detail charges for all necessary and actual expenses by the following categories: labor (by sub-category), travel, materials, equipment, supplies, and sub-contractor contracts. Sub-contractor charges shall also be detailed by such categories. Consultant shall not invoice City for any duplicate services performed by more than one person.

City shall independently review each invoice submitted by the Consultant to determine whether the work performed and expenses incurred are in compliance with the provisions of this Agreement. Except as to any charges for work performed or expenses incurred by Consultant which are disputed by City, City will use its best efforts to cause Consultant to be paid within forty five (45) days of receipt of Consultant's correct and undisputed invoice; however, Consultant acknowledges and agrees that due to City warrant run procedures, the City cannot guarantee that payment will occur within this time period. In the event any charges or expenses are disputed by City, the original invoice shall be returned by City to Consultant for correction and resubmission. Review and payment by the City of any invoice provided by the Consultant shall not constitute a waiver of any rights or remedies provided herein or any applicable law.

2.3 Additional Services. City shall have the right at any time during the performance of the services, without invalidating this Agreement, to order extra work beyond that specified in the Scope of Services or make changes by altering, adding to or deducting from said work. No such extra work may be undertaken unless a written order is first given by the Contract Officer to the Consultant, incorporating therein any adjustment in (i) the Contract Sum for the actual cost of the extra work, and/or (ii) the time to perform this Agreement, which said adjustments are subject to the written approval of the Consultant. Any increase in compensation of up to ten percent (10%) of the Contract Sum but not exceeding a total contract amount of Five Thousand Dollars (\$5,000) or in the time to perform of up to ninety (90) days may be approved by the Contract Officer. Any greater increases, taken either separately or cumulatively, must be approved by the City Council. No claim for an increase in the Contract Sum or time for performance shall be valid unless the procedures established in this Section are followed.

### 3. PERFORMANCE SCHEDULE

3.1 Time of Essence. Time is of the essence in the performance of this Agreement.

3.2 Schedule of Performance. Consultant shall commence the services pursuant to this Agreement upon receipt of a written notice to proceed and shall perform all services within the time period(s) established in the "Schedule of Performance" attached hereto as Exhibit "D" and incorporated herein by this reference. When requested by the Consultant, extensions to the time period(s) specified in the Schedule of Performance may be approved in writing by the Contract Officer but not exceeding thirty (30) days cumulatively.

3.3 Force Majeure. The time period(s) specified in the Schedule of Performance for performance of the services rendered pursuant to this Agreement shall be extended because of any delays due to unforeseeable causes beyond the control and without the fault or negligence of the Consultant, including, but not restricted to, acts of God or of the public enemy, unusually severe weather, fires, earthquakes, floods, epidemics, quarantine restrictions, riots, strikes, freight embargoes, wars, litigation, and/or acts of any governmental agency, including the City, if the Consultant shall within ten (10) days of the commencement of such delay notify the Contract Officer in writing of the causes of the delay. The Contract Officer shall ascertain the facts and the extent of delay, and extend the time for performing the services for the period of the enforced delay when and if in the judgment of the Contract Officer such delay is justified. The Contract Officer's determination shall be final and conclusive upon the parties to this Agreement. In no event shall Consultant be entitled to recover damages against the City for

any delay in the performance of this Agreement, however caused, Consultant's sole remedy being extension of the Agreement pursuant to this Section.

3.4 Term. Unless earlier terminated in accordance with Article 7 of this Agreement, this Agreement shall continue in full force and effect until completion of the services but not exceeding three (3) year from the date hereof, except as otherwise provided in the Schedule of Performance (Exhibit "D").

#### **4. COORDINATION OF WORK**

4.1 Representative of Consultant. \_\_\_\_\_ is hereby designated as being the representative of Consultant authorized to act on its behalf with respect to the work and services specified herein and make all decisions in connection therewith. All personnel of Consultant and any authorized agents shall be under the exclusive direction of the representative of Consultant. Consultant shall utilize only competent personnel to perform services pursuant to this Agreement. Consultant shall make every reasonable effort to maintain the stability and continuity of Consultant's staff and subcontractors, and shall keep City informed of any changes.

4.2 Contract Officer. John Davidson, City Manager [or such person as may be designated by the City Manager] is hereby designated as being the representative the City authorized to act in its behalf with respect to the work and services specified herein and to make all decisions in connection therewith ("Contract Officer").

4.3 Prohibition Against Subcontracting or Assignment. Consultant shall not contract with any entity to perform in whole or in part the work or services required hereunder without the express written approval of the City. Neither this Agreement nor any interest herein may be assigned or transferred, voluntarily or by operation of law, without the prior written approval of City. Any such prohibited assignment or transfer shall be void.

4.4 Independent Contractor. Neither the City nor any of its employees shall have any control over the manner, mode or means by which Consultant, its agents or employees, perform the services required herein, except as otherwise set forth. Consultant shall perform all services required herein as an independent contractor of City with only such obligations as are consistent with that role. Consultant shall not at any time or in any manner represent that it or any of its agents or employees are agents or employees of City, or that it is a member of a joint enterprise with City.

#### **5. INSURANCE AND INDEMNIFICATION**

##### **5.1 Required Insurance Policies.**

Without limiting Consultant's indemnification of the City and prior to commencement of services, Consultant shall obtain, provide and maintain, at its sole cost and expense, in a form and content satisfactory to City, during the entire term of this Agreement including any extension thereof, the following policies of insurance:

(a) Comprehensive General Liability Insurance. Consultant shall maintain commercial general liability insurance with coverage at least as broad as Insurance Services Office

form CG 00 01, in an amount not less than \$1,000,000 per occurrence, \$2,000,000 general aggregate, for bodily injury, personal injury, and property damage, including without limitation, blanket contractual liability. The policy must include contractual liability that has not been amended. Any endorsement restricting standard ISO "insured contract" language will not be accepted.

(b) Automobile Liability Insurance. Consultant shall maintain automobile insurance at least as broad as Insurance Services Office form CA 00 01 covering bodily injury and property damage for all activities of the Consultant arising out of or in connection with services to be performed under this Agreement, including coverage for any owned, hired, non-owned or rented vehicles, in an amount not less than \$1,000,000 combined single limit for each accident.

(c) Professional Liability (errors & omissions) Insurance. Consultant shall maintain professional liability insurance that covers the Services to be performed in connection with this Agreement, in the minimum amount of \$1,000,000 per claim and in the aggregate. Any policy inception date, continuity date, or retroactive date must be before the effective date of this agreement and Consultant agrees to maintain continuous coverage through a period no less than three years after completion of the services required by this Agreement.

(d) Workers' Compensation Insurance. Consultant shall maintain Workers' Compensation Insurance (Statutory Limits) and Employer's Liability Insurance (with limits of at least \$1,000,000).

## 5.2 Other Provisions or Requirements.

(a) Proof of Insurance. Consultant shall provide certificates of insurance to City as evidence of the insurance coverage required in section 5.1, and for purposes of Workers' Compensation Insurance Consultant shall submit a Waiver of Subrogation endorsement in favor of City, its officers, agents, employees and volunteers. Should the Consultant be a sole proprietor, the Consultant shall complete and submit a declaration of sole proprietors form to the City in lieu of proof of Workers' Compensation as it not required for sole proprietors. The insurance certificates and endorsements must be approved by City's Risk Manager prior to commencement of performance of services. Current certification of insurance shall be kept on file with City at all times during the term of this Agreement. City reserves the right to require complete, certified copies of all required insurance policies, at any time.

(b) Duration of Coverage. Consultant shall procure and maintain each of the insurance policies required in Section 5.1 for the duration of the Agreement, and any extension thereof.

(c) Primary/Noncontributing. Coverage provided by Consultant shall be primary and any insurance or self-insurance procured or maintained by City shall be excess to the Consultant's insurance and shall not contribute with it. The limits of insurance required herein may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply

on a primary and non-contributory basis for the benefit of City before the City's own insurance or self-insurance shall be called upon to protect it as a named insured.

(d) City's Rights of Enforcement. In the event any policy of insurance required under this Agreement does not comply with these specifications or is canceled and not replaced, City has the right but not the duty to obtain the insurance it deems necessary and any premium paid by City will be promptly reimbursed by Consultant or City will withhold amounts sufficient to pay premium from Consultant payments. In the alternative, City may cancel this Agreement.

(e) Acceptable Insurers. All insurance policies shall be issued by an insurance company currently authorized by the Insurance Commissioner to transact business of insurance or is on the List of Approved Surplus Line Insurers in the State of California, with an assigned policyholders' Rating of A- (or higher) and Financial Size Category Class VI (or larger) in accordance with the latest edition of Best's Key Rating Guide, unless otherwise approved by the City's Risk Manager.

(f) Waiver of Subrogation. All insurance coverage maintained or procured pursuant to this Agreement shall be endorsed to waive subrogation against City, its elected or appointed officers, agents, officials, employees and volunteers or shall specifically allow Consultant or others providing insurance evidence in compliance with these specifications to waive their right of recovery prior to a loss. Consultant hereby waives its own right of recovery against City, and shall require similar written express waivers and insurance clauses from each of its subconsultants.

(g) Enforcement of Contract Provisions (non estoppel). Consultant acknowledges and agrees that any actual or alleged failure on the part of the City to inform Consultant of non-compliance with any requirement imposes no additional obligations on the City nor does it waive any rights hereunder.

(h) Requirements Not Limiting. Requirements of specific coverage features or limits contained in this Section are not intended as a limitation on coverage, limits or other requirements, or a waiver of any coverage normally provided by any insurance. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue and is not intended by any party or insured to be all inclusive, or to the exclusion of other coverage, or a waiver of any type. If the Consultant maintains higher limits than the minimums shown above, the City requires and shall be entitled to coverage for the higher limits maintained by the Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

(i) Notice of Cancellation. Consultant agrees to oblige its insurance agent or broker and insurers to provide to City with a thirty (30) day notice of cancellation (except for nonpayment for which a ten (10) day notice is required) or nonrenewal of coverage for each required coverage.

(j) Additional Insured Status. General liability and automobile policies shall provide or be endorsed to provide that City and its officers, officials, employees, agents, and

volunteers shall be additional insureds under such policies. This provision shall also apply to any excess/umbrella liability policies.

(k) Prohibition of Undisclosed Coverage Limitations. None of the coverages required herein will be in compliance with these requirements if they include any limiting endorsement of any kind that has not been first submitted to City and approved by the City in writing.

(l) Separation of Insureds. A severability of interests provision must apply for all additional insureds ensuring that Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the insurer's limits of liability. The policy(ies) shall not contain any cross-liability exclusions.

(m) Pass Through Clause. Consultant agrees to ensure that its subconsultants, subcontractors, and any other party involved with the services, which are the subject of this Agreement, who is brought onto or involved in these services by Consultant, provide the same minimum insurance coverage and endorsements required of Consultant. Consultant agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this section. Consultant agrees that upon request, all agreements with consultants, subcontractors, and others engaged in the services will be submitted to City for review.

(n) City's Right to Revise Specifications. The City reserves the right at any time during the term of the Agreement to change the amounts and types of insurance required by giving the Consultant ninety (90) days advance written notice of such change. If such change results in substantial additional cost to the Consultant, the City and Consultant may renegotiate Consultant's compensation.

(o) Deductibles/ Self-insured Retentions. Any deductibles and self-insured retentions must be declared to and approved by City. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions with respect to the City, its officers, officials, employees, agents and volunteers, or the Consultant shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claims administration and defense expense.

(p) Timely Notice of Claims. Consultant shall give City prompt and timely notice of claims made or suits instituted that arise out of or result from Consultant's performance under this Agreement, and that involve or may involve coverage under any of the required liability policies.

(q) Additional Insurance. Consultant shall also procure and maintain, at its own cost and expense, any additional kinds of insurance, which in its own judgment may be necessary for its proper protection and prosecution of the work.

### 5.3 Indemnification.

(a) Indemnity for Professional Liability. Consultant shall indemnify, protect, defend and hold harmless City and any and all of its officers, officials, employees and agents ("Indemnified Parties") from and against any and all losses, liabilities, damages, costs and

expenses, including legal counsel's fees and costs where the same arise out of, are a consequence of, or are in any way attributable to whole or in part by, any negligent or wrongful act, error or omission of Consultant, its officers, agents, employees or Subconsultants (or any agency or individual that Consultant shall bear the legal liability thereof) in the performance of professional services under this agreement.

(b) Indemnity for Other than Professional Liability. Other than in the performance of professional services and to the full extent permitted by law, Consultant shall indemnify, defend and hold harmless City, and any and all of its employees, officials and agents from and against any liability (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including legal counsel fees and costs, court costs, interest, defense costs, and expert witness fees), where the same arise out of, are a consequence of, or are in any way attributable to, in whole or in part, the performance of this Agreement by Consultant or by any individual or agency for which Consultant is legally liable, including but not limited to officers, agents, employees or subcontractors of Consultant.

## **6. RECORDS, REPORTS, AND RELEASE OF INFORMATION**

6.1 Records. Consultant shall keep, and require subcontractors to keep, such ledgers, books of accounts, invoices, vouchers, canceled checks, reports, studies or other documents relating to the disbursements charged to City and services performed hereunder (the "books and records"), as shall be necessary to perform the services required by this Agreement and enable the Contract Officer to evaluate the performance of such services and shall keep such records for a period of three years following completion of the services hereunder. The Contract Officer shall have full and free access to such books and records at all times during normal business hours of City, including the right to inspect, copy, audit and make records and transcripts from such records.

6.2 Reports. Consultant shall periodically prepare and submit to the Contract Officer such reports concerning the performance of the services required by this Agreement or as the Contract Officer shall require.

### **6.3 Confidentiality and Release of Information.**

(a) All information gained or work product produced by Consultant in performance of this Agreement shall be considered confidential, unless such information is in the public domain or already known to Consultant. Consultant shall not release or disclose any such information or work product to persons or entities other than the City without prior written authorization from the Contract Officer.

(b) Consultant shall not, without prior written authorization from the Contract Officer or unless requested by the City Attorney, voluntarily provide documents, declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement. Response to a subpoena or court order shall not be considered "voluntary" provided Consultant gives the City notice of such court order or subpoena.

(c) If Consultant provides any information or work product in violation of this Agreement, then the City shall have the right to reimbursement and indemnity from Consultant for any damages, costs and fees, including attorney's fees, caused by or incurred as a result of Consultant's conduct.

(d) Consultant shall promptly notify the City should Consultant be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed thereunder. The City retains the right, but has no obligation, to represent Consultant or be present at any deposition, hearing or similar proceeding. Consultant agrees to cooperate fully with the City and to provide the City with the opportunity to review any response to discovery requests provided by Consultant.

6.4 Ownership of Documents. All studies, surveys, data, notes, computer files, reports, records, drawings, specifications, maps, designs, photographs, documents and other materials (the "documents and materials") prepared by Consultant in the performance of this Agreement shall be the property of the City and shall be delivered to the City upon request of the Contract Officer or upon the termination of this Agreement, and Consultant shall have no claim for further employment or additional compensation as a result of the exercise by the City of its full rights of ownership use, reuse, or assignment of the documents and materials hereunder. Moreover, Consultant with respect to any documents and materials that may qualify as "works made for hire" as defined in 17 U.S.C. § 101, such documents and materials are hereby deemed "works made for hire" for the City.

## 7. ENFORCEMENT OF AGREEMENT AND TERMINATION

7.1 California Law. This Agreement shall be interpreted, construed and governed both as to validity and to performance of the parties in accordance with the laws of the State of California. Legal actions concerning any dispute, claim or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of Los Angeles, State of California. In the event of litigation in a U.S. District Court, venue shall lie exclusively in the Central District of California, in the County of Los Angeles, State of California.

7.2 Disputes; Default. In the event that Consultant is in default under the terms of this Agreement, the City shall not have any obligation or duty to continue compensating Consultant for any work performed after the date of default. Instead, the City may give notice to Consultant of the default and the reasons for the default. The notice shall include the timeframe in which Consultant may cure the default. This timeframe is presumptively thirty (30) days, but may be extended, if circumstances warrant. During the period of time that Consultant is in default, the City shall hold all invoices and shall, when the default is cured, proceed with payment on the invoices. If Consultant does not cure the default, the City may take necessary steps to terminate this Agreement under this Article.

7.3 Legal Action. In addition to any other rights or remedies, either party may take legal action, in law or in equity, to cure, correct or remedy any default, to recover damages for any default, to compel specific performance of this Agreement, to obtain declaratory or injunctive relief, or to obtain any other remedy consistent with the purposes of this Agreement. Notwithstanding any contrary provision herein, Consultant shall file a statutory claim pursuant to

Government Code Sections 905 et. seq. and 910 et. seq., in order to pursue any legal action under this Agreement.

Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the parties are cumulative and the exercise by either party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.

7.4 Termination Prior to Expiration of Term. This Section shall govern any termination of this Contract except as specifically provided in the following Section for termination for cause. The City reserves the right to terminate this Contract at any time, with or without cause, upon thirty (30) days' written notice to Consultant, except that where termination is due to the fault of the Consultant, the period of notice may be such shorter time as may be determined by the Contract Officer. In addition, the Consultant reserves the right to terminate this Contract at any time, with or without cause, upon sixty (60) days' written notice to City, except that where termination is due to the fault of the City, the period of notice may be such shorter time as the Consultant may determine. Upon receipt of any notice of termination, Consultant shall immediately cease all services hereunder except such as may be specifically approved by the Contract Officer. Except where the Consultant has initiated termination, the Consultant shall be entitled to compensation for all services rendered prior to the effective date of the notice of termination and for any services authorized by the Contract Officer thereafter in accordance with the Schedule of Compensation or such as may be approved by the Contract Officer. In the event the Consultant has initiated termination, the Consultant shall be entitled to compensation only for the reasonable value of the work product actually produced hereunder, but not exceeding the compensation provided therefore in the Schedule of Compensation Exhibit "C". In the event of termination without cause pursuant to this Section, the terminating party need not provide the non-terminating party with the opportunity to cure pursuant to Section 7.2.

7.5 Termination for Default of Consultant. If termination is due to the failure of the Consultant to fulfill its obligations under this Agreement, City may, after compliance with the provisions of Section 7.2, take over the work and prosecute the same to completion by contract or otherwise, and the Consultant shall be liable to the extent that the total cost for completion of the services required hereunder exceeds the compensation herein stipulated (provided that the City shall use reasonable efforts to mitigate such damages), and City may withhold any payments to the Consultant for the purpose of set-off or partial payment of the amounts owed the City as previously stated.

## 8. MISCELLANEOUS

8.1 Covenant Against Discrimination. Consultant covenants that, by and for itself, its heirs, executors, assigns and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, gender, sexual orientation, marital status, national origin, ancestry, or other protected class in the performance of this Agreement. Consultant shall take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, creed, religion, sex, gender, sexual orientation, marital status, national origin, ancestry, or other protected class

8.2 Non-liability of City Officers and Employees. No officer or employee of the City shall be personally liable to the Consultant, or any successor in interest, in the event of any default or breach by the City or for any amount, which may become due to the Consultant or to its successor, or for breach of any obligation of the terms of this Agreement.

8.3 Notice. Any notice, demand, request, document, consent, approval, or communication either party desires or is required to give to the other party or any other person shall be in writing and either served personally or sent by prepaid, first-class mail, in the case of the City, to the City Manager and to the attention of the Contract Officer (with her/his name and City title), City of Irwindale, 5050 N. Irwindale Ave., Irwindale CA 91706 and in the case of the Consultant, to the person(s) at the address designated on the execution page of this Agreement. Either party may change its address by notifying the other party of the change of address in writing. Notice shall be deemed communicated at the time personally delivered or in seventy-two (72) hours from the time of mailing if mailed as provided in this Section.

8.4 Integration; Amendment. It is understood that there are no oral agreements between the parties hereto affecting this Agreement and this Agreement supersedes and cancels any and all previous negotiations, arrangements, agreements and understandings, if any, between the parties, and none shall be used to interpret this Agreement. This Agreement may be amended at any time by the mutual consent of the parties by an instrument in writing.

8.5 Severability. In the event that part of this Agreement shall be declared invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining portions of this Agreement which are hereby declared as severable and shall be interpreted to carry out the intent of the parties hereunder unless the invalid provision is so material that its invalidity deprives either party of the basic benefit of their bargain or renders this Agreement meaningless.

8.6 Waiver. No delay or omission in the exercise of any right or remedy by non-defaulting party on any default shall impair such right or remedy or be construed as a waiver. A party's consent to or approval of any act by the other party requiring the party's consent or approval shall not be deemed to waive or render unnecessary the other party's consent to or approval of any subsequent act. Any waiver by either party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

8.7 Attorneys' Fees. If either party to this Agreement is required to initiate or defend or made a party to any action or proceeding in any way connected with this Agreement, the prevailing party in such action or proceeding, in addition to any other relief which any be granted, whether legal or equitable, shall be entitled to reasonable attorney's fees, whether or not the matter proceeds to judgment.

8.8 Interpretation.

The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply.

8.9 Counterparts.

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

8.10 Warranty & Representation of Non-Collusion. No official, officer, or employee of City has any financial interest, direct or indirect, in this Agreement, nor shall any official, officer, or employee of City participate in any decision relating to this Agreement which may affect his/her financial interest or the financial interest of any corporation, partnership, or association in which (s)he is directly or indirectly interested, or in violation of any corporation, partnership, or association in which (s)he is directly or indirectly interested, or in violation of any State or municipal statute or regulation. The determination of "financial interest" shall be consistent with State law and shall not include interests found to be "remote" or "noninterests" pursuant to Government Code Sections 1091 or 1091.5. Consultant warrants and represents that it has not paid or given, and will not pay or give, to any third party including, but not limited to, any City official, officer, or employee, any money, consideration, or other thing of value as a result or consequence of obtaining or being awarded any agreement. Consultant further warrants and represents that (s)he/it has not engaged in any act(s), omission(s), or other conduct or collusion that would result in the payment of any money, consideration, or other thing of value to any third party including, but not limited to, any City official, officer, or employee, as a result of consequence of obtaining or being awarded any agreement. Consultant is aware of and understands that any such act(s), omission(s) or other conduct resulting in such payment of money, consideration, or other thing of value will render this Agreement void and of no force or effect.

Consultant's Authorized Initials \_\_\_\_\_

8.11 Corporate Authority. The persons executing this Agreement on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which said party is bound. This Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the parties.

[Signatures on the following page.]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date and year first-above written.

CITY:

CITY OF IRWINDALE, a municipal corporation

\_\_\_\_\_  
Mark A Breceda, Mayor

ATTEST:

\_\_\_\_\_  
Laura Nieto, City Clerk

APPROVED AS TO FORM:

ALESHIRE & WYNDER, LLP

\_\_\_\_\_  
Fred Galante, City Attorney

CONSULTANT:

\_\_\_\_\_  
\_\_\_\_\_

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

Name:

Title:

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

Name:

Title:

Address: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Two corporate officer signatures required when Consultant is a corporation, with one signature required from each of the following groups: 1) Chairman of the Board, President or any Vice President; and 2) Secretary, any Assistant Secretary, Chief Financial Officer or any Assistant Treasurer. CONSULTANT'S SIGNATURES SHALL BE DULY NOTARIZED, AND APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO CONSULTANT'S BUSINESS ENTITY.



## CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

On \_\_\_\_\_, 2016 before me, \_\_\_\_\_, personally appeared \_\_\_\_\_, proved to me on the basis of satisfactory evidence to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: \_\_\_\_\_

### OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form

CAPACITY CLAIMED BY SIGNER	DESCRIPTION OF ATTACHED DOCUMENT
<input type="checkbox"/> INDIVIDUAL	_____
<input type="checkbox"/> CORPORATE OFFICER	TITLE OR TYPE OF DOCUMENT
_____	
TITLE(S)	
<input type="checkbox"/> PARTNER(S) <input type="checkbox"/> LIMITED	_____
<input type="checkbox"/> GENERAL	NUMBER OF PAGES
<input type="checkbox"/> ATTORNEY-IN-FACT	
<input type="checkbox"/> TRUSTEE(S)	_____
<input type="checkbox"/> GUARDIAN/CONSERVATOR	DATE OF DOCUMENT
<input type="checkbox"/> OTHER _____	
_____	
<b>SIGNER IS REPRESENTING:</b>	
(NAME OF PERSON(S) OR ENTITY(IES))	_____
_____	SIGNER(S) OTHER THAN NAMED ABOVE
_____	

**EXHIBIT "A"**

**SCOPE OF SERVICES**

- I. Consultant will perform the following services:**
  - A.
  - B.
  - C.
  
- II. As part of the Services, Consultant will prepare and deliver the following tangible work products to the City:**
  - A.
  - B.
  - C.
  
- III. In addition to the requirements of Section 6.2, during performance of the Services, Consultant will keep the City updated of the status of performance by delivering the following status reports:**
  - A.
  - B.
  - C.
  
- IV. All work product is subject to review and acceptance by the City, and must be revised by the Consultant without additional charge to the City until found satisfactory and accepted by City.**
  
- V. Consultant will utilize the following personnel to accomplish the Services:**
  - A.
  - B.
  - C.

**EXHIBIT "B"**

**SPECIAL REQUIREMENTS**  
(Superseding Contract Boilerplate)

5.1 (a) Comprehensive General Liability Insurance.

Consultant shall maintain commercial general liability insurance with coverage at least as broad as Insurance Services Office form CG 00 01, in an amount not less than \$5,000,000 per occurrence, \$10,000,000 general aggregate, for bodily injury, personal injury, and property damage, including without limitation, blanket contractual liability. The policy must include contractual liability that has not been amended. Any endorsement restricting standard ISO "insured contract" language will not be accepted.

**EXHIBIT "C"**

**SCHEDULE OF COMPENSATION**

**I. Consultant shall perform the following Services as set forth in the scope of services for an amount not to exceed the contract sum of \$25,000.00 per year:**

				<b>BUDGET</b>
<b>A.</b>	<b>2017</b>	<b>Fireworks</b>	<b>Display</b>	<b>\$25,000.00</b>
<b>B.</b>	<b>2018</b>	<b>Fireworks</b>	<b>Display</b>	<b>\$25,000.00</b>
<b>C.</b>	<b>2019</b>	<b>Fireworks</b>	<b>Display</b>	<b>\$25,000.00</b>
<b>D.</b>	<b>Optional 2020</b>	<b>Fireworks</b>	<b>Display</b>	<b>\$25,000.00</b>
<b>E.</b>	<b>Optional 2021</b>	<b>Fireworks</b>	<b>Display</b>	<b>\$25,000.00</b>

**II. A retention of ten percent (10%) shall be held from each payment as a contract retention to be paid as a part of the final payment upon satisfactory completion of services.**

**III. The City will compensate Consultant for the Services performed upon submission of a valid invoice. Each invoice is to include:**

- A. Line items for all the work performed, the number of hours worked, and the hourly rate.**
- B. Line items for all materials and equipment properly charged to the Services.**
- C. Line items for all other approved reimbursable expenses claimed, with supporting documentation.**
- D. Line items for all approved subcontractor labor, supplies, equipment, materials, and travel properly charged to the Services.**

**IV. The total compensation for the Services shall not exceed \$ 25,000.00 as provided in Section 2.1 of this Agreement.**

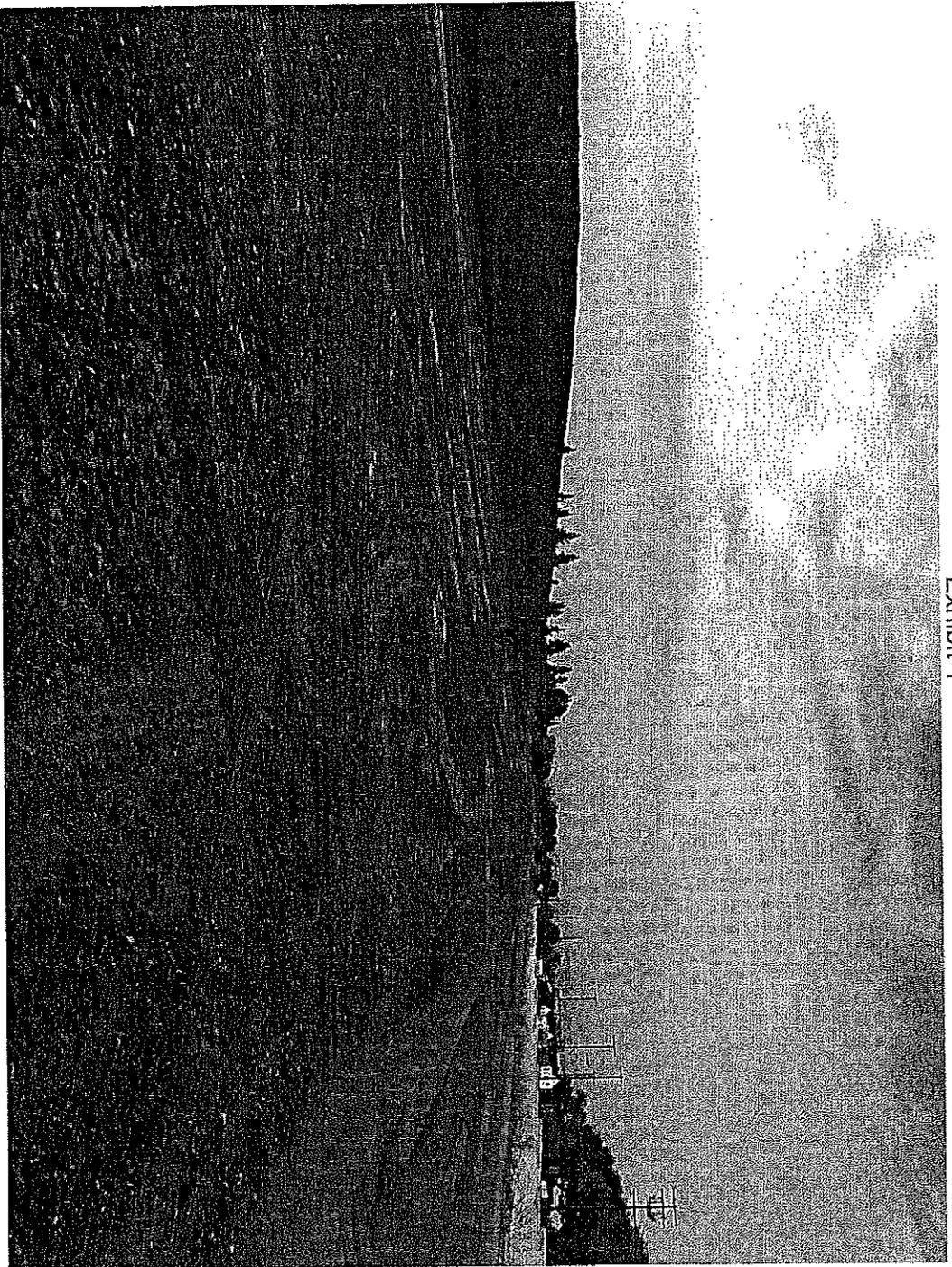
**V. Consultant's billing rates for all personnel are attached as Exhibit C-1.**

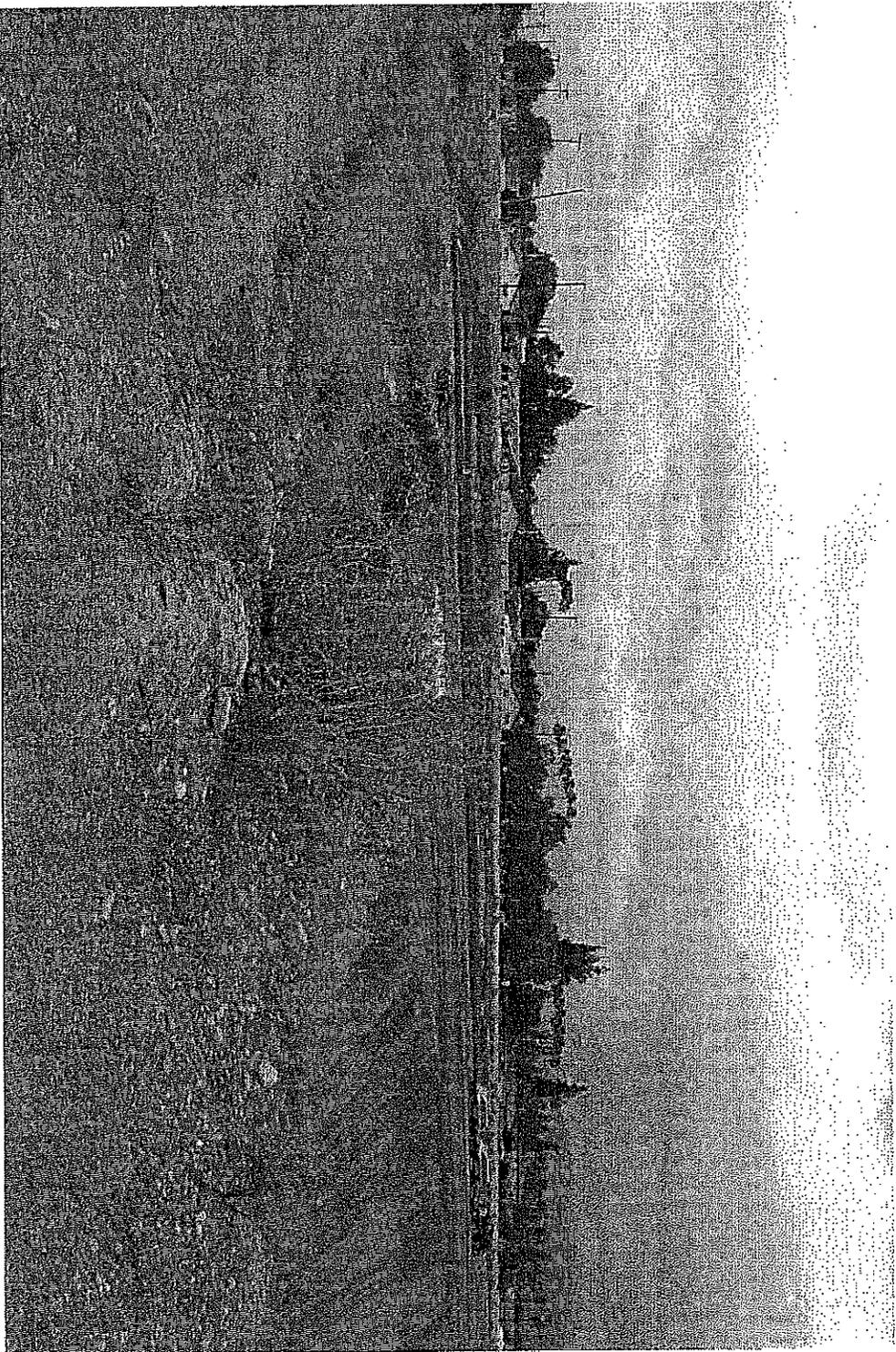
**EXHIBIT "D"**

**SCHEDULE OF PERFORMANCE**

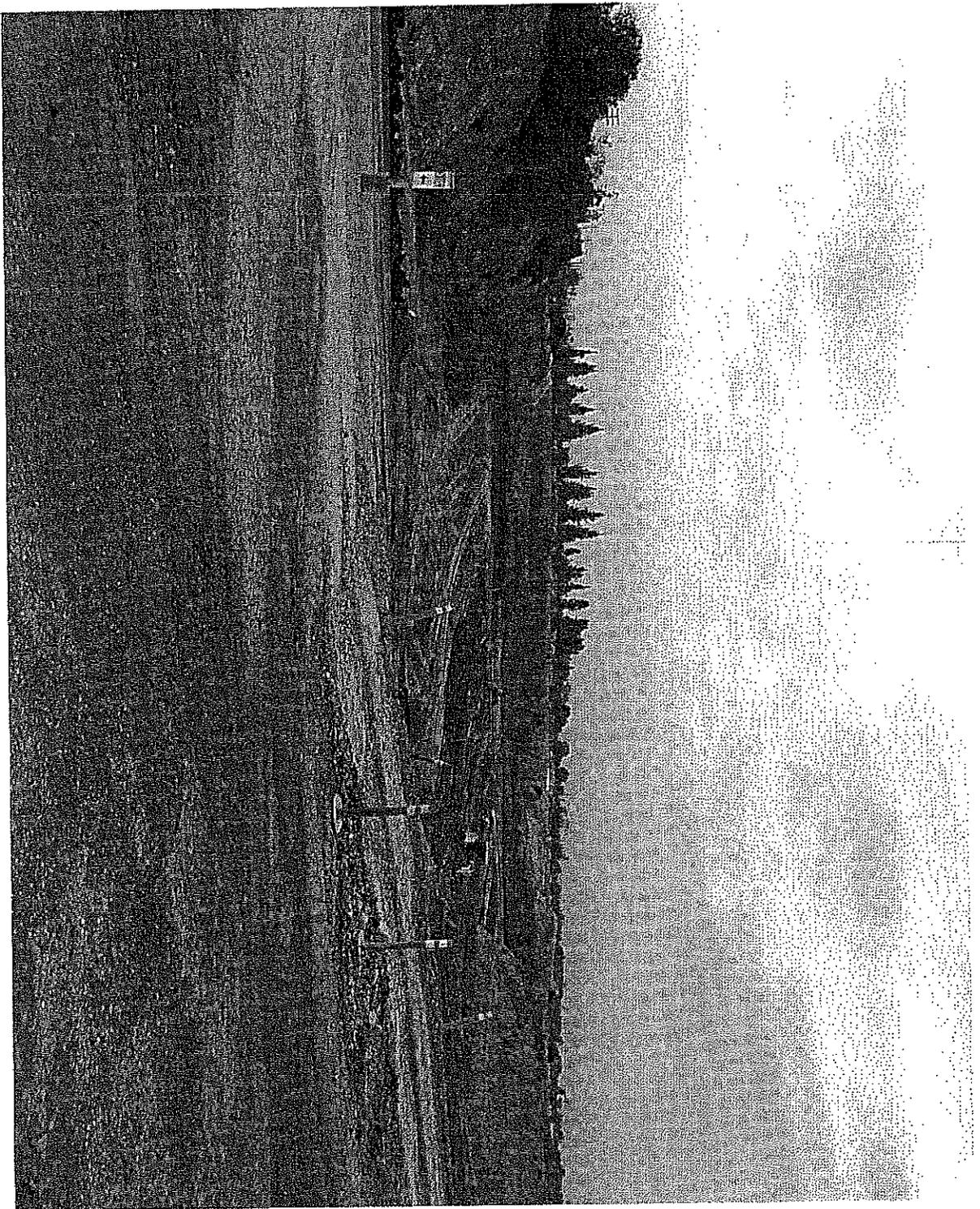
- I. Consultant shall perform all services timely in accordance with the follow schedule:**
  - A. 2017 Fireworks Display - July 4, 2017 at 9:00 pm**
  - B. 2018 Fireworks Display - July 4, 2018 at 9:00 pm**
  - C. 2019 Fireworks Display - July 4, 2019 at 9:00 pm**
  
- II. The Officer may extend services in accordance with Section 3.2.**
  - D. Optional 2020 Fireworks Display - July 4, 2020 at 9:00 pm**
  - E. Optional 2021 Fireworks Display - July 4, 2021 at 9:00 pm**

Exhibit 1





1005/001/40818v1



1005/001/40818V1