

FIREWORKS DISPLAY AGREEMENT

2016

Fireworks Display Operator: The Rozzi Company, Inc.
An Ohio corporation
qualified to do business in Ohio ("Rozzi")
P.O. Box 5
Loveland, OH 45140

Agreement Effective Date: April 5, 2016

Event Location: Mason, OH

This Fireworks Display Agreement ("Agreement") is made as of the 5th day of April 2016 by and between **Rozzi, Inc dba Rozzi's Famous Fireworks, an Ohio corporation, 118 Karl Brown Way, Loveland, OH and City of Mason, Ohio.** ("Sponsor") for the purpose of setting forth the terms and conditions by which Rozzi shall provide the Fireworks Displays by which Sponsor shall pay the Contract Sum therefor. In consideration of the foregoing and of the covenants, terms, conditions below, Rozzi and Sponsor agree as follows:

1. **ENGAGEMENT OF ROZZI:** CITY OF MASON, OHIO. Hereby engages Rozzi to provide to CITY OF MASON, OHIO. Two Rozzi's Famous Fireworks productions ("Production" or "Productions" bid proposal); named CITY OF MASON, OHIO. Fireworks Display at the CITY OF MASON, OHIO. Events ("Events") and Rozzi accepts such engagement.
2. **TERM:**
 - (a) CITY OF MASON, OHIO. Engages Rozzi for two 2016 Productions at CITY OF MASON, OHIO. Event, which shall take place on July 3, 2016: September 17, 2016

SITE: The Events and the Production(s) shall take place in CITY OF MASON, OHIO. Designated by CITY OF MASON, OHIO. And as approved by ROZZI and the local Authority having jurisdiction ("AHJ")

3. FEES AND EXPENSES:

- 3.1 . . CITY OF MASON, OHIO. Agrees to pay ROZZI a fee of \$31,400 USD (the "Fee") for the July 3 Production.
FEE: September 17, 2016 (yet to be determined)
- 3.2 CITY OF MASON, OHIO. Shall pay to ROZZI 20% of the fee as a deposit (\$6,240.00) no later than May 1 2016, the balance of the fee shall be paid no later than 10 days following the completion of each display.

ROZZI RESPONSIBILITIES

1.1 Fireworks Display. Rozzi and/or its subcontractors or agents shall furnish and shoot the fireworks show at the Event Location on the Event Date such to be approved by sponsor in

advance. Rozzi shall provide properly trained and experienced operators to set up and shoot the Fireworks Display in substantial conformance with the requirements of NFPA 1123-2006 edition (“NFPA 1123”) and applicable federal, state and local laws, regulations, codes and ordinances (“Law”).

1.2 **Site Security for Set-up and Display/Discharge Areas** – Rozzi shall be responsible to restrict public access and securing of the entire fireworks, setup, loading and discharge area. Security must be provided by the Rozzi for all time periods commencing with the delivery of fireworks product and concluding after the post exhibition daylight site check and final approval of the site by the City of Mason. The security arrangements must be specified and approved by the City of Mason.

1.3 **Permits.** Rozzi shall obtain the necessary permits for the Fireworks Display from the authority having jurisdiction (“AHJ”) as required by Law.

1.4 **Insurance.** Rozzi shall purchase and maintain commercial general liability insurance covering the Fireworks Display only (and not the entire Event) in the amount of Ten Million Dollars (\$10,000,000.00) per occurrence and shall provide Sponsor with a certificate of insurance showing the amount of insurance in force and naming Rozzi as its insured, Sponsor and Mason City Schools, their respective officials, employees, volunteers and agents, where applicable, as additional insureds and naming as additional insureds such other parties associated with the Event as Sponsor may reasonably request, and which are approved by Rozzi’s insurer. Any additional premium associated with adding parties other than the Sponsor as additional insureds shall be added to the Contract Sum as an Additional Charge (as defined below).

Primary Coverage

Rozzi’s commercial general liability insurance shall be primary as respects to the Additional Insureds and not contributing with any other insurance or similar protection available to the Additional Insureds whether such other available coverage be primary, contributing or excess.

Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the Sponsor.

Verification of Coverage

Rozzi’s shall furnish the City of Mason and Mason City Schools a certificate of insurance and an additional insured endorsement verifying coverage required by Section 1.4. All certificates and endorsements are to be received by the City of Mason and Mason City Schools before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive Rozzi’s obligation to provide them. The Sponsor reserves the right to require complete, certified copies of all required insurance policies, including endorsements, required by these specifications, at any time.

SPONSOR RESPONSIBILITIES

2.1 **Sponsor’s Event Responsibilities.** Sponsor shall have the obligations set forth in this Section 2.1-2.2 (“Sponsor Event Responsibilities”). Sponsor shall designate and secure for Rozzi an appropriate site and adequate space for the Fireworks Display (“Display Site”) as required by the NFPA 1123 Table of Distances and as required by Law taking into account: (i)

the requirements of the AHJ; (ii) location of the Fallout Area; proximity to airports, navigable waterways, highways and other safety and security considerations. In addition, the Sponsor shall be responsible for: (i) proper signage, crowd control, fencing, roping, police protection and security to prevent access of unauthorized persons to the Display Site and for the Event generally; (ii) the services of standby firefighters; (iii) proper permits for the Event (except the Fireworks Display); and (iv) a base Site Plan, all in keeping with the requirements of NFPA 1123, Law and the AHJ. Sponsor shall satisfy all the foregoing obligations to Rozzi's satisfaction in its sole and absolute discretion. Sponsor shall pay the cost incurred to meet any safety or other requirements imposed on Rozzi beyond those required by Law or the AHJ. Failure of the Sponsor to meet its Sponsor Event Responsibilities shall be considered a default of a material obligation under this Agreement.

2.2 Damages Within Fallout Area. Rozzi shall not be responsible for damage to, or destruction of, automobiles or other personal property or any injury to persons, located within 1000' of the mortars or other equipment used to fire the Fireworks Display ("Fallout Area"). Sponsor shall notify spectators who will be viewing the Fireworks Display of the risk of impending fallout from the Fireworks Display and the risk to spectators and their automobiles and other property by posting warning signs at the Event Site.

ARTICLE 3

EVENT CANCELLATION

3.1 Cancellation for Safety Considerations. Sponsor acknowledges and agrees that, subject to the authority of the AHJ, the decision to proceed with the Fireworks Display is solely that of Rozzi, and it is understood and acknowledged by the Sponsor that the decision of Rozzi (or the AHJ) not to shoot the Fireworks Display because of rain, floods, high winds, inclement weather, Sponsor's failure to meet its Sponsor Event Responsibilities or other safety considerations (collectively "Safety Considerations") shall be final and any such decision based on Safety Considerations shall not constitute a failure of performance or a breach of this Agreement by Rozzi.

3.2 Charges for Cancellation Based on Safety Considerations. Sponsor and Rozzi agree that should the Fireworks Display be canceled due to Safety Considerations, Sponsor shall pay to Rozzi as Additional Charges the following:

3.2.1 if the display equipment is left in place at the Event Site, and the Fireworks Display is fired the following night, the Additional Charge shall be 10% of the Display Sum.

3.2.2 if the Fireworks Display is postponed for more than one night, the Additional Charge shall be 10% of the Display Sum for each additional night that the Fireworks Display is postponed.

3.2.3 Should there be a need to disassemble the display equipment, remove it from the Event Site and reassemble it at a subsequent date as agreed upon by the parties; the Additional Charge shall be 20% of the Display Sum.

3.2.4 Should Rozzi determine that there is a need for additional security to protect the equipment at the Event Site or elsewhere, all such costs and expenses shall be an Additional Charge.

3.2.5 In addition to the foregoing charges, should the Fireworks Display be canceled and no makeup date agreed to by the parties, this Agreement shall be considered terminated and the provisions of Section 5.2 shall apply.

3.2.6 In addition to the Charges set forth in Subsections 3.2.1 through 3.2.4 above, if the Fireworks Display cancelled by Rozzi or the AHJ due to Sponsor's failure to meet its Sponsor Event Responsibilities this Agreement shall be considered terminated and the provisions of Section 5.2 shall apply.

3.3 Force Majeure. In the event of fire, accident, strike, delays, acts of God or other causes beyond the reasonable control of Rozzi, other than Safety Considerations, that would prevent it from performing the Fireworks Display, Sponsor hereby releases Rozzi from any and all performance obligations herein contained and from any and all damages or losses that result or may result from the inability to perform the Fireworks Display. In the event of such occurrence, the parties will make reasonable efforts to reschedule the Fireworks Display and the additional costs of rescheduling shall be an Additional Charge as provided in Subsections 3.2.1 through 3.2.4 above. If the parties are unable to agree on a rescheduled date for the Fireworks Display, this Agreement shall be terminated in accordance with Section 5.2 below.

ARTICLE 4

INDEMNIFICATION AND WAIVERS

4.1 Indemnification by Rozzi. To the fullest extent permitted by law, and subject to the limitations set forth in Section 1.3 above and Sections 4.2 below, Rozzi shall defend indemnify and hold Sponsor and Mason City Schools harmless from, for and against any and all claims, losses, damages and costs including reasonable attorney fees (collectively, "Losses") arising out of or relating to the Fireworks Display, provided that any such loss is attributable to bodily injury or death, or to injury to or destruction of tangible property, and is caused, in whole or part, by the negligent act or omission of Rozzi or its subcontractors, agents or employees.

4.2 Waiver of Subrogation. To the extent permitted by their respective insurers, the Sponsor and Rozzi shall waive all rights against each other and, with respect to the Sponsor, all Sponsor Claims against all Rozzi Entities, for damages caused by fire or other causes of loss to the extent covered by the insurance required to be obtained by the parties pursuant to this Agreement.

ARTICLE 5

TERMINATION

5.1 Causes for Termination. In the event Sponsor is unable to secure funds for the Event in an amount of at least 50% of the contract, Sponsor may notify Rozzi in writing no less than 120 days prior to the Event date.

5.2 Liquidated Damages. In the event this Agreement is terminated pursuant to Sections 3.2.5 above, Sponsor shall pay to Rozzi the total sum of 45% of each display. The parties agree that termination of this Agreement pursuant to Sections 3.2.5 or 5.1 shall result in damages and losses to Rozzi that are difficult to quantify in advance and that the amounts set forth herein to be retained by or paid to Rozzi ("Liquidated Damages") constitute a reasonable good faith estimate of such losses and damages and not a penalty.

ARTICLE 6

MISCELLANEOUS PROVISIONS

6.1 Notices. Any notice required under this Agreement will be in writing, addressed to the appropriate party at its address on the signature page and given personally, by certified mail postage prepaid, or by a nationally recognized commercial courier service. All notices shall be effective upon the date of receipt.

6.2 Survival. All express representations, waivers, indemnifications, and limitations of liability included in this Agreement will survive its completion or termination for any reason.


6.3 Severability. Any provision or part of this Agreement held to be void or unenforceable under any applicable laws or regulations shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon the parties, who agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

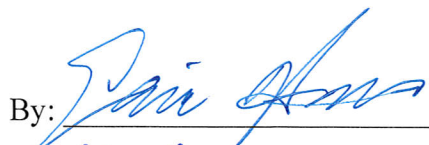
6.4 Waiver. A party's non-enforcement of any provision shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Agreement.

IN WITNESS WHEREOF, the parties by themselves or their duly authorized corporate officers have executed this Agreement on the 6th day of April, 2016.

ROZZI INC

SPONSOR


By: Nancy M Rozzi
Its: President
Address: 118 Karl Brown Way
City: London State: OH


By: Paul Jones
Its: City Manager SIGN