

Public Safety
4-21-14

14-810

Bartolotta Fireworks Company, Inc
PO Box 5
Genesee Depot, WI 53127
Phone: (262) 968-4178
Fax: (262) 968-2254

Sponsor:
City of Manitowoc
900 Quay Street
Manitowoc, WI 54220

Date: 4/11/2014

CONTRACT

This contract entered into this 11th day of April 2014, engages the services of Bartolotta Fireworks Company, Inc., (hereinafter referred to as "Bartolotta") to produce and perform a pyrotechnic display under the following terms:

1. Bartolotta reserves the right to make substitutions as to the amount, size and description of fireworks as called for in this Contract as reasonably necessary to address health and safety concerns.
2. Bartolotta shall provide qualified pyrotechnicians who will deliver, set-up, execute and take down the pyrotechnic display. The pyrotechnicians shall conduct an after-display search of the grounds in an effort to locate and dispose of any unexploded fireworks. The extent of such search shall be reasonably dictated by such elements as prevailing weather conditions, time of completion of display, etc.
3. Bartolotta shall provide Liability Insurance in the amount of \$5,000,000.00, naming the Sponsor as an additional name insured. Further, Bartolotta shall provide Workman's Compensation insurance on the assigned pyrotechnicians, and all necessary USDOT transportation/ trucking insurance of the shipment of the display items.
4. **The cost of the display shall be \$17,000.00.** At the time of signing of this Contract, Sponsor shall pay a **deposit in the amount of \$8,500.00.** The remaining balance shall be paid within 15 days following completion of the display. **A 2.5% Hazardous Material Handling fee will added to the invoice (based on the display cost) along with any permit fees paid by Bartolotta.** A late fee of 1.5% per month shall apply to any unpaid balance remaining beyond this 15-day period, and should there be additional display yet to be performed by Bartolotta, Bartolotta shall have the right to terminate this contract with no further obligation for Bartolotta to perform any remaining displays.
5. The date of the display shall be **July 4th, 2014 @ pm.** In case of inclement weather, the display will be rescheduled for **(to be determined by sponsor) at no additional charge to the Sponsor.** In the event inclement weather forces the cancellation of the display and the said display is not rescheduled, the Sponsor shall pay the sum of \$5666.00 for labor and restocking charges. The decision of whether to proceed with the display based upon inclement weather or the imminent threat of inclement weather shall be made by Bartolotta and the Sponsor. Bartolotta shall have complete authority to cancel the display if, in the reasonable opinion of Bartolotta, the health, safety, and well being of the pyrotechnicians and/or spectators would be jeopardized by proceeding with the display.
6. Sponsor shall procure and furnish a suitable location for the fireworks display in accordance with NFPA 1123, and shall secure all police, fire, local and state permits, and shall furnish all necessary police, fire and other appropriate protection necessary for proper crowd control, automobile parking, and supervision in clearing the debris after the display.
7. Sponsor explicitly acknowledges that an early morning search of the grounds/ location the morning after the display is of utmost importance. If any unexploded or defective fireworks are found, that were missed during the inspection after the event, the Sponsor shall immediately call Bartolotta and Bartolotta shall send a pyrotechnician to the location to dispose of said materials. The morning after search of the grounds will be conducted by Sponsor. (Bartolotta crew members shall conduct this search when physically possible. If

distance or other conditions prohibit Bartolotta from conducting the search, Sponsor agrees to conduct said search).

- 8. Bartolotta agrees to take all steps reasonably necessary to safeguard Sponsor's property and the property of spectators. Should any losses occur which the Sponsor believes are the result of an intentional act or an act of negligence by Bartolotta, the Sponsor shall notify Bartolotta of the nature of the loss and the date on which the loss occurred. Said notice shall be in writing and shall provide as much detail as reasonably possible in relation to the nature and extent of the loss.
- 9. Bartolotta shall perform all services required hereunder, except when prevented by strike, lockout, act of God, accident, or other circumstances beyond Bartolotta's control.
- 10. This Contract shall be constructed by laws of the state of Wisconsin. In the event that any provisions of this agreement are deemed unenforceable by any court of competent jurisdiction, the remaining provisions hereof shall remain in full force and effect.
- 11. The Parties shall indemnify and hold one another, their directors, officers, employees, agents and affiliates harmless from and against any and all damages, claims, costs, expenses (including reasonable attorneys fees), and liability related to indemnifying Party's acts, omissions or breach of warranty under this contract.
- 12. Sponsor agrees to indemnify and hold harmless Bartolotta for any and all cost and liabilities, which Bartolotta may incur as a result, or arising out of products not supplied by Bartolotta or the actions of individuals other than the pyrotechnicians and other employees of Bartolotta.
- 13. This Contract constitutes the entire agreement between the parties hereto and supersedes all prior and contemporaneous agreements, understandings, negotiations and discussions, either oral or executed in writing by the parties to be bound thereby. The waiver of any provisions of this Contract shall not constitute a waiver of any other provisions of this contract.
- 14. The party signing this document on behalf of the Sponsor warrant and represents that (s) he is authorized to enter into this agreement on behalf of the Sponsor.

ADDITIONAL PROVISIONS:

BARTOLOTTA FIREWORKS CO. INC:

By: Jeffrey A. Bartolotta
Jeffrey A. Bartolotta

Date Signed: 4, 11, 13

By: James Bartolotta
James Bartolotta

Date Signed: 4, 11, 13

Address: P.O. Box 5
Genesee Depot, WI 53127

CITY OF MANITOWOC:

By: _____
Justin M. Nickels, Mayor

Date Signed: ____/____/____

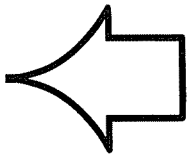
By: _____
Jennifer Hudon, City Clerk

Date Signed: ____/____/____

Address: 900 Quay Street
Manitowoc, WI 54220

Phone: 920-686-6950

Email: Heather Sohlden
hsohlden@manitowoc.org





CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
4/11/2014

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Ryder Rosacker McCue & Huston (MGD by Hull & Compa 509 W Koenig St Grand Island NE 68802	CONTACT NAME: Kristy Wolfe PHONE (A/C, No., Ext): 308-382-2330 E-MAIL ADDRESS: kwolfe@ryderinsurance.com		FAX (A/C, No.): 308-382-7109
	INSURER(S) AFFORDING COVERAGE		NAIC #
INSURED Bartolotta Fireworks Co Inc. PO Box 5 Genesee Depot WI 53127	INSURER A: SCOTTSDALE INS CO		41297
	INSURER B: NATIONAL CAS CO		11991
	INSURER C:		
	INSURER D:		
	INSURER E:		
INSURER F:			

COVERAGES **CERTIFICATE NUMBER:** 66632960 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATION MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

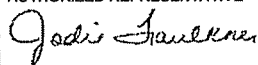
INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC		CPS1935070	3/1/2014	3/1/2015	EACH OCCURRENCE \$1,500,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$100,000 MED EXP (Any one person) \$5,000 PERSONAL & ADV INJURY \$1,500,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000 \$
B	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS <input checked="" type="checkbox"/> Excess Hired		CAO0222591	3/1/2014	3/1/2015	COMBINED SINGLE LIMIT (Ea accident) \$5,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	<input type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$		CXS0002478	3/1/2014	3/1/2015	EACH OCCURRENCE \$3,500,000 AGGREGATE \$3,500,000 \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A			WC STATUTORY LIMITS OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

Blanket Additional Insured applies to the entities listed below per attached form GLS-150s when required by written agreement.
DISPLAY DATE: JULY 4TH, 2014
DISPLAY LOCATION: PIER ON LAKE MICHIGAN
ADDITIONAL INSURED: CITY OF MANITOWOC & FESTIVAL FOODS

CERTIFICATE HOLDER

CANCELLATION

CITY OF MANITOWOC 900 QUAY STREET MANITOWOC WI 54220	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE 

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ATTACHED TO AND FORMING A PART OF POLICY NUMBER	ENDORSEMENT EFFECTIVE DATE (12:01 A.M. STANDARD TIME)	NAMED INSURED	AGENT NO.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BLANKET ADDITIONAL INSURED ENDORSEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

With respect to this endorsement, **SECTION II—WHO IS AN INSURED** is amended to include as an additional insured any person or organization whom you are required to add as an additional insured on this policy under a written contract, written agreement or written permit which must be:

- a. Currently in effect or becoming effective during the term of the policy; and
- b. Executed prior to the "bodily injury," "property damage," or "personal and advertising injury."

The insurance provided to these additional insureds is limited as follows:

1. That person or organization is an additional insured only with respect to liability for "bodily injury," "property damage" or "personal and advertising injury" caused, in whole or in part, by:
 - a. Your acts or omissions; or
 - b. The acts or omissions of those acting on your behalf.

A person's or organization's status as an additional insured under this endorsement ends when your operations for that additional insured are completed.

2. With respect to the insurance afforded to these additional insureds, the following exclusions are added to item 2. **Exclusions of SECTION I—COVERAGES:**

This insurance does not apply to "bodily injury," "property damage" or "personal and advertising injury" occurring after:

- a. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
 - b. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.
3. The limits of insurance applicable to the additional insured are those specified in the written contract, written agreement or written permit or in the Declarations for this policy, whichever is less. These limits of insurance are inclusive of, and not in addition to, the Limits of Insurance shown in the Declarations for this policy.
 4. Coverage is not provided for "bodily injury," "property damage," or "personal and advertising injury" arising out of the sole negligence of the additional insured.
 5. The insurance provided to the additional insured does not apply to "bodily injury," "property damage," or "personal and advertising injury" arising out of an architect's, engineer's or surveyor's rendering of or failure to render any professional services including:

- a. The preparing, approving or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; and
 - b. Supervisory, inspection, architectural or engineering activities.
6. Any coverage provided hereunder will be excess over any other valid and collectible insurance available to the additional insured whether primary, excess, contingent or on any other basis unless a

written contract specifically requires that this insurance be primary.

When this insurance is excess, we will have no duty under **SECTION I—COVERAGES** to defend the additional insured against any "suit" if any other insurer has a duty to defend the additional insured against that "suit." If no other insurer defends, we will undertake to do so, but we will be entitled to the additional insured's rights against all those other insurers.

AUTHORIZED REPRESENTATIVE / DATE

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