



**NOTICE AND AGENDA  
SPECIAL MEETING  
IDAHO SPRINGS CITY COUNCIL  
CITY HALL  
TUESDAY, SEPTEMBER 8, 2020  
5:30 P.M.**

**WILL BE CONDUCTED AS A REMOTE MEETING**

**CALL TO ORDER**

**ROLL CALL**

**Executive session under C.R.S. section 24-6-402(4)(b) to confer with City legal counsel to receive legal advice on questions concerning the City's water rights.**

**ADJOURNMENT**



**NOTICE AND AGENDA OF A  
WORK SESSION**

**Idaho Springs City Council  
September 08, 2020  
6:00 p.m.**

- ❖ **Water/Sewer collections & shutoffs**
- ❖ **Grant application for construction of Public Works facility**
- ❖ **PW facility design contract change order from JVA**
- ❖ **Updating Engineering On-Call Agreement with JVA**
- ❖ **Vehicle weight and size limitations for parking**
- ❖ **Fireworks**
- ❖ **Tree lighting & holiday decorations**

**The Public will be able to view and hear this meeting remotely at the following address:**

**<https://www.colorado.gov/pacific/idahosprings/city-council-live>**



## Idaho Springs City Hall

1711 Miner St • PO Box 907

Idaho Springs CO 80452

(303) 567-4421 • FAX (303) 567 4955

September 8, 2020

Re: Overdue Water/Sewer Customers

Dear City Council,

There is a total of \$23,651.96 (10 customers) that is delinquent for commercial properties. The breakdown is as follows:

3 restaurant/bar \$7,094.52  
3 apartment buildings \$4,585.90  
3 Retail/Personal Services \$2,973.06  
1 Hotel/Motel \$9,028.48

There is a total of \$14,866.15 that is delinquent for some residential customers (14 customers). This is a grand total of \$38,518.11 in overdue water/sewer bills.

None of these delinquent accounts (residential or commercial) have reached out for a payment plan or contacted me. I have sent at least 2 delinquent notices to all of these customers with no response.

I wanted to start a conversation with Council on if/when we will return to sending shut off notices and doing actual shut offs because of non-payment. It is my opinion is that we should send the shut off letters to the commercial customers in the hopes that they will respond. I also would recommend that letters should be sent to residential customers indicating that a payment plan needs to occur by a certain date or the service will be shut off.

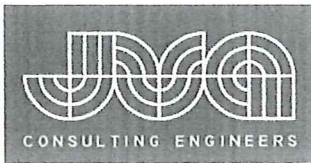
Respectfully,

**Wonder Martell**

Administrative Clerk

City of Idaho Springs

303-567-4421 x 113



**JVA, Incorporated**  
 1319 Spruce Street  
 Boulder, CO 80302  
 Ph: 303.444.1951  
 Fax: 303.444.1957

Job Name: Idaho Springs Public Works Facility  
 Job Number: 3099c  
 Date: 08/24/20  
 By: TML, YH, KAC  
 Phase: 100% CD

**Opinion of Probable Costs**  
 for  
**Idaho Springs - Public Works Facility**  
**Idaho Springs, Colorado**

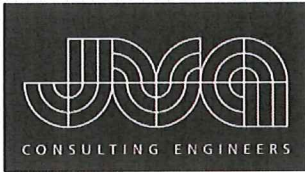
|                                                        | Quantity                                        | Units | Unit Cost   | Total           |
|--------------------------------------------------------|-------------------------------------------------|-------|-------------|-----------------|
| <b>General Sitework</b>                                |                                                 |       |             |                 |
| Remove Existing Subgrade - 12"                         | 31,000                                          | SF    | \$0.33      | \$10,230        |
| Clear and Grub                                         | 0.5                                             | AC    | \$3,000.00  | \$1,500         |
| Pavement Subgrade Prep -12" Scarify, Recompact         | 1,150                                           | CY    | \$2.00      | \$2,300         |
| Retaining Walls - Reinforced Concrete                  | 24                                              | CY    | \$800.00    | \$19,200        |
| Curb Wall - Reinforced Concrete                        | 14                                              | CY    | \$250.00    | \$3,500         |
| Trash Enclosure - Footings & Walls                     | 16                                              | CY    | \$800.00    | \$12,800        |
| Pipe Bollard (6" Dia, Conc Filled)                     | 22                                              | EA    | \$975.00    | \$21,450        |
|                                                        | <b>General Sitework Subtotal</b>                |       |             | <b>\$70,980</b> |
| <b>Pavements</b>                                       |                                                 |       |             |                 |
| Road Base - 8"                                         | 1,000                                           | TONS  | \$25.00     | \$25,000        |
| Concrete - 6"                                          | 1,750                                           | SF    | \$6.00      | \$10,500        |
| Concrete - 8" (rebar reinforced)                       | 3,260                                           | SF    | \$8.00      | \$26,080        |
| Concrete - 3' Drainage Pan (4" thick, no reinforcing)  | 120                                             | LF    | \$20.00     | \$2,400         |
| Precast Parking Wheelstop                              | 8                                               | EA    | \$100.00    | \$800           |
| Striping (4" wide) ADA Parking Stall                   | 50                                              | LF    | \$0.30      | \$15            |
| Signage (large including post) ADA Parking Stall       | 2                                               | EA    | \$500.00    | \$1,000         |
|                                                        | <b>Pavements Subtotal</b>                       |       |             | <b>\$65,795</b> |
| <b>Utility - Water</b>                                 |                                                 |       |             |                 |
| Service Tap - 3/4" (typ) - includes corp and curb stop | 1                                               | EA    | \$800.00    | \$800           |
| Meter - 3/4" Inside Set                                | 1                                               | EA    | \$500.00    | \$500           |
| Water Line - 3/4" Copper                               | 75                                              | LF    | \$30.00     | \$2,250         |
| Water Line - 6" DIP                                    | 15                                              | LF    | \$50.00     | \$750           |
| Fire Hydrant Assembly - 6"                             | 1                                               | EA    | \$4,000.00  | \$4,000         |
|                                                        | <b>Utility - Water Subtotal</b>                 |       |             | <b>\$8,300</b>  |
| <b>Utility - Sanitary Sewer</b>                        |                                                 |       |             |                 |
| Sewer Line - 4" PVC SDR 35                             | 100                                             | LF    | \$28.00     | \$2,800         |
| Connection to Existing Manhole                         | 1                                               | EA    | \$500.00    | \$500           |
| Cleanout w/ Conc Collar                                | 1                                               | EA    | \$800.00    | \$800           |
| Wye - 8" x 6" (Connect to Existing Sewer)              | 1                                               | EA    | \$1,500.00  | \$1,500         |
|                                                        | <b>Utility - Sanitary Sewer Subtotal</b>        |       |             | <b>\$5,600</b>  |
| <b>Utility - Storm Drainage System</b>                 |                                                 |       |             |                 |
| Storm Line - 18" RCP                                   | 102                                             | LF    | \$40.00     | \$4,080         |
| Storm Line - 15" RCP                                   | 178                                             | LF    | \$33.00     | \$5,874         |
| Storm Line - 12" PVC C900                              | 83                                              | LF    | \$35.00     | \$2,905         |
| Storm Line - 6" PVC SDR 35                             | 20                                              | LF    | \$35.00     | \$700           |
| Storm Line - 4" PVC SCH 40                             | 51                                              | LF    | \$35.00     | \$1,785         |
| 18" Precast Concrete Flared End Section                | 1                                               | EA    | \$1,200.00  | \$1,200         |
| Roof Drain Connections                                 | 3                                               | EA    | \$700.00    | \$2,100         |
| Cleanout - Foundation Drain or Roof Drain              | 3                                               | EA    | \$700.00    | \$2,100         |
| Manhole - 4' (5' depth)                                | 1                                               | EA    | \$3,000.00  | \$3,000         |
| Inlet - Type 13 w/ Conc Collar                         | 3                                               | EA    | \$3,000.00  | \$9,000         |
| Water Quality Unit - Contech CDS 2015-4                | 1                                               | EA    | \$10,500.00 | \$10,500        |
|                                                        | <b>Utility - Storm Drainage System Subtotal</b> |       |             | <b>\$43,244</b> |



|                                                             | Quantity | Units | Unit Cost    | Total              |
|-------------------------------------------------------------|----------|-------|--------------|--------------------|
| <b>Utilities - Electrical, Telephone &amp; Gas</b>          |          |       |              |                    |
| 1" Electrical Conduit (3' bury)                             | 40       | LF    | \$10.00      | \$400              |
| 3/4" LPG Line                                               | 30       | LF    | \$15.00      | \$450              |
| <b>Utilities - Electrical, Telephone &amp; Gas Subtotal</b> |          |       |              | <b>\$850</b>       |
| <b>Erosion Control</b>                                      |          |       |              |                    |
| Concrete Washout                                            | 1        | EA    | \$1,200.00   | \$1,200            |
| Slope Protection Mat                                        | 75       | SY    | \$15.00      | \$1,125            |
| Inlet Protection                                            | 6        | EA    | \$400.00     | \$2,400            |
| Vehicle Tracking Control                                    | 1        | EA    | \$2,000.00   | \$2,000            |
| Outfall Protection w/ Riprap                                | 1        | EA    | \$1,000.00   | \$1,000            |
| Compost Sock Erosion Barrier (12")                          | 190      | LF    | \$2.00       | \$380              |
| Erosion Control Maintenance (months)                        | 5        | EA    | \$1,000.00   | \$5,000            |
| <b>Erosion Control Subtotal</b>                             |          |       |              | <b>\$13,105</b>    |
| <b>Structure</b>                                            |          |       |              |                    |
| Public Works Building                                       | 4,865    | SF    | \$265.00     | \$1,289,225        |
| Salt/Sand Storage Building                                  | 1        | EA    | \$116,500.00 | \$116,500          |
| Geopier Foundation System for PW Bldg & Sand/Salt Bldg      | 1        | EA    | \$125,000.00 | \$125,000          |
| 16' x 16' Storage Shed                                      | 1        | EA    | \$18,000.00  | \$18,000           |
| <b>Structure Subtotal</b>                                   |          |       |              | <b>\$1,548,725</b> |

|                                        |                    |
|----------------------------------------|--------------------|
| <b>Subtotal</b>                        | <b>\$1,756,599</b> |
| Contingency (10%)                      | \$175,660          |
| Contractor's OH&P (12%)                | \$231,875          |
| Construction Administration Fees (10%) | \$175,660          |
| <b>PROJECT TOTAL</b>                   | <b>\$2,339,794</b> |

Engineer's opinions of probable Construction Cost provided for herein are to be made on the basis of Engineer's experience and qualifications and represent Engineer's best judgment as an experienced and qualified professional generally familiar with the industry. However, since the Engineer has no control over the cost of labor, equipment, or services furnished by others, or over the Contractor's methods of determining prices, or over competitive bidding or market conditions, Engineer cannot and does not guarantee that proposals, bids, or actual Construction Cost will not vary from opinions of probable Construction Cost prepared by Engineer. Actual required quantities will vary from this estimate. Owner/Contractor to verify all required quantities and other estimate items, permits, fees, etc. not included above that may be specified in the Construction documents. If Owner wishes to greater assurance as to probable Construction Cost, Owner shall employ an independent cost estimator.



**JVA, Incorporated**  
1319 Spruce Street  
Boulder, CO 80302  
303.444.1951  
info@jvajva.com

August 26, 2020

Mr. Andrew Marsh, City Administrator  
City of Idaho Springs  
1711 Miner Street  
Idaho Springs, CO 80452

[www.jvajva.com](http://www.jvajva.com)

Reference: Idaho Springs Public Works Facility  
Additional Engineering and Architectural Services  
JVA Job No. 3099c

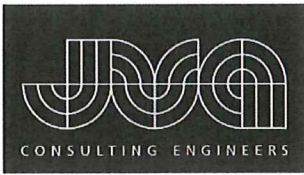
Dear Andy:

As discussed, the scope of the subject project changed substantively during development of the construction plans resulting in additional engineering and architectural effort beyond the original scope of services included in our design phase proposal. Those changes in scope include:

- Revising the public works building from a single story 3600 g.s.f. building to a two story 4865 g.s.f. building.
- Moving the public works building south on the site to allow additional room for vehicular movements and increased storage/parking areas thus necessitating a retaining wall along the southern wall of the building within the East Idaho Springs Road embankment.
- Discovery of an unforeseen subsurface condition consisting of approximately 18 feet of uncompacted fill material over the project site.
- Project stop/start conditions (some COVID related) extended the project schedule approximately 10 months resulting in additional meetings beyond those anticipated and reducing design efficiency.

These changes in scope resulted in the following:

- Additional electrical engineering services associated with a two story building vs. a one story building, additional electrical work for the salt and storage buildings, and additional electrical work for site lighting and vehicle block heaters.
- Additional architectural services related to design of a stair structure and coordination of design of the second floor structural framing.
- Additional structural engineering services related to design of a specialized foundation system for the public works and salt storage buildings to address the site soils discovered, design of the structural framing for the second floor, and design of a 13 foot tall retaining wall along the southern wall of the public works building.



These additional efforts have resulted in the design team expending fees over our original agreement amounting to \$38,000 which equates to 20.6% of the present design fee of \$184,500.

We request a modification to our current lump sum fee of \$184,500, by the additional service amount of \$38,000. The revised design fee amount of \$222,500 equates to 10.3% of the final estimated construction cost of \$2,164,000. Please authorize this work by signing below and returning a copy to JVA. We look forward to continuing our work with The City of Idaho Springs on this very important project. Please contact me with any questions regarding these additional services.

Sincerely,  
JVA, Incorporated

Accepted By:  
City of Idaho Springs

By: Tracy M. Lawless  
Tracy M. Lawless, P.E.  
Senior Project Manager

\_\_\_\_\_

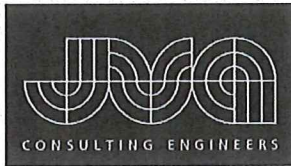
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Title

\_\_\_\_\_

Date





JVA, Incorporated  
1319 Spruce Street  
Boulder, CO 80302  
303.444.1951  
Info@jvajva.com

February 6, 2019

www.jvajva.com

Mr. Andrew Marsh, City Administrator  
City of Idaho Springs  
1711 Miner Street  
Idaho Springs, CO 80452

Reference: City of Idaho Springs – Public Works Facility Final Design  
Letter Agreement for Engineering and Architectural Services

Dear Andrew:

JVA, Inc. (JVA) has estimated the scope of work and associated fees required to provide engineering and architectural services to the City of Idaho Springs (CLIENT/City). The estimated scope and fees are for the proposed public works facility and yard adjacent to the existing wastewater treatment facility. The property is currently located within Clear Creek County but is currently being annexed into the City.

## SCOPE OF WORK

The scope of services below is based on our discussions to date and review of the information provided. JVA has recently completed a preliminary alternatives analysis for the site and a recommended site layout has been selected. The preliminary plan was updated based on the revised CMAR plans for the adjacent wastewater treatment facility (WWTF) expansion. Survey and geotechnical services for this portion of the site have already been provided under the scope of the WWTF project. The City has already requested proposals for demolition of the existing concrete batch plant and anticipate this work will be completed prior to construction of the public works facility and WWTF. The public works facility project includes a 3,600 SF pre-engineered metal public works building, salt/sand storage structure, accessory storage buildings, above ground fuel dispenser, site parking, and material laydown areas. Our team includes architectural, civil, structural, mechanical, and electrical design services typical for buildings of this type.

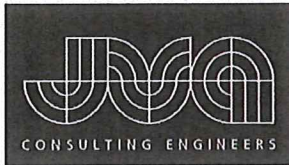
For purposes of this proposal, we have included Basic Services for the development of the site and structures. If additional roadway or utility infrastructure is required outside this area, we have assumed that this will be negotiated separately. In order to secure administrative grants from the Colorado Department of Local Affairs (DOLA), the scope of work and fee has been separated into two phases. Design Development documents (60% Design) will be prepared in the first phase and Construction Documents (100% Design) will be prepared in the second phase. Due to uncertainty in DOLA funding, bidding and construction phase services haven't been included at this time. Based on this information and our understanding of the design efforts required for public works facility projects, the engineering and architectural services anticipated for this project include the following detailed tasks:

### Phase 1 Services

#### **Schematic Design (30% Design)**

1. JVA will review capacity of existing utility mains adjacent to the proposed structure. The existing water distribution main is 4-inches in diameter and currently serves the WWTF





and future public works facility. As the proposed structure doesn't include overnight rooms, sprinkling of the building isn't anticipated. JVA will review fire flow requirements for proposed hydrants with fire department. We will coordinate with the WWTF design team on relocation of the sanitary sewer on the north side of the site.

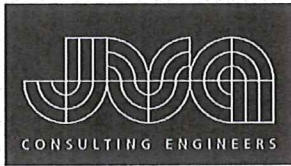
2. JVA will work with our architectural, structural, mechanical, and electrical subconsultants to prepare preliminary plans. We will produce the schematic design plans, narrative, and opinion of probable costs.
3. JVA will conduct internal coordination meetings with the team members. We anticipate bi-monthly conference call status updates with the City as the design progresses through this phase. A kickoff meeting, final review meeting with City staff, a separate work session with City Council, and public meeting are anticipated.

#### **Design Development Phase (60% Design)**

4. JVA will continue to refine the schematic design plans. JVA will design the onsite drainage systems, and coordinate with the design team for sizing and location of drainage structures, including roof drain outfall connections.
5. JVA will prepare utility plans showing the relocation of onsite utilities to facilitate construction of the public works buildings and delineation of construction scope with the WWTF design team. At this time, offsite utility improvements aren't anticipated.
6. We anticipate meeting with City staff early in this design phase to review color and finish samples for the interior and exterior. A pre-engineered metal structure was identified as the most cost-effective building and standard samples will be provided from anticipated suppliers.
7. JVA and our design team will produce the design development plans and construction specifications. JVA will update the opinion of probable costs and prepare estimated earthwork quantities.
8. JVA will conduct internal coordination meetings with the team members. We anticipate bi-monthly conference call status updates with the City as the design progresses through this phase. A coordination meeting, final review meeting with City staff, a separate work session with City Council, and public meeting are anticipated.

#### **Municipal Review Submittals**

9. JVA team will prepare planning and building department submittals to comply with City design criteria. As JVA is the City's On-Call engineer, a third-party review of the engineering plans may be beneficial to the City. Based on discussions to date, compliance with the City's architectural standards will be feasible and no design waivers are anticipated. Final building plans will be reviewed by Safebuilt for conformance to building codes and we anticipate up to two rounds of comments.
10. Based on our analysis, the site disturbed area will likely be greater than one acre; therefore, it is assumed that a standard Urban Drainage and Flood Control District water quality enhancement facility with a prescribed "Water Quality Capture Volume" will be required



by the City. Due to the site being directly adjacent to Clear Creek, detention is not anticipated at this time. Additionally, due to the limited development area, an underground water quality device is anticipated to treat stormwater prior to discharging into the creek.

## **Phase 2 Services**

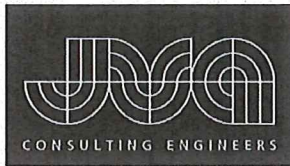
### **Construction Documents (100% Design)**

11. JVA and the design team will continue to refine the design development plans. We will prepare utility plan and profiles for onsite public main relocations. Water and sewer connections for the building will also be detailed in this phase
12. We anticipate meeting with City staff early in this design phase to finalize furniture and finishes.
13. Dry utility connections and site lighting will also be included in this phase. City and project mechanical/electrical/plumbing engineer will make contact with gas, electric, telephone, data and other non-municipal utility companies with regard to the utility service extensions, realignment, load sizing, building entry points, and/or undergrounding of said utilities. JVA will work with the City and design team for related site coordination but anticipate the City will take the lead in acquiring the services. JVA will show these non-municipal utilities on our preliminary and final engineering plans based on design information provided by others. Based on our experience, we anticipate the utility companies will perform their own final design and the installation will be coordinated by the contractor.
14. We anticipate providing raceways for future closed-circuit TV systems for security system. Design of the final security system hasn't been provided at this time and the raceways will allow for installation at a later date by the City's security contractor. Based on the occupancy of the structure, sprinkling of the building and central fire alarm system haven't been provided at this time.
15. JVA will design the concrete slab in front of the maintenance bays to support anticipated vehicle loads. It is anticipated that the remainder of the site will be surfaced with gravel.
16. JVA will produce the construction plans, technical specifications and update the construction opinion of probable cost sufficient for DOLA funding.
17. JVA will conduct internal coordination meetings with the team members. We anticipate bi-monthly conference call status updates with the City as the design progresses through this phase. A coordination meeting, final review meeting with City staff, a separate work session with City Council, and public meeting are anticipated.

### **BASIS OF PAYMENT**

The basis of payment for the scope of work described above will be monthly billings based on the percentage of lump sum completed to date, plus including reimbursable expenses. This amount will not be exceeded without written authorization of the CLIENT.





### Basic Engineering and Architectural Services

|                             |                  |
|-----------------------------|------------------|
| Schematic Design            | \$ 30,000        |
| Design Development          | \$ 42,000        |
| Municipal Review Submittals | \$ 10,000        |
| Construction Documents      | <u>\$ 93,000</u> |
| TOTAL LUMP SUM FEE          | \$175,000        |

**Exclusions:** Services resulting from significant changes to the project scope, significant bid alternate design, rezoning/replanting, and significant site plan changes and additional design work or plans related to field conditions or contractor issues after plans are complete that could not have been reasonably foreseen may require extension of the time scheduled for our work and additional fees. Additional municipal submittals or public hearings required for planning department review and approval will be considered additional services may require extension of the time scheduled for our work and additional fees. Environmental assessment or design efforts for contamination cleanup measures are not included at this time. Traffic engineering, including signals or signalization plans or traffic reports are not included. Demolition plans are not included at this time. JVA will incorporate the latest in stormwater management low impact development practices when practical; however, LEED certification is not included at this time. This proposal assumes that the development is designed and constructed in one phase. Overlot grading plans, early start grading/foundation packages, phased plans, and alternate designs will likely require additional services. Landscaping/irrigation plans are not included at this time.

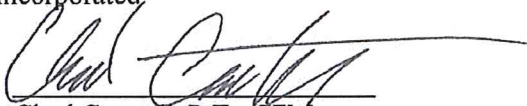
### SCHEDULE

We can begin working with your team immediately and plan to meet required project deadlines. Based on conversations to date, Construction Documents will need to be completed prior to November 1, 2019 to qualify for the next DOLA funding cycle. A final schedule for all phases of work will be prepared and finalized upon notice to proceed.

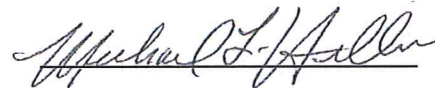
If you are in agreement with the scope in this letter, please provide authorization to proceed and a copy of the standard consultant agreement or purchase order with this letter attached as an Exhibit. All of us look forward to working with the City of Idaho Springs on this project and continuing to build upon our positive past relationships.

Sincerely,  
JVA, Incorporated

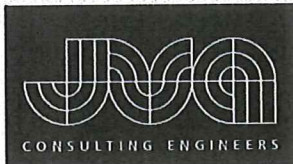
By:

  
Chad Cantrell, P.E., CFM  
Project Manager

Accepted by:  
City of Idaho Springs



MAYOR      3-26-2019  
Title                      Date



JVA, Incorporated  
1319 Spruce Street  
Boulder, CO 80302  
303.444.1951  
info@jvajva.com

October 23, 2019

Mr. Andrew Marsh, City Manager  
City of Idaho Springs  
1711 Miner Street  
Idaho Springs, CO 80452

www.jvajva.com

Reference: Idaho Springs Public Works Facility  
Additional Services for Geotechnical Testing  
JVA Job No. 3099c

Dear Andy:

JVA, Inc., has been requested to provide additional geotechnical borings at the above referenced project. Information obtained from the borings will be used during structural design of the building. We have received a proposal from Terracon Consultants, Inc., for the additional testing.

For this effort, we have estimated that JVA will expend fees over our original agreement amounting to \$9,500.00, with the following detail:

|                                      |          |                  |
|--------------------------------------|----------|------------------|
| Terracon Consultants, Inc.           | =        | \$7,950.00       |
| Utility Locate                       | =        | \$ 650.00        |
| <u>JVA Sub-Consultant Management</u> | <u>=</u> | <u>\$ 900.00</u> |
| Total Additional Services            | =        | \$9,500.00       |

**Agreement for Geotechnical Engineering as a Subconsultant to JVA, Inc:**

*Notwithstanding any other terms of this Agreement, Owner acknowledges and agrees as follows:*

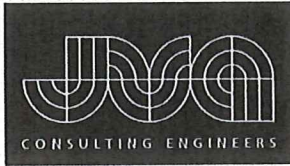
*(a) JVA does not purport to have the qualifications or expertise to provide or evaluate geotechnical engineering services;*

*(b) At Client's request, and expressly conditioned on Client's acknowledgement of and agreement to be bound by the terms herein, JVA [or "Consultant" or "Engineer"] agrees to retain an independent geotechnical engineer to provide geotechnical engineering consulting services for the design of the Project. Such retention is done solely as an administrative convenience to Client, and Client shall not assert, and JVA hereby disclaims and rejects any contractual or other responsibility for the geotechnical engineer's services.*

*(c) JVA shall not be responsible or liable in tort, contract, or other legal theory, for the selection, management, supervision, qualifications, testing, laboratory work, means and methods, opinions of the geotechnical engineer. JVA shall be entitled to rely on the quality, accuracy and completeness of the geotechnical engineer's services for the Project;*

*(d) Neither JVA nor its employees shall have any liability of any kind to Client, and/or its contractors, lenders, agents, representatives, successors and assigns ("Client-affiliated entities"), for damages, delays, losses, costs, fees, judgements, awards, or expenses, of any kind and extent, arising from the acts and omissions of the geotechnical engineering consultant ("Damages");*





*(e) Client agrees that any claim it has for Damages caused by or arising from acts or omissions of the geotechnical engineering consultant in connection with the Project shall be made solely against the geotechnical engineering consultant and not against JVA or its employees. In the event that one or more of the Owner-affiliated entities asserts a Claim against JVA for Damages, Client hereby agrees to defend, indemnify and hold JVA harmless of and from said damages, including attorneys' fees and costs arising therefrom.*

Please modify our current lump sum fee of \$175,000, by the additional service amount of \$9,500, and JVA will be sending updated invoices accordingly. Please authorize this work by signing below and returning a copy to JVA. We look forward to continuing our work with The City of Idaho Springs on this project. Please call with any questions regarding these additional services.

Sincerely,  
JVA, Incorporated

Accepted By:  
City of Idaho Springs

By:

A handwritten signature in black ink, appearing to read 'Fred R. Banfield'.

Fred R. Banfield, PE  
Senior Project Manager

A handwritten signature in black ink, appearing to read 'Paul'.

City Administrator 11/1/19  
Title Date

**AGREEMENT  
FOR  
PROFESSIONAL SERVICES  
OF CITY ENGINEER**

THIS AGREEMENT FOR PROFESSIONAL SERVICES (this "Agreement") is made as of this ~~4<sup>th</sup> day of January, 2016~~, 14<sup>th</sup> day of September, 2020 between the City of Idaho Springs, a Colorado Municipal corporation (the "City") and JVA, Inc., a Colorado corporation ("ENGINEER").

**Recitals**

WHEREAS, the City desires to obtain general engineering services on both an "As Needed" basis and "Project Specific" basis from a licensed, professional engineer; and

WHEREAS, ENGINEER has held itself out to the City as having the requisite expertise and experience to provide such services; and

WHEREAS, the City, based on conversations with the ENGINEER wishes to engage ENGINEER for the provision of general engineering services;

NOW, THEREFORE, for the consideration hereinafter set forth, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

**Agreement**

**ARTICLE 1  
ENGINEER'S RESPONSIBILITIES**

1.1 The City hereby engages ENGINEER to provide general engineering in the form of technical engineering and/or engineering support services ("Professional Services") to the City on an "as needed" basis and/or a project specific basis.

1.1.1 Technical engineering services provided within the parameters of the Professional Services may include, but not be limited to, the following types of activities: engineering feasibility studies, preliminary and detailed final designs, design reviews, evaluating and preparing drawings and specifications packages, bid analysis and procurement, construction management services, start up, training, and preparation of operations and management manuals. These services are available in the areas of water supply, wastewater and stormwater management, hazardous materials, wetland treatment, roads and bridges.

1.1.2 Support services provided within the parameters of the Professional Services may include, but not be limited to, the following types of work: permitting, regulatory compliance, field investigations, stream bank and channel restoration, revegetation, surface water and groundwater sampling and monitoring, water and wastewater engineering and design services, construction monitoring, hydrologic investigations and hydraulic analyses, land use and master planning, transportation planning, roadway and storm sewer design, noise analyses, cultural and historical resources investigations, recreation facility and park designs, hazardous materials management and remediation, storm water management, wetlands and riparian areas management, wetland design services, geology and slope stability evaluations, mitigation designs, water quality protection and management, computer-aided design (CAD) and geographical information system (GIS) services, and fish and wildlife studies, including habitat development and management.

1.1.3 Products of these services may include, but not be limited to, technical reports, literature reviews, maps, preliminary and detailed plans and specifications, construction record document preparation and/or review, feasibility studies, data analyses, cost estimates, evaluations, visual



simulations, and presentations to the City staff, City Council members, City Planning Commission members, or their designated representatives.

1.2 Notwithstanding any other provision of this Agreement, all personnel assigned by ENGINEER to perform work under the terms of this Agreement shall be, and remain at all times, employees or agents of ENGINEER for all purposes. Neither ENGINEER nor any employee thereof shall make any representation that they are a City employee for any purpose. ENGINEER is an independent engineer responsible for the means and methods used in performing the Professional Services under this Agreement.

1.3 The Professional Services and all documents prepared for the City by ENGINEER shall conform to all applicable federal, state and local laws, rules, regulations, ordinances, codes, orders.

1.4 Other than sharing information with designated third parties as previously directed by the City, no information obtained by ENGINEER within the scope of this Agreement shall be disclosed by ENGINEER to third parties without prior written consent of the City or pursuant to a lawful court order directing such disclosure. All of ENGINEER's communications to or with the City's other independent professionals shall be through or with the knowledge of the City. Similarly, all communications between any independent professionals with whom ENGINEER has contracted to perform services for the City and the City's independent professionals shall be through or with the knowledge of the City.

1.5 The City shall coordinate the ENGINEER's Professional Services with the services of others involved in a project. The City shall be the general administrator and coordinator of the professional services that the City may engage independently for a project, and shall facilitate the exchange of information among the other independent professionals retained by the City for the project as necessary for the coordination of their services.

1.6 ENGINEER shall give prompt written notice to the City whenever the ENGINEER observes or otherwise becomes aware of any development or circumstance that affects the scope or timing of the ENGINEER's services, or any defect or nonconformance in the work of any contractor affecting the City and/or the City's infrastructure.

1.7 In response to each request for services, Engineer shall promptly provide to the City a realistic estimate of the number of hours the work will require and the staffing that will be assigned to the work. A Letter of Agreement will be prepared confirming the work to be done and a "not to exceed" cost for the work. The rate for other professionals and other direct costs must be agreed to in advance by both parties and will be included in the Letter of Agreement.

## **ARTICLE 2 CITY'S RESPONSIBILITIES**

2.1 The City's requests for services from ENGINEER may be either general in nature or project specific.

2.1.1 Requests for services can be initiated by communications between the City Administrator, the Public Works Director, the Water/Wastewater Superintendent, or their designee with the Engineer via email, phone, written or verbal direction.

2.1.2 Requests for project specific services will be supported by a concise statement of the work to be performed or a description of the desired service to be provided by Engineer. The request will include a schedule to complete the work or services.

2.2 For each project-specific task ("Project") for which ENGINEER will perform the Work, the City shall do the following in a timely manner so as not to delay the Work:

2.2.1 Provide to the ENGINEER all criteria and full information as to the City's requirements for the Project, including design objectives and constraints; space, capacity and performance requirements; flexibility and expandability; and any budgetary limitations; and copies of all design and construction



standards which the City will require to be included in the drawings and specifications prepared by ENGINEER (the "Drawings and Specifications").

2.2.2 Make available to the ENGINEER any and all drawings, specifications, schedules and other information interpretations and data that have been prepared by or on behalf of the City, which are available to the City and which the City considers pertinent to ENGINEER's responsibilities hereunder, specifically including, but not limited to the existing geotechnical reports, surveys, and electronic data. The City shall, at its expense, furnish information and progress reproductions of the City's work and that of others assigned to any particular project as may be required for the orderly performance of ENGINEER's services.

2.2.3. Arrange for ENGINEER's access to public and private property as required for ENGINEER to perform the Work. ENGINEER shall notify City if access to any property has been denied or refused so that the City can seek to obtain said access.

2.2.4 Consult with the ENGINEER before issuing interpretations or clarifications of documents furnished by ENGINEER, and obtain written consent before acting upon shop drawings, samples or other submittals of construction contractors or upon work directive changes or change orders affecting the Project or the Work, and assume full responsibility for any such action taken without such consultation or consent.

2.2.5. Consult with the ENGINEER before hiring or contracting with any contractor, engineer, or supplier, to determine if the ENGINEER, after due investigation, has any reasonable objection to any such contractor, engineer or supplier.

2.2.6. Give prompt written notice to the ENGINEER whenever the City observes or otherwise becomes aware of any development or circumstance that affects the scope or timing of the ENGINEER's services, or any defect or nonconformance in the work of any contractor affecting the Project.

2.2.7. Advise the ENGINEER of the identity of other independent professional associates participating in the design or administration of any particular project and the scope of their services.

2.2.8. The information and services to be provided by the City under this Article 2 will be without cost to ENGINEER.

### **ARTICLE 3 TERM OF AGREEMENT**

This Agreement is effective until ~~December 31, 2016~~ December 31, 2021 and will be subject to automatic annual renewal periods of one (1) calendar year each, through ~~December 31, 2018~~ December 31, 2023, unless otherwise terminated as provided in Article 5. The Agreement may only be extended at the request of and upon written authorization of the City Council and with the consent of the Engineer. The length of an extension will be specified at the time the extension is authorized.

### **ARTICLE 4 PAYMENTS TO ENGINEER**

#### **4.1 Amount of Compensation**

4.1.1 Services will be invoiced monthly on a time and expense bases. Each invoice shall state with particularity the Projects worked on (as applicable), nature of the services performed, staff position that performed the work, percent of the Project completed (as applicable) and the hours devoted to such services. The City will pay ENGINEER within 30 days of its receipt of a valid invoice. The City shall pay ENGINEER for all Basic Services, inclusive of all overhead costs, based on the 2015 2020 Hourly Billing Rate Schedule provided in attached "Exhibit A". ~~These rates will increase each January at a 4.0 percent escalation rate per year for the term of this contract.~~ The Hourly Billing Rate Schedule may be revised annually in January to account for labor cost adjustments.

The hourly rates include all costs incurred by ENGINEER for insurance, overhead, phone, computer, internet, and cell phone. The City will also reimburse ENGINEER for reasonable pre-approved

direct expenses related to services which may include express delivery, airfare, car rental, parking, meals, lodging, printing, copying, shipping, and mileage at the IRS rate.

4.1.2 The invoice shall state whether the work related to a Project has been completed. If a monthly invoice indicates that the Work for a Project has been completed, that portion of the monthly statement shall be considered the final invoice for such Work for purposes of final settlement as provided for in Section 4.2. With the exception of that portion of a monthly statement that is considered a final invoice for Work related to a Project, the City will pay ENGINEER within 30 days of its receipt of a valid invoice, so long as the total amount invoiced for a Project does not exceed the "not to exceed" amount set forth in the Letter of Agreement.

4.1.3 If the City objects to any monthly invoice submitted by ENGINEER or any portion thereof, the City shall so advise ENGINEER in writing giving it's reasons for objection. Payment of any invoice by the City shall not imply approval or acceptance by the City of the invoiced services.

#### 4.2 Final Settlement on Project-Specific Services

4.2.1 If, on the basis of the City's observation of the Work and the City's review of the final invoices and accompanying documentation as required by this Agreement, the City is satisfied that the Work has been completed and ENGINEER's other obligations under this Agreement have been fulfilled, the City will, within ten days after receipt of each final invoice, schedule a date for final settlement, which final settlement shall be duly advertised at least 10 days prior thereto by publication of notice thereof at least twice in a public newspaper of general circulation published in Clear Creek County. Otherwise, the City will return the invoice to ENGINEER, indicating in writing the reasons for refusing to schedule final settlement, in which case ENGINEER shall make the necessary corrections and resubmit the invoice.

4.2.2. If the City receives, at any time up to and including the date of final settlement, a notarized statement by any person, partnership, or corporation, or other entity that has furnished labor, materials, team hire, sustenance, provisions, provender, or other supplies used or consumed by ENGINEER or any of its subcontractors in or about the performance of the Work or that supplies laborers, rental machinery, tools, or equipment to the extent used in the prosecution of the Work, whose claim therefor has not been paid by ENGINEER or any of its subcontractors, the City shall withhold from all payments to ENGINEER sufficient funds to insure the payment of said claims until the same have been paid or such claims as filed have been withdrawn, such payment or withdrawal to be evidenced by filing with the City a receipt in full or an order for withdrawal in writing and signed by the person filing such claim or his duly authorized agent or assign. Such funds shall not be withheld longer than 90 days following the date of final settlement as published unless an action is commenced within that time to enforce such unpaid claim and a notice of such pending action is filed with the City.

4.2.3 At the expiration of such 90-day period, the City shall pay to ENGINEER such monies and funds as are not the subject of suit and pending action notices and shall retain thereafter, subject to the final outcome thereof, only sufficient funds to insure the payment of judgments that may result from such suit. At any time within 90 days following the date of final settlement as published, any claimant whose claims have not been paid by ENGINEER or any subcontractor may commence an action to recover the same, individually or collectively, against the surety on the bonds provided pursuant to Section 4.2.5, below.

4.2.4. Whenever a notarized statement of a claim has been filed in accordance with this Section, ENGINEER may substitute a bond, pursuant to C.R.S. § 38-26-108, at which time the City shall release the funds being withheld pursuant to the notarized statement of claim on the same terms and conditions as if the notarized statement of claim had been released by the claimant.

4.2.5. ENGINEER understands that this Agreement may include engineering services for the design, construction or repair of a public building or public work and is therefore governed by C.R.S. § 38-26-105 through 107. ENGINEER further understands that these statutory provisions are in lieu of any lien rights. ENGINEER further understands that failure on the part of ENGINEER, any subcontractor or any other entity furnishing labor or supplies to any project must follow the said statutory provisions in filing any claim for payment, and that failure on the part of any such claimant to comply with said statutory requirements shall relieve the City from any liability for making payment to such claimant. ENGINEER agrees to include this provision in all subcontracts.



## ARTICLE 5 GENERAL CONSIDERATIONS

### 5.1 Termination.

5.1.1 This Agreement shall terminate on ~~December 31, 2018~~ December 31, 2023, or upon the City's providing ENGINEER with seven (7) days advance written notice, whichever occurs first. This Agreement may also be terminated by the City for cause, including but not limited to ENGINEER's failure to perform the Professional Services required for reasons that are not beyond ENGINEER's control or ENGINEER's breach of any of the terms or conditions of this Agreement. In the case of termination for cause, ENGINEER shall be deemed to be in default and the City may terminate this Agreement immediately and shall have no obligation to make any further payment to ENGINEER. If the Agreement is terminated for the City's convenience, by the City's issuance of written notice of termination, the City shall pay ENGINEER the reasonable value of all services previously authorized and completed prior to the date of termination. If, however, ENGINEER has substantially or materially breached this Agreement, the City shall have any remedy or right of set-off available at law and equity. The City shall not be obligated to pay ENGINEER any other termination expenses.

5.1.2 The obligation to provide further services under this Agreement may be terminated by ENGINEER upon thirty (30) days written notice to the City in the event of substantial failure by the City to perform in accordance with the terms hereof through no fault of ENGINEER.

5.2 Reuse of Document. The City acknowledges that the documents created by ENGINEER in its performance of the Professional Services, including but not limited to Drawings, designs, Specifications, reports, and incidental work or materials (the "Work Product"), are instruments of professional service. Nevertheless, copies of the Work Product shall be provided to the City and other contractors and subcontractors shall be authorized to use and reproduce applicable portions of the Work Product that are appropriate to use in the execution of their work. In addition to providing hard copies of the Work Product, ENGINEER shall provide to the City electronic versions of the Work Product in the format directed by the City. The Work Product shall become the property of the City upon completion or the termination of this Agreement. However, such documents are not intended or represented by ENGINEER to be suitable for reuse by the City or others on extensions or modifications of any Project. Any such reuse without specific written verification and adaptation by ENGINEER for the specific purposes intended will be at user's sole risk and without liability or legal exposure to ENGINEER or to ENGINEER's independent professional associates or consultants.

### 5.3 Records

5.3.1 Fiscal records of ENGINEER pertinent to ENGINEER's compensation and payments under this Agreement will be kept in accordance with generally accepted accounting practices and will not be disposed of by ENGINEER until after sixty (60) days prior written notice to and subsequent approval of such disposal by the City.

5.3.2 ENGINEER shall maintain all records (fiscal and other) and design calculations on file in legible form. A copy of these shall be available to the City at ENGINEER's reasonable expense and the originals shall not be disposed of by ENGINEER until after sixty (60) days prior written notice and subsequent approval of such disposal by the City.

5.3.3 ENGINEER's records and design calculations will be available for examination and audit during normal business hours with five (5) days prior written notice.

### 5.4 Insurance

5.4.1 ENGINEER agrees to procure and maintain, at its own cost, a policy or policies of insurance sufficient to insure against all liability, claims, demands, and other obligations assumed by ENGINEER pursuant to this Agreement. Such insurance shall be in addition to any other insurance requirements imposed by law.



5.4.2 At a minimum, ENGINEER shall procure and maintain, and shall cause any subcontractor of ENGINEER to procure and maintain, the minimum insurance coverages listed below. Such coverages shall be procured and maintained with forms and insurers acceptable to the City. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage.

5.4.2.1 Worker's compensation insurance to cover obligations imposed by applicable law for any employee engaged in the performance of work under this Agreement, and Employer's Liability insurance with minimum limits of one hundred thousand dollars (\$100,000) each accident, one hundred thousand dollars (\$100,000) disease – policy limit, and one hundred thousand dollars (\$100,000) disease – each employee. Evidence of qualified self-insured status may be substituted for the worker's compensation requirements of this paragraph.

5.4.2.2 Commercial general liability insurance with minimum combined single limits of one million dollars (\$1,000,000) each occurrence and two million dollars (\$2,000,000) general aggregate. The policy shall be applicable to all premises and operations. The policy shall include coverage for bodily injury, broad form property damage (including completed operations), personal injury (including coverage for contractual and employee acts), blanket contractual, independent contractors, products, and completed operations. The policy shall contain a severability of interests provision and shall be endorsed to include the City and the City's officers, employees, and consultants as additional insureds. No additional insured endorsement shall contain any exclusion for bodily injury or property damage arising from completed operations.

5.4.2.3 Professional liability insurance with minimum limits of one million dollars (\$1,000,000) each claim and one million dollars (\$1,000,000) general aggregate.

5.4.2.4 Automobile liability insurance with minimum limits of one million dollars (\$1,000,000) each claim and one million dollars (\$1,000,000) general aggregate.

5.4.3 Any insurance carried by the City, its officers, its employees, or its consultants shall be excess and not contributory insurance to that provided by ENGINEER. ENGINEER shall be solely responsible for any deductible losses under any policy.

5.4.4 ENGINEER shall provide to the City a certificate of insurance, completed by ENGINEER's insurance agent, as evidence that policies providing the required coverages, conditions, and minimum limits are in full force and effect. The certificate shall identify this Agreement and shall provide that the coverages afforded under the policies shall not be cancelled or terminated until at least thirty (30) days prior written notice has been given to the City. The City reserves the right to request and receive a certified copy of any policy and any endorsement thereto.

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

## 5.5 Indemnification.

5.5.1 ENGINEER agrees to indemnify and hold harmless the City, its officers, insurers, volunteers, representatives, employees and assigns from and against all claims, liability, damages, losses, expenses and demands, on account of injury, loss, or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, which arise out of or are in any manner connected with this Agreement or the Professional Services (including any Project) to the extent that such injury, loss, or damage is caused by the act, omission, error, professional error, mistake, negligence, or other fault of ENGINEER, any subcontractor of ENGINEER, or any officer, employee, representative, or agent of ENGINEER or of any subcontractor of ENGINEER, or which arise out of any worker's compensation claim of any employee of ENGINEER or of any employee of any subcontractor of ENGINEER. In any and all claims against the City or any of its officers, insurers, volunteers,

representatives, agents, employees or assigns, by any employee of ENGINEER, any subcontractor of ENGINEER, anyone directly or indirectly employed by any of them or anyone for whose act any of them may be liable, the indemnification obligation under this Section 5.5.1 shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for ENGINEER or any subcontractor under worker's compensation actions, disability benefit acts or other employee benefit acts.

5.5.2 To the extent permitted by law, the City agrees to indemnify and hold ENGINEER, its officers, insurers, representatives, agents, employees, successors and assigns harmless from and against all claims, losses, damages and expenses, to the extent such claims, losses, damages, or expenses are caused by the negligent acts, errors or omissions of the City, its officers, insurers, volunteers, representatives, agents, employees or assigns.

5.5.3 In the event claims, losses, damages or expenses are caused by the joint or concurrent negligence of the City and ENGINEER, they shall be borne by each party in proportion to its negligence. The indemnification provided by this Section 5.5. shall in no way be limited by the minimum required insurance identified above.

## 5.6 Professional Responsibility

5.6.1 ENGINEER represents that it is qualified to perform the Professional Services, holds all professional licenses required by law to perform the Professional Services, and has all requisite corporate authority to enter into this Agreement.

5.6.2 The Professional Services shall be performed by ENGINEER in accordance with generally accepted professional practices and the level of competency presently maintained by other practicing professional firms performing the same or similar type of work in the Denver metro area.

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

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

5.6.5. The City has hired ENGINEER for its professional expertise but recognizes there may be engineering requirements outside ENGINEER's area of expertise that may require the employment of subcontractors. Upon request, ENGINEER shall furnish to the City a list of proposed subcontractors, and ENGINEER shall not employ a subcontractor to whose employment the City reasonably objects. All contracts between ENGINEER and subcontractors shall conform to this Agreement.

5.7 Nondiscrimination and Affirmative Action. In connection with its performance under this Agreement, ENGINEER shall not discriminate against any employee or applicant for employment because of race, color, creed, religion, age, sex, marital status, sexual orientation or affectional preference, national origin, ancestry, citizenship, physical or mental handicap or because he or she is a disabled veteran or veteran of the Vietnam era. ENGINEER shall take affirmative action to ensure that qualified applicants are employed and that employees are treated during employment without regard to their race, color, creed, religion, age, sex, marital status, sexual orientation or affectional preference, national origin, ancestry, citizenship, physical or mental handicap or because he or she is a disabled veteran or veteran of the Vietnam era. Such actions shall include recruiting and hiring, selection for training, promotion, fixing rates or other compensation, benefits, transfers and layoff or termination.

5.8 Confidentiality. All services performed by the ENGINEER, including but not limited to all drafts, data, correspondence, proposals, reports and estimates compiled or composed by the ENGINEER,



pursuant to this Agreement, are for the sole use of the City, its contractors, agents and employees. Neither the documents nor their contents shall be released by any party, or any third party, other than the City, without the prior written consent of the City. In addition, ENGINEER shall not grant any interviews or make any written or oral statements to any news media representatives regarding the Project nor publish any article or make any presentation concerning any particular Project or services performed by ENGINEER without the prior written consent of the City.

5.9 Governing Law and Venue. This agreement shall be governed by the laws of Colorado and any legal action concerning the provisions hereof shall be brought in Clear Creek County, Colorado.

5.10. Binding Effect. The City and ENGINEER each bind itself, its successors and assigns to the other party to this Agreement with respect to all rights and obligations under this Agreement.

5.11 Assignment. Neither the City nor ENGINEER shall assign, sublet or transfer any rights under or interest in this Agreement (including, but not limited to, moneys that may become due or moneys that are due) without the written consent of the other, except to the extent that an assignment, subletting or transfer is mandated by law or the effect of this limitation may be restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.

5.12. No Third-Party Beneficiaries. Nothing under this Agreement shall be construed to give any rights or benefits in this Agreement to anyone other than the City and ENGINEER and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole benefit of the City and ENGINEER and not for the benefit of any other party.

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

5.14 No Multiple Fiscal Year Obligation. Nothing herein shall constitute a multiple fiscal year obligation pursuant to Colorado Constitution, Article X, Section 20. Notwithstanding any other provision of this Agreement, the City's obligations under this Agreement are subject to annual appropriation by the City Council. Any failure of the City Council annually to appropriate adequate monies to finance the City's obligations under this Agreement shall terminate this Agreement at such time as such then-existing appropriations are to be depleted. Notice shall be given promptly to ENGINEER of any failure to appropriate such adequate monies.

5.15 No Waiver. Delays in enforcement or the waiver of any one or more defaults or breaches of this Agreement by the City shall not constitute a waiver of any of the other terms or obligation of this Agreement.

5.16. Integration. This Agreement and any attached exhibits constitute the entire Agreement between ENGINEER and the City, superseding all prior oral or written communications.

5.17 Notice. Any notice under this Agreement shall be in writing, and shall be deemed sufficient when directly presented or sent pre-paid, first class United States Mail, addressed as follows:

|                 |                              |
|-----------------|------------------------------|
| If to the City: | City Administrator           |
|                 | City of Idaho Springs        |
|                 | PO Box 907                   |
|                 | 1711 Miner Street            |
|                 | Idaho Springs, CO 80452-0907 |
|                 | Telephone 303.567.4421       |



If to ENGINEER: JVA, Inc.  
1319 Spruce Street  
Boulder, CO 80302-4859  
Telephone: 303.444.1951

5.18 Severability. If any provision of this Agreement is found by a court of competent jurisdiction to be unlawful or unenforceable for any reason, the remaining provisions hereof shall remain in full force and effect.

5.19 Modification. This Agreement may only be modified upon written agreement of the parties.

5.20 Rights and Remedies. The rights and remedies of the City under this Agreement are in addition to any other rights and remedies provided by law. The expiration of this Agreement shall in no way limit the City's and the ENGINEER's legal or equitable remedies, or the period in which such remedies may be asserted, for work negligently or defectively performed.

5.21 Certification; Prohibition on Employing or Contracting with Illegal Aliens.

5.21.1. ENGINEER hereby certifies that at the time of executing this Agreement it does not knowingly employ or contract with an illegal alien and that it has participated or attempted to participate in the Basic Pilot Program in order to verify that it does not employ any illegal aliens.

5.21.2. ENGINEER shall not knowingly employ or contract with an illegal alien to perform work under this Agreement nor enter into a contract with a subcontractor that fails to certify to ENGINEER that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under the public contract for services.

5.21.3. ENGINEER has verified or attempted to verify through participation in the Basic Pilot Program that ENGINEER does not employ any illegal aliens and, if ENGINEER is not accepted into the Basic Pilot Program prior to entering into this Agreement, that ENGINEER shall apply to participate in the Basic Pilot Program every three (3) months until ENGINEER is accepted or this Agreement for services has been completed, whichever is earlier.

5.21.4. ENGINEER is prohibited from using Basic Pilot Program procedures to undertake pre-employment screening of job applicants while this Agreement is being performed.

5.21.5. If ENGINEER obtains actual knowledge that a subcontractor performing work under this Agreement knowingly employs or contracts with an illegal alien, ENGINEER shall be required to: (a) notify the subcontractor and the City within three (3) days that ENGINEER has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and (b) terminate the subcontract with the subcontractor if within three (3) days of receiving the notice required pursuant to C.R.S. Section 8-17.5-102 (2) (III) (A) the subcontractor does not stop employing or contracting with the illegal alien; except that ENGINEER shall not terminate the contract with the subcontractor if during such three (3) days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

5.21.6. ENGINEER shall comply with any reasonable request by the Colorado Department of Labor and Employment (the "Department") made in the course of an investigation that the Department is undertaking pursuant to the authority established in C.R.S. Section 8-17.5-102 (5), C.R.S.

5.21.7. Any violation of provisions 5.21.1. through 5.21.6, above, shall be deemed to be a material breach of this Agreement and the City may immediately terminate this Agreement for cause. If this Agreement is so terminated, ENGINEER shall be liable for actual and consequential damages to the City pursuant to C.R.S. Section 8-17.5-102(3) and the City shall notify the office of the Secretary of State of such violation/termination.

5.22 Option to Engage Other Firms. The City reserves the right in its sole discretion to offer any project, work or task for bid to other engineering firms during the term of this Agreement. The City will promptly notify Engineer in advance of any such offering.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement as of the day and year first above written.

**JVA, Incorporated**

By: \_\_\_\_\_  
Kevin A. Tone, P.E., LEED AP  
President

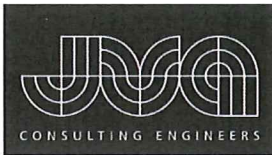
Accepted by:

**CITY OF IDAHO SPRINGS**

By: \_\_\_\_\_  
Michael Hillman, Mayor

Attest: \_\_\_\_\_  
Diane Breece, City Clerk





## EXHIBIT A 2020 Hourly Billing Rate Schedule

| POSITION                 | RATE          |
|--------------------------|---------------|
| Principal                | \$160 – \$208 |
| Expert Witness           | \$252         |
| Senior Forensic Engineer | \$212         |
| Senior Project Manager   | \$148 – \$176 |
| Project Manager          | \$128 – \$148 |
| Senior Project Engineer  | \$116 – \$132 |
| Project Engineer         | \$112 – \$120 |
| Design Engineer          | \$96 – \$112  |
| Senior Designer          | \$124 – \$132 |
| CAD Designer             | \$88 – \$120  |
| Administrative Support   | \$88 – \$116  |

Auto travel shall be reimbursed at 57.5¢ per mile or at a rate set by the IRS. Costs for express delivery, airfare, car rental, meals, lodging, printing, copying, long distance calls and shipping shall be reimbursed at 1.1 times direct cost.

Subconsultant fees and expenses shall be reimbursed at 1.1 times direct cost.

Sec. 15-56. - Parking of certain vehicles limited.

- (A) It is unlawful for any person to park or stand a commercial trailer, semitrailer or trailer or to permit the same to be parked on any street, alley or other public property, whether attached to a motor vehicle or not, except when said trailer is being expeditiously used to render services such as, but not limited to, deliveries, pickups or construction activities, to property located within two hundred (200) feet of where said trailer is parked.
- (B) It is unlawful for any person to park or stand a dump truck, truck exceeding seven thousand (7,000) pounds empty weight, commercial trailer, semitrailer or truck tractor, or to permit the same to be parked anywhere within the City in any residential zone district, except when said vehicle is being expeditiously used to render services such as, but not limited to, deliveries, pickups or construction activities, to property located within two hundred (200) feet of where said vehicle is parked.
- (C) It is unlawful to park or stand an oversized vehicle upon any street, alley or other public property except when said vehicle is parked for the purposes of loading or unloading and so long as it is not so parked for periods in excess of seventy-two (72) hours.
- (D) It is unlawful to park or permit to stand any recreational trailer or mobile home upon any street, alley or other public property in the City for more than seventy-two (72) hours.

(Ord. 8 §1, 2006)



## Sec. 15-51. - Definitions.

As used in this Article, the following words, phrases and terms shall have the meaning ascribed to them in this Section.

*Abandon.* To leave a thing with the intention not to retain possession of or assert ownership over it. The intent need not coincide with the act of leaving.

*Abandoned motor vehicle:*

- (1) Any motor vehicle, the owner of which cannot be readily determined to live within a radius of four (4) City blocks, left unattended on public property, including any portion of a highway, street or public right-of-way within the limits of the City, for a period of twenty-four (24) hours or longer, unless the owner or driver thereof has conspicuously affixed thereto a dated notice indicating his or her intention to return or has otherwise notified the Police Department of his or her intention to remove the same within a reasonable time period;
- (2) Any motor vehicle from which the license plates or other identifying marks have been removed;
- (3) Any motor vehicle that has been damaged or is deteriorated so extensively that it has value only for junk or salvage;
- (4) Any motor vehicle that is not removed within three (3) days after the owner has been notified to remove the same by a law enforcement agency; or
- (5) Any motor vehicle stored in the City's designated impound lot at the request of its owner or the owner's agent or the Police Department and not removed from the City's designated impound lot according to the agreement with the owner or agent or within seventy-two (72) hours of the time the Police Department notifies the owner or agent that the vehicle is available for release upon payment of any applicable charges or fees.

*Adult.* A person eighteen (18) years of age or older.

*Commercial trailer.* Any wheeled vehicle without motive power which is designed to be drawn by a motor vehicle and to carry its cargo load wholly upon its own structure, which is generally and commonly used to carry and transport property over the public highways and which is registered under the State's ton-mile tax laws

*Department.* The Idaho Springs Police Department.

*Disabled motor vehicle.* Any motor vehicle which is stopped or parked, either attended or unattended, upon a public right-of-way and which is, due to any mechanical failure or any inoperability because of a collision, fire or any other such injury, temporarily inoperable under its own power.

*Dump truck.* A truck having a bed that tilts to dump its cargo or contents.

*Impound lot.* Any building, enclosure or place designated by the City, the Chief of Police or ordinance or resolution of the City Council for the storage of impounded motor vehicles by the City, including privately owned garages or other privately owned locations.

*Minor.* A person seventeen (17) years of age or less.

*Motor vehicle.* Any self-propelled vehicle which is capable of moving from place to place on wheels and which is designed to transport persons and property, or any vehicle classified as a motor vehicle under the laws of the State.

*Oversized vehicle.* Any car, truck van, recreational vehicle or other motorized vehicle which exceeds seven (7) feet in width or twenty-three (23) feet in length.

*Private property.* Any real property which is not public property.

*Private tow.* Any tow of an abandoned motor vehicle not requested by a law enforcement agency.

*Public property.* Any real property having its title, ownership, use or possession held by the federal government, the State or any county, municipality or other governmental entity of the State.

*Public tow.* Any tow of an abandoned motor vehicle requested by a law enforcement agency.

*Recreational trailer or mobile home.* Any wheeled vehicle which is a single self-contained unit, with or without motive power, and designed and generally and commonly used for occupancy by persons for residential purposes in either temporary or permanent locations, and which may be drawn over the public highways by a motor vehicle.

*School ground.* The whole or any part of any parcel of real property, including an easement or right-of-way thereon, located in the City and used for school purposes by any public school district.

*Semitrailer.* Any wheeled vehicle, without motive power, which is designed to be used in conjunction with a truck tractor, and generally and commonly used to carry and transport property over the public highways.

*Tow operator.* A person or a firm licensed by the Colorado Public Utilities Commission as a towing carrier.

*Traffic hazard.* Any tree, bush, shrub, other plant, sign, fence or other structure, except a house or building, or object that obstructs, hinders or impairs the ability of an operator of a motor vehicle to see another motor vehicle approaching him or her on the same street or any intersecting street, or to see a pedestrian at a crosswalk or children in the street in time for such operator to safely stop the motor vehicle he or she is operating without the danger of an ensuing collision.

*Trailer.* Any wheeled vehicle, without motive power, which is designed to be drawn by a motor vehicle and to carry its cargo load wholly upon its own structure and which is generally and commonly used to carry and transport property over the public highways.

*Truck tractor.* Any motor vehicle which is generally and commonly designed and used to draw a semitrailer and its cargo load over the public highways.

(Ord. 8 §1, 2006)



# City of Idaho Springs

## City Council Communication



Meeting Date: September 8, 2020

Presented By: Jonathan Cain, Assistant City Administrator

Item: Fireworks in 2020 and new Fireworks Contract

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### **Background**

The City has had a contract for the past five years with Zambelli Fireworks for our traditional Independence Day Celebration. This is the last year in the current contract. For 2020, the cost of the display is \$23,152.

Last May, City Council made the decision to delay the City Fireworks on the 4<sup>th</sup> of July out of concern for a) the City Budget, and b) the Fire Danger in the County. The Fireworks were postponed to the Saturday after Thanksgiving, November 28, 2020 which is the Postponement Date under the contract. It is time to decide whether or not the City would like to move forward with a Fireworks Display on November 28, 2020.

The City has received a proposal from Zambelli Fireworks for a new five-year fireworks contract that would carry us through 2025. It is possible that Zambelli Fireworks may work with the City regarding this year's display if we decide to enter into a new five-year contract.

### **Contract Requirements**

In January of this year, the City paid a 50% deposit for the 2020 Fireworks Display. In the contract, we agree to pay a postponement fee of 15 percent of the purchase price if the display is fired on the Postponement Date (November 28, 2020), and we agree to a fee of 25 percent if it is fired on any other Alternate Date within six months of the original Display Date (July 4, 2020). In the event of cancellation more than 61 days before the Display Date (currently rescheduled for November 28, 2020), by contract Zambelli retains a 10% cancellation fee (\$1,157.60) and refunds the remainder of the 50% deposit (\$10,418.40).

### **Potential Alternatives**

1. The City could work with Zambelli Fireworks to see if they would be willing to postpone this year's display to next year, or some other sort of modification of the contract. As this is the "contract year" for Fireworks, they may be willing to work with us to come up with such an arrangement.
2. The City could cancel the Fireworks this year, which would result in a cancellation fee to Zambelli Fireworks (10% of the deposit). We could then enter into a new contract with Zambelli starting in 2021 or explore alternative arrangements for the City's Fireworks Display.
3. The City could hold Fireworks in 2020 on November 28, 2020 and enter a new contract with Zambelli starting in 2021 or explore alternative arrangements for the City's Fireworks Display.

### **Staff Recommendation**

*Staff recommends* that City Council pursue a new contract with Zambelli Fireworks, to include a negotiation to postpone this year's fireworks display to 2021.

# **Zambelli**

**FIREWORKS**

IDAHO SPRINGS, COLORADO

JULY 4, 2021



Fireworks Proposal Prepared By

Ernie Simmons

303-570-5135

Cell 863-287-9168

[esimmons@zambellifireworks.com](mailto:esimmons@zambellifireworks.com)



# **Zambelli**

## **FIREWORKS**

### **Display Overview: Idaho Springs Colorado**

**Show Date:** July 4, 2021, 2022, 2023, 2024, 2025

**BUDGET:** 2021-\$24,000.00, 2022-\$24,000.00, 2023-\$25,200.00

2024-\$25,200.00, 2025-\$26400.00

**Insurance Liability Coverage:** \$10 Million dollars (per show coverage) for each Fireworks Display. Zambelli uses the highest insurance premium in the industry with "AAA" rated companies.

**Permit/Fire Dept:** Zambelli Fireworks will secure all needed permits (unless otherwise specified by the City) and organize plans directly with Fire and Safety Authorities.

**Transportation Liability Coverage:** \$5 Million dollars as required by United States Department of Transportation. (DOT)

**Workers Compensation:** Pyrotechnicians will meet all of the requirements of the Workers Compensation Laws of Colorado.

**Transportation:** Fireworks and equipment will be delivered by qualified CDL drivers with Haz-Mat endorsed licenses as required by US DOT.

**Personnel:** Zambelli Certified Pyrotechnicians and Trained Assistants; no subcontractors used.

**Safety Procedures:** Zambelli Fireworks adheres to all safety regulations. NFPA 1123, 1126 and NFPA 160 codes will be strictly enforced.



# **Zambelli**

## **FIREWORKS**

### Idaho Springs, Colorado

#### Opener

10-3" finale salute shells

10-4" color finale shells

#### Body of Program

90-3" assorted color and pattern shells

120-4" assorted color and pattern shells

60-5' assorted color and pattern shells

30-6" assorted color and pattern shells

#### Grand Finale

60-3" finale salute shells

240-3" color finale shells

12-4" color finale

10-5" color finale

#### Low Level Effects

14-100 shot multishot cakes of various effects

4-400 shot V shape comet effects

3642 total shots

# Zambelli

## FIREWORKS

### Program Philosophy

Generally speaking there's an opening segment, main body and grand finale of a fireworks display. Just as a great play or movie has various segments that flow together, firework shows are similar type productions that should never leave the audience wanting more or leaving disappointed.

There are fundamental basics that Zambelli Fireworks adheres to, with which we create the best displays in the industry. Some of these fundamentals include:

- **No Dead Air** Just as any TV, radio or Big Screen Production, "Dead-Air" is simply not acceptable. At any given time there will be multiple firings of shots and shells in the air for the display.
- **Shell Size Combinations** A common way for companies to set a show is to shoot all 2 inch shells, then all 3 inch shells, then all 4 inch shells, etc. While this makes it easy for a technician, it is simply boring. Zambelli technicians are trained to set shows to create the ultimate in shell combinations for the various firing sites. For example, firing two 3 inch Gold Kamuro Willow shell (400 ft.) and six 2.5 inch Purple Dahlias is a great, beautiful combination. Firing two 3 inch Pink strobing lights and six 2.5 inch white strobing lights within seconds offers up to 8 seconds of beautiful strobes covering 200 to 400 ft in the air.
- **Rhythm and Intensity** Just as many movies have a loud, action-packed car chase one moment followed by a romantic scene the next moment, fireworks productions also need to flow. A show that is too fast or too slow can get monotonous. Zambelli designs shows that one moment are a constant barrage of colors and booms while the next moment may be soft horsetail golden willows fluttering down from the sky one-by-one.
- **Finales** There's a major art to shooting a spectacular finale. Many people think a finale is simply shooting a lot of shells. While true from a quantitative standpoint, a finale must make sense in order to entertain most effectively. Zambelli designs finales that start slower and lower. For example, 3 inch peony finale shells fired every half-second for 20 seconds may then grow in intensity to include white or silver glittering for the next 20 seconds. Then larger 4 inch blue cracking spiders take over while 3 inch white coconut trees are laying the ground cover. Finally the 100 3 inch multi-color crossettes are covering the sky while the 3 inch titanium salutes are rumbling the skies for miles.

# Zambelli

## FIREWORKS

### Details of Proposed Show Segments

**OPENING:** An opening barrage is designed to attract the attention of the audience and entice them to pay attention..."The show has just begun!" The opening barrage for your event will certainly impress as a barrage of assorted colors, effects, and noise shells fill the night's air.

**The purpose of the opener is to impress on your audience that they are about to see something spectacular. A well-designed Zambelli opener will grab the crowd's attention and prepare them for a wonderful fireworks display.**

**FEATURE PRESENTATION:** The main body of the fireworks display should not be just one shell fired one after another. It's about rhythm, timing, and choosing the perfect effects to complement one another to build themes. Some fireworks shells are designed to be extremely intense while others are designed to slow the pace down with beautiful, softer effects. The design team hand picks every display shell used to ensure a wonderful variety of effects. The audience will never see the same combinations of shells fired in a Zambelli production.

**Different size shells will be breaking simultaneously throughout the display. This allows us to vary the intensity of the show, but more importantly create beautiful canvases of color and effect in the sky, that stimulate both visually and audibly.**

**BARRAGES OF MULTI-SHOT DEVICES:** Multi-shot devices or barrage cakes are used to add to the dynamics of the show. Zambelli Fireworks uses only the highest quality Barrages with innovative effects, colors, and angles. These devices incorporate effect sizes from 1" to 2".



# Zambelli

## FIREWORKS

**GRAND FINALE:** and it will be GRAND!

Human nature is to remember things last experienced. The Grand Finale is what people will remember the most about a fireworks production. A poor finale will leave an audience disappointed. Zambelli Fireworks has a long tradition of supplying the best and biggest finales in the industry. It will be loud, it will be full of vibrant colors, it will be long, and it will leave a lasting impression. Hundreds of shots and effects of multi-color shells, gold and silver sparking lights, gold brocade crown shells and other effects coupled with chest-pounding titanium-salutes will be the magical ending of the grand display. The finale will be fired from multiple positions with dynamic angles. The incorporated shells, with multiple different sizes and effects, will cover every inch of sky from 150 to 300 ft in the air.

**The Finale will be LARGE, but classy. Effects will be fired at angles to light up a larger portion of the sky rather than create an area of overlapping colors. After an intense array of colors, effects, and sounds, the final few seconds of the Display will fire a barrage of gold hanging effects that will linger in the sky well after the last shell breaks.**

### **Products:**

Zambelli Fireworks carries an inventory of display shells that is more than 2,000 unique shapes, colors, patterns or varieties from nearly a dozen manufacturers. During the 2015 July 4<sup>th</sup> display season Zambelli fired more than 1,200 different types of unique shells during the opener, body and finale of shows. It would be next to impossible to discuss every single shell in detail and provide information on each one.

Zambelli chooses fireworks from a number of different manufacturers from around the world to provide audiences with both unique and creative products. Sunny, PyroEast, Vulcan, Dominator and Dancing products all come from premium Chinese manufacturers. Cabeller shells are very premium Spanish shells. Panzera from Italy make the best multi-shot shells and roman candles in the industry. Hosoya Japanese shells provide some of the best willow and kamuro shells in the world. Lastly, Zambelli still manufactures shells, some of which will be seen during the display.

# **Zambelli**

## **FIREWORKS**

### **WHY CHOOSE ZAMBELLI?**

Zambelli Fireworks prides itself on being able to provide the largest “bang for your buck.” We have a Colorado network which is unrivaled in the industry. With our offices in Denver, a permanent storage facility in Aurora, and technicians around the state, Zambelli can pass the savings these local facilities provide, onto you. We can offer more shells, regular site visits for safety, and local technicians and management to ensure you receive the best production possible.

**Zambelli Fireworks believes in honesty and integrity as a core company philosophy. We invite, and encourage, our clients to audit our firing sites for quality and quantity of our fireworks and equipment.**

### **Experience and Qualifications**

Proudly known as the "First Family of Fireworks," Zambelli Fireworks is one of the oldest and largest American fireworks companies.

The corporate headquarters and main plant operations are based in New Castle, PA. The southeast regional office is located in Boca Raton, FL, the western office is located in Bakersfield, CA, the central US office is in Denver Co. Zambelli Fireworks currently employs over 40 full-time individuals and thousands of trained, qualified pyrotechnicians. All full-time staff and technicians working with your display will be fully trained, federally approved, Zambelli employees.

The Zambelli family has manufactured the highest quality fireworks and has presented artistic excellence in fireworks displays for over 100 years.

The Zambelli name is recognized and respected, worldwide. Competitors strive to achieve the name recognition that Zambelli Fireworks commands today.



# **Zambelli**

## **FIREWORKS**

Zambelli Fireworks is known worldwide for setting the industry standard in show design and technology.

George Zambelli, Sr. was the pioneer of Zambelli Fireworks for over 65 years. His father, Antonio Zambelli, brought the artistry to New Castle, PA from Italy.

George Zambelli Jr., current Chairman of the Board, is carrying on the Family Tradition of "Lighting Up the Skies!" The Zambelli family and year-round professional staff of technicians, designers, office staff and administrators are here to assist and guide you in the development and implementation that is specific for your fireworks event. We have a team of individuals ready to make your event an extreme success.

Many of the most sought-after master pyrotechnicians in the industry are longtime employees of Zambelli Fireworks.

Experience means quality. Zambelli Fireworks is proud to have a number of individuals who have made long careers within the pyrotechnics industry. The Senior Plant Manager has over 35 years experience in fireworks, the Senior Choreographer/Show Designer has over 25 years experience in fireworks, and the Senior Product Manager has over 25 years experience choosing the highest quality shells and equipment. These individuals' dedication to the artistry of pyrotechnics creates a scenario for quality fireworks shows for every client, large and small.

There's a tremendous dedication to technician training to ensure the most safe display with the highest quality production.

All of our display technicians have attended Zambelli Fireworks' extensive training program and have met all of the rigid safety procedures, which exceed state and federal requirements. We offer a number of different training courses with extensive classroom

and hands-on training, per year, around the country. New technicians must also work alongside experienced technicians to gain competence and meet the highest safety, regulatory, and overall performance standards.

**Zambelli Fireworks exists as the largest fireworks company in the United States for one reason...customer service and satisfaction EVERY SHOW!**

Zambelli Fireworks is proud to be the largest fireworks company in the United States. However, we cannot rest on our laurels by simply being the largest. We must prove our quality and customer satisfaction to every client, on every show, every time. Clients trust us to successfully produce thousands of displays every year. Our goal is to outperform with every show, large or small.



# **Zambelli**

## **FIREWORKS**

### **COMPANY EXPERIENCE:**

#### *Internationally Known Programs*

The Statue of Liberty, Super Bowls, Presidential Inaugurations, Visits of Kings and Queens, Times Square New Years Eve, Mount Rushmore, Washington D.C. and New York City Fireworks displays, Kuwait Display for the Troops in the First Gulf War and many more historical events.

#### *Top U.S. Festivals and Civic Celebrations*

Thunder Over Louisville/Kentucky Derby Festival, Minneapolis Aquatennial, Pittsburgh 250<sup>th</sup> Anniversary, Boise Riverfest, Macon Cherry Blossom Festival, the North Carolina State Fair, Canton Football Hall of Fame, Tampa Gasparilla Celebration, the Florida State Fair and many more.

#### *Sports Franchises and Venues*

MLB World Series, NFL Super Bowl, Detroit Tigers, Pittsburgh Pirates, Baltimore Orioles, Colorado Rockies, Florida Marlins, Atlanta Braves, Washington Redskins, Pittsburgh Steelers, Tampa Bay Bucs, Miami Dolphins, Ft. Myers Miracle, Carolina Mudcats, Buffalo Bison, Charleston Riverdogs, Winston-Salem War Hogs, Louisville Bats, Clemson University, University of Miami, ACC Championship Game (Tampa), St. Petersburg Bowl (Tropicana Field) and a number of other College and HS Football venues.

#### *Colorado Displays*

Colorado Rockies, Colorado Rapids, Colorado Outlaws, City of Aurora, City of Arvada, City of Thornton, Town Of Idaho Springs, City of Longmont, Fiddlers Green, Elitch Gardens, Steamboat Springs Ski School, Steamboat Lake Resort, I25 Speedway, City of Cripple Creek, Ute Mountain Casino, Durango Colorado, Winter Park Ski Resort, as well as many corporate and private events.

# **Zambelli**

## **FIREWORKS**

### **Your Personalized Zambelli Fireworks Team and Technicians**

Ernie Simmons  
Operations Manager  
Senior Project Manager  
863-287-9168 cell  
epsimms@aol.com

[esimmons@zambellifireworks.com](mailto:esimmons@zambellifireworks.com)

Ernie has worked with Zambelli Fireworks since 1978 designing, shooting and training technicians. His primary roles include training both fireworks technicians and Fire Marshals/Safety Officials, and of course lead technician on dozens of shows annually.

Jerry Jones  
Facilities Manager  
Senior Technician  
303-845-2620

Jerry has over 25 years experience as a technician and manages our Colorado storage facility.

Danielle Fredrickson  
Senior Customer Service Manager  
561-395-0955

[daniellefredrickson@zambellifireworks.com](mailto:daniellefredrickson@zambellifireworks.com)

Danielle is the person who works behind the scenes to make everything regarding the fireworks show logistics come together. She will work on the permit applications, certificates of insurance, technician coordination, area site maps, and can answer any question you may have regarding your fireworks display.

Zach Taminosian  
Senior Designer/Choreographer  
561-395-0955 office  
239-225-8012 cell

[zach@zambellifireworks.com](mailto:zach@zambellifireworks.com)

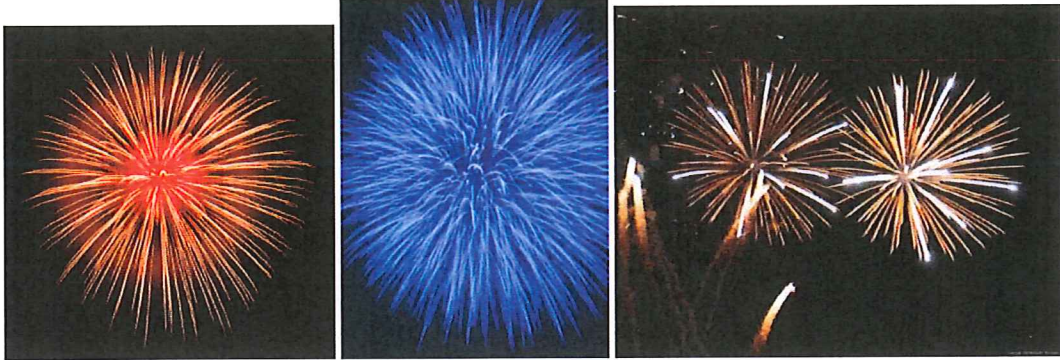
Zach has worked for Zambelli Fireworks for more than twelve years. His in-depth knowledge of show design and choreography is second-to-none. He is tasked with designing some of the largest displays in the United States. Zach also works tirelessly to buy the best fireworks from around the world.

Zach just recently designed and produced the winning program representing the United States in the International Fireworks Competition for 2016 in Calgary.

# Zambelli

## FIREWORKS

### Chrysanthemums



Description: Typically a spherical break of colored stars that leave a trail or sparks behind. May include pistils (center multi break stars) or other features such as multi-colored, half and half, cracking, etc.

### **Body**

Red Chrys  
Green Chrys  
Yellow Chrys  
Blooming Silvery Chrys  
Blue Chrys  
Red, White and Blue Chrys  
Green to Purple Chrys  
Varied Colorful Flowers  
Multi-Color Chrys  
Golden Chrys w/rising tails  
Silver to Purple Chrys  
Glittering Silver to Red Chrys  
Purple Chrys with White Pistil  
Red Chrys with white Pistil  
Gold Wave to Red/Blue Chrys

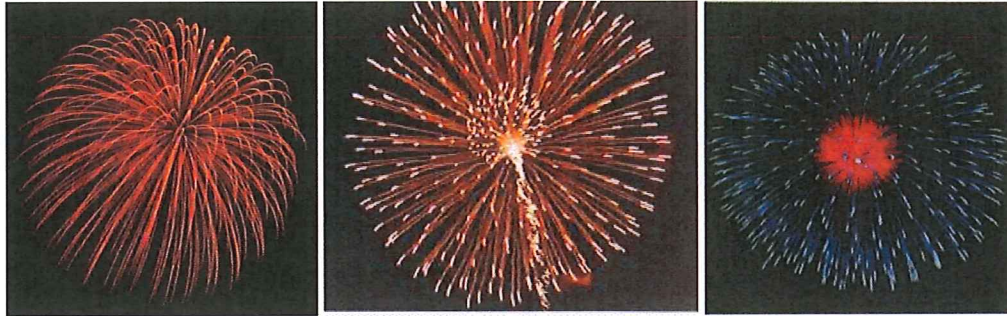
Red to Blue Chrys.  
Silver to Green Chrys.  
Gold Chrys. w/ rising tails  
Glitter Silver to Red Chrys  
White Twinkling Chrys.  
Spangle Chrys. w/rising tails  
Orange Chrys. w/rising tails  
Purple Chrys  
Yellow Chrys  
Silver Chrys w/rising tails  
Silver to Green Chrys  
Variegated Rainbow Chrys  
Green Chrys with Green Pistil  
Silver and Gold Chrys  
Multi-Color Chrys to Popping Flowers



# Zambelli

## FIREWORKS

### Peonies



Description: Typically a spherical break of colored stars that leave no trail or sparks behind. May include pistils (center multi break stars) or other features such as multi-colored, half and half, cracking, etc.

### **Body**

White Peony  
Silver Wave to Purple Peony  
Yellow Peony  
Purple Peony w/Gold Palm  
Variegated Peony (rainbow)  
Red, White and Blue Peony  
Silver to Red Peony  
Orange Peony  
Silver Wave to Blue Peony  
Red to Silver Peony  
Golden Peony  
Red and Green Peony  
Color Changing Peony  
Popping Peony (Red)  
Half Blue Half Red Peony  
Half Green Half White Peony  
Pink Peony  
Green to Silver to Blue Peony

Blue Peony w/Blue Palm Tree.  
Multi-Colored Peony  
Green Peony w/Gold Palm Tree  
Red to Blue Peony  
White Peony w/Blue Pistil  
Glittering Peony  
Silver to Blue Peony  
Half Green Half White Peony  
Silver Wave to Purple Peony  
Green to Purple Peony  
Blue Peony w/titanium reports  
Blue to Silver Peony  
Sparkling Peony w/Pistil  
Popping Peony (White)  
Half White Half Red Peony  
Golden Waves to Purple Peony  
Brilliant Orange Peony  
Red to White to Blue Peony

# Zambelli

## FIREWORKS

### Crossettes



Description: A crossette is a unique shell that breaks into 6 or 8 arms. Then, after some delay, those arms again break into multiple arms criss-crossing each other in a grid-like fashion throughout the sky. Larger caliber shells may even have a third break in all of the arms.

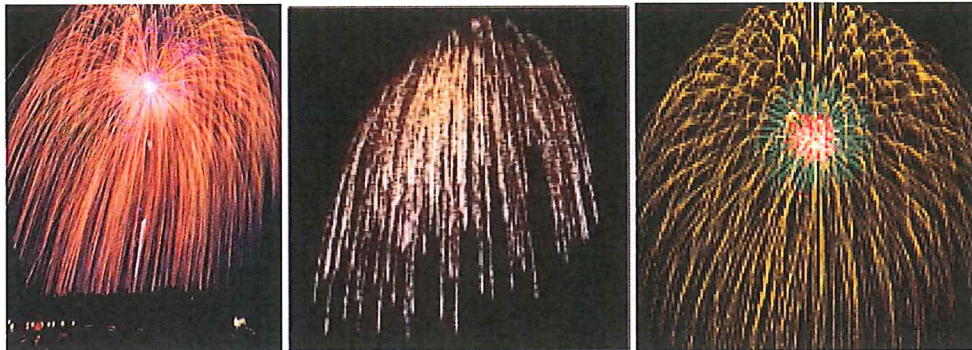
Blue Crossettes  
Red to Blue Crossettes  
Variegated Rainbow Crossettes  
Crackling Crossettes  
Red to Green Crossettes  
Green to Purple Crossettes  
Red Crossette Palm Tree  
White Flitter Crossettes

Green to Blue Crossettes  
Silver Crossettes  
Purple and White Crossettes  
Gold Crossettes w/rising tails  
Green Crossette w/green Tails  
Rainbow Crossettes w/red Tails  
Blue Crossette Palm Tree  
Silver Crossettes

# Zambelli

## FIREWORKS

### Duration/Lingering Effects (Willows, Brocades, Kamuros)



Description: A Long Duration/Lingering Effect is like a Chrysanthemum but burns slowly to the ground leaving a trail of aerial spark dust. These shells are many times gold or silver with various color tips, color changing, or have various colored centers. Zambelli uses many long duration effects at the end of finales to create a sky of gold or silver.

Twilight Glitter w/Purple  
Brocade Crowns  
Brocade Crown to Purple  
Variegated Falling Leaves  
Long Duration Kamuro  
Pixie Dust Willows  
White Poca Shells

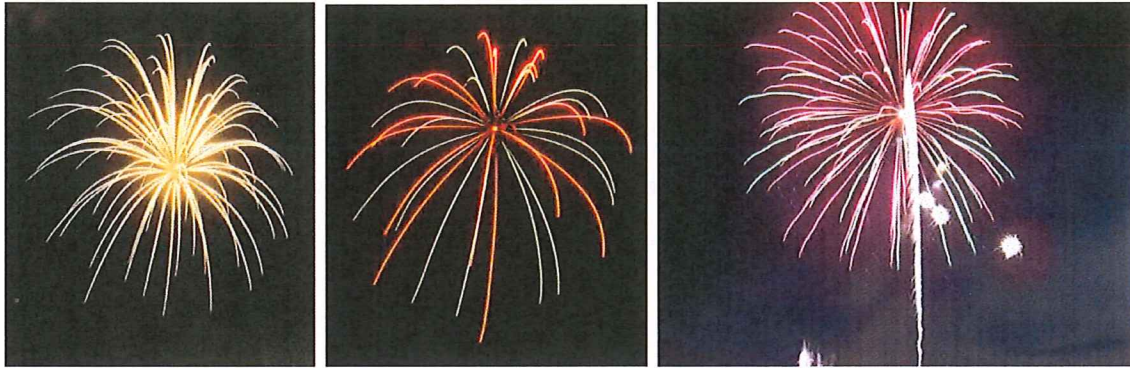
Twilight Glitter w/Red  
Long Duration Red Falling Leaves  
Brocade Crown to Red  
Purple Falling Leaves  
Super Brocade Crowns  
Ultra-Long Duration Gold Kamuro  
Gold Poca Shells



# Zambelli

## FIREWORKS

### Dahlias



Description: A Dahlia shell is like a peony but uses dramatically larger and fewer stars to create brighter, wider trails of sparks through the air. They are typically very bold, defined colors used to mix up the pace of a show. They many times are also used in finales.

Assorted Color Dahlia  
Green Dahlia w/Pistil  
Yellow Dahlia w/Pistil  
Pink Dahlia  
Gold Strobe Dahlia  
Red Strobe Dahlia  
Variegated Dalia  
Purple and Red Dahlia

Blue Dahlias w/Pistil  
Red Dahlia w/Pisitl  
Red and Blue Dahlia  
Silver Dahlia  
Blue Strobe Dahlia  
Purple Strobe Dahlia  
White Dahlie w/Purple Tips  
White Dahlia w/Red Tips

# Zambelli

## FIREWORKS

### Patterns



Description: Pattern shells come in a variety of shapes, sizes and depictions. Most notable shapes are shells with stars in patterns of hearts, smile faces, Saturn or other planet blasts, 4-leaf clovers, wagon wheels, etc.

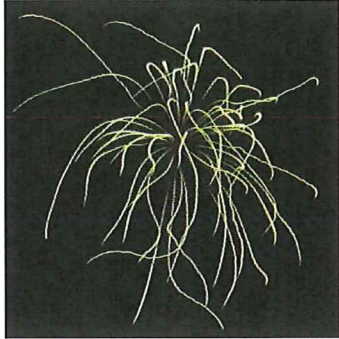
Red Palm Trees  
Red Hearts  
Green to Purple Ring  
Octopus Shells  
Saturn Rings  
Smile Faces  
Green to Blue Crossing Rings  
White/Red Bowtie in Ring

Blue Palm Trees  
Triple Rings  
Saturn Blasts  
Meteor Rings  
Crackling Palm Trees  
Triple Rings w/scattering stars  
Half White Half Purple Ring

# Zambelli

## FIREWORKS

### Specialty Shells



Description: There's a variety of specialty, premium shells that include horsetail willows, scattering stars, bees, falling leaves, Palm Trees and other unique designs and effects.

Silver Bees  
Horsetails  
Large Silver Whirls (Serpents)  
Trees of Many Colors  
Peacock Feathers  
Thousands of Gold Waves  
Peacock Tails  
Silver and Purple Strobes  
Treasure Chests  
Green Magnesium to Fast Strobe  
Multi-Color Shell of Shells

Blue Bees  
Aluminum King Shells  
Blue and Red Spiders  
Kaleidoscopes  
Gold Sparkling Kamikazes  
Thousands of Red Waves  
Red, White, Blue Dragon Eggs  
Popping Flowers  
Red Shell of Shells  
Green Shell of Shells  
Tourbillion and Multi-Color



# Zambelli

## FIREWORKS

### Specialty Noise



Description: Noise shells come in many different types. The most popular are cracking, whistling or screamers, thousands of popping flowers, and the extremely loud titanium salutes.

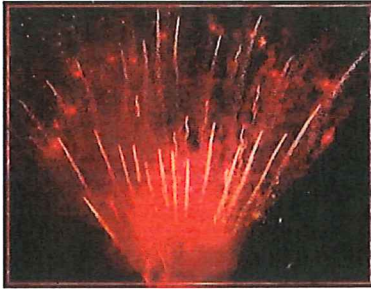
Cracking Delight  
Diamond Screamer Whistles  
Crackling Double Rings  
Crackling Coconut Trees  
Twice Crackling Rain  
Blue Crackling Flowers  
Artillery Titanium  
Gold Crackling Chrys

Serpents with Reports  
Large Silver Screaming Whirls  
White and Green Scattering  
Blue Crackling Spiders  
Tourbillion w/Reports  
Green Crackling Flowers  
Thundering Tourbillions  
Whistles and Stars

# Zambelli

## FIREWORKS

### Barrage Cakes



Description: Barrage Cakes or Multi-shot devices are designed to significantly enhance fireworks displays by adding hundreds of rapid-fire shots of various effects. They are mainly used to create tableaux in tandem with aerial shells breaking around the multi-shot devices. Below are an example of the various types and designs.

35 Shot White Flitter Comet Box  
35 Shot Red Crossette Fan Box  
35 Shot Thunder Tourbillion Fan Box  
35 Shot Dragon Eggs w/Tails  
36 Shot Silver Fish with Tourbillion  
36 Shot Assorted Colorful Falling Leaves  
36 Shot Gold Twinkling Kamuro Box  
36 Shot Red and Blue Crossettes  
49 Shot Red and Silver Moons  
49 Shot Red Crackling Tails  
49 Shot Silver Crossettes  
49 Shot Red and Green Crossettes  
100 Shot Hammer Boxes  
100 Shot Brocade Crowns  
100 Shot Blue Crossettes with Tails  
100 Shot Variegated Peonies  
136 Shot W Shape Purple Kamuro  
300 Shot 8 Shape White Strobe  
372 Shot W-Shape Golden Willow

119 Shot Rapid Fired Gold Comets  
192 Shot Fast Pearl Zippers  
96 Shot Peacock Tails  
140 Shot Silver Rain  
80 Shot V-Shape Silver Coconuts  
80 Shot V-Shape Rainbow Chrys.  
200 Shot Whistling Comets  
70 Shot Z-Shape Midnight Snow  
400 Shot V Shape Rapid Fire Box  
408 Shot Zipper Rapid Fire Box  
300 Shot Finale Comet Box  
665 Shot Silver Barriers  
Angle Wipe Devices – (various angles)  
Zipper Curtain Devices  
Zipper Chase Devices  
Fan Chase Devices  
136 Shot W-Shape Silver to Green  
300 Shot 8 Shape Red Pear Comets  
408 Shot Z Shape Lime Green Pearl

# **Zambelli**

## **FIREWORKS**

Ernie Simmons will be the project manager and work closely with the entire production of this program.

Adam Robertson will be the lead technician

His address is:

5748 Irish Pat Murphy Drive

Parker Colorado

Cell phone: 863-604-2993

Adam holds a pyrotechnic operators license issued by the State of Colorado Fire Marshall's Office.

He has worked for Zambelli Fireworks for the last 7 years

He has worked on more than 50 fireworks displays including the following:

Amelia Island Fl., Atlantis Fl., Bartow Fl., Belle Glade Fl., Eagle Lake Fl., Green Cove Springs Fl., Ocoee Fl., Orange City Fl., and Winter Haven Fl.

City of Aurora Co. Colorado Rockies, Colorado Rapids, Denver Outlaws, Elitch Gardens, Steamboat Springs, Ute Mountain Casino. As well as many private events Adam completes an 8 hour NFPA 1123 training course every 2 years.

Zambelli Fireworks stays up to date in the latest products on the market and incorporates them in their programs where they fit the display.

Zambelli Fireworks complies with all aspects of NFPA 1123 in all aspects of their shows.

### **Cancellation Fees:**

If this show is cancelled by June 25, 2019 there will be no cancellation fee.

If it is cancelled between June 26, and July 1, there will be a 25% cancellation fee.

If it is cancelled after July 1, there will be a 50% cancellation fee.



## ZAMBELLI FIREWORKS MANUFACTURING CO.

THIS CONTRACT AND AGREEMENT (this "Contract") is made effective as of this 21st day of July, 2015, by and between:

*Zambelli Fireworks Manufacturing Co.* of New Castle, Pennsylvania (hereinafter referred to as "Zambelli"),

-AND-

*City of Idaho Springs, Colorado*

(hereinafter referred to as "Client").

WHEREAS, Zambelli is in the business of designing and performing exhibitions and displays of fireworks; and

WHEREAS, Client desires that Zambelli provide an exhibition and display of fireworks for Client's benefit pursuant to the terms and conditions hereof, and Zambelli desires to perform an exhibition and display of fireworks for Client's benefit pursuant to the terms and conditions hereof.

NOW, THEREFORE, in consideration of the mutual agreements herein contained:

Zambelli, intending to be legally bound, agrees as follows:

1. Zambelli agrees to sell, furnish and deliver to Client a fireworks display [per the program submitted by Zambelli to Client, accepted by Client and made a part hereof] (hereinafter referred to as the "Display") to be exhibited on the display date set forth below (hereinafter referred to as the "Display Date"), or on the postponement date set forth below (hereinafter referred to as the "Postponement Date") if the Display is postponed as provided herein, which Display Date and Postponement Date have been agreed upon at the time of signing this Contract, however, the Postponement Date may be changed by mutual agreement of the parties, subject to the provisions of Paragraph 4 below and not less than ninety (90) days before the Postponement Date listed below.

|                                   |                                             |                         |
|-----------------------------------|---------------------------------------------|-------------------------|
| Display Date: <u>July 4, 2016</u> | Postponement Date (if any): <u>11/26/16</u> | Budget: <u>\$20,000</u> |
| Display Date: <u>July 4, 2017</u> | Postponement Date (if any): <u>11/25/17</u> | Budget: <u>\$20,000</u> |
| Display Date: <u>July 4, 2018</u> | Postponement Date (if any): <u>11/24/18</u> | Budget: <u>\$21,000</u> |
| Display Date: <u>July 4, 2019</u> | Postponement Date (if any): <u>11/30/19</u> | Budget: <u>\$22,050</u> |
| Display Date: <u>July 4, 2020</u> | Postponement Date (if any): <u>11/28/20</u> | Budget: <u>\$23,152</u> |

2. Zambelli agrees to furnish the services of display technicians (hereinafter referred to as "Display Technicians") who are sufficiently trained to present the Display. Zambelli shall determine in its sole discretion the number of Display Technicians necessary to take charge of and safely present the Display.
3. Zambelli agrees to furnish insurance coverage in connection with the Display for bodily injury and property damage, including products liability, which insurance shall include Client as additional insured regarding claims made against Client for bodily injury or property damage arising from the operations of Zambelli in performing the Display provided for in this Contract. Such insurance afforded by Zambelli shall not include claims made against Client for bodily injury or property damage arising from failure of Client, including through or by its employees, agents and independent contractors, to perform its obligations under this Contract, including without limitation those set forth in paragraphs 5 and 6 below. Client shall indemnify and hold Zambelli harmless from all claims and suits made against Zambelli for bodily injury or property damage arising from failure of Client, including through or by its employees, agents and independent contractors, to perform its obligations under this Contract, including without limitation those set forth in paragraphs 5 and 6 below.

Client, intending to be legally bound, agrees as follows:

4. Client agrees to pay Zambelli the sum of \$ See above (hereinafter referred to as the "Purchase Price"), fifty percent (50%) of which, for the first year, is due upon signing this Contract and the balance of which, for the first year, is due at noon three days before the Display Date. In subsequent years, fifty percent

(50%) of each year's cost will be due by January 15 of that year and the balance will be due at noon three days before the Display Date, subject to the provisions of Section 24 below. Zambelli reserves the right to add to Client's invoice an equitable transportation surcharge in the event of any material increase in transportation costs (including the cost of fuel and third party shipping costs) to Zambelli after the date of this Contract. In addition, Client agrees to pay a postponement fee of fifteen percent (15%) of the Purchase Price plus Additional Third Party Charges (as defined in paragraph 11 below) if the Display is fired on the Postponement Date, or twenty-five percent (25%) of the Purchase Price plus Additional Third Party Charges if the Display is fired on a date other than the Display Date or the Postponement Date ("Alternate Date"). The Alternate Date must occur within six months of the original Display Date at a time agreeable to both Zambelli and the Client. Generally, Alternate Dates will not include the period from June 28<sup>th</sup> through July 7<sup>th</sup>. This Checks shall be made payable to Zambelli Fireworks Manufacturing Co., unless otherwise authorized in writing by Zambelli. NO CASH shall be paid to any agent or employee of Zambelli, unless otherwise authorized in writing by Zambelli. There shall be no refund of the Purchase Price due and payable under this paragraph 4, except as specifically provided in paragraphs 10 and 11 below.

5. Client agrees to meet all deadlines outlined in the Design and Production Provisions, which has been provided to Client, including but not limited to the following:
  - (a) Client must select a suitable place for the Display, including a firing and debris zone reasonably acceptable to Zambelli (hereinafter referred to as the "Display Area") and submit such selection to Zambelli no later than sixty (60) days prior to the Display Date. The Display Area shall adhere to or exceed applicable National Fire Protection Association ("NFPA") standards including the Zambelli guideline that the Display Area have a radius of at least 100 feet per inch (or as mutually agreed to between Zambelli and Client) of the largest diameter pyrotechnic from the firing site in all directions to any parking area, spectators, inhabited buildings, public roads, or active railroad. Client shall submit a site map (attached hereto as Exhibit A) to Zambelli accurately representing the physical characteristics of the Display Area as pertains to NFPA and Zambelli guidelines. The content of the Display may be limited by the selection of the Display Area due to the requirement to provide sufficient safety zones.
  - (b) Zambelli will secure all permits necessary for the Display as required, including but not limited to police, local, state and United States Coast Guard ("USCG") permits, where applicable, and arrange for any security bonds or insurance as required by law. Client will assist Client when appropriate in completing permit applications.
6. If, in its sole discretion, Client designates an area for members of the public to view the Display (hereinafter referred to as the "Spectator Area") or an area for vehicular parking (hereinafter referred to as the "Parking Area"), Client shall (a) ensure that the Spectator Area does not infringe on the Display Area, (b) have sole responsibility for ensuring that the terrain of the Spectator Area and any structures thereon, including but not limited to grandstands and bleachers are safe for use by spectators, (c) have sole responsibility for ensuring that the Parking Area is safe for use, (d) have sole responsibility to police, monitor and appropriately control spectator access to the Spectator Area and the Parking Area and police and monitor and appropriately control the behavior of persons in these areas. It is expressly agreed that Zambelli shall not inspect any area other than the Display Area, except to ensure that any Spectator or Parking Areas are outside the Display Area.
7. Prior to, during, and immediately following the Display, Client shall monitor the Display Area and will be solely responsible to keep all persons and property not authorized by Zambelli out of the Display Area and behind safety zone lines and limits.
8. Following the Display, Client shall be solely responsible for policing of the Display Area and for cleanup except as specifically provided in the sentence immediately following. Zambelli shall be responsible for the removal of unexploded fireworks and the cleanup of material debris, the removal of frames, sets and lumber from the Discharge Area, and the refilling of holes created by Zambelli or on behalf of Zambelli within the Discharge Area.
9. Client will include a direct reference to "Zambelli Fireworks" in all promotional material, including but not limited to event schedules; radio, television, newspaper and internet announcements; newspaper articles; and other media.

The parties, intending to be legally bound, mutually agree as follows:

10. It is agreed and understood by the parties hereto that should inclement weather prevent firing of the Display on the Display Date, as determined by the Authority Having Jurisdiction (as defined in paragraph 14 below) or as reasonably determined by Zambelli, then the program shall be postponed and fired on the Postponement Date. If there is no Postponement Date and the Display is not fired on the Display Date, or if inclement weather prevents



firing of the Display on the Postponement Date, as determined by the Authority Having Jurisdiction or as reasonably determined by Zambelli, the Display will be cancelled and there will be no refund of fifty percent (50%) of the Purchase Price.

11. Client's cancellation of the Display will only be effective upon receipt by Zambelli of a written notice from an authorized person representing Client. In the event of cancellation of the Display, the parties agree as follows:
  - (a) If Client cancels the Display more than sixty-one (61) days prior to the Display Date, Zambelli will retain a cancellation fee equal to ten percent (10%) of the Purchase Price plus Additional Third Party Charges, as defined below. The remainder of the deposit shall be returned to the Client.
  - (b) If Client cancels the Display from thirty-one (31) to sixty (60) days prior to the Display Date, Zambelli will retain a cancellation fee equal to twenty percent (20%) of the Purchase Price plus Additional Third Party Charges, as defined below. The remainder of the deposit shall be returned to the Client.
  - (c) If Client cancels the Display from five (5) days prior the Display to thirty (30) days prior to the Display Date, Zambelli will retain a cancellation fee equal to thirty percent (30%) of the Purchase Price plus Additional Third Party Charges, as defined below. The remainder of the deposit shall be returned to the Client.
  - (d) If Client cancels the Display less than five (5) days prior to the day of the Display, Zambelli will retain a cancellation fee equal to fifty percent (50%) of the Purchase Price plus Additional Third Party Charges, as defined below. If cancellation occurs after the Client has paid the full Purchase Price to Zambelli, the remainder of the Purchase Price shall be returned to the Client.
  - (e) "Additional Third Party Charges" shall mean all costs and expenses incurred by Zambelli and paid or payable to third parties in connection with the Display, including but not limited to security fees, permits and licensing fees and expenses, barge and tow expenses, and firewatch fees.
12. Zambelli reserves the exclusive right to make minor modifications and substitutions to the Display, provided that such changes are reasonable and necessary and do not materially adversely affect price, time of delivery, functional character or performance of the Display.
13. It shall be within Zambelli's and/or the Authority Having Jurisdiction's discretion to terminate the firing of the Display if any unsafe or unsuitable condition is identified. If such condition is not corrected, Zambelli may cancel the Display without further liability to Client for such cancellation. The Purchase Price, less Additional Third Party Charges, shall be returned to the Client.
14. The parties agree to cooperate with the regulatory authorities having jurisdiction over the Display, including, but not limited to local fire and police departments, the Bureau of Alcohol, Tobacco, Firearms and Explosives, the Department of Transportation, the Department of Homeland Security, and the USCG (any such authority having jurisdiction over the Display is sometimes referred to herein as, the "Authority Having Jurisdiction"). The parties acknowledge that such governmental regulatory authorities having jurisdiction over the Display have the right to prohibit the Display until unsafe or unsuitable conditions are corrected.
15. This contract shall be deemed made in the Commonwealth of Pennsylvania and shall be construed in accordance with the laws of the Commonwealth of Pennsylvania, excluding its conflict of law rules. The parties agree and consent to the jurisdiction of the courts of the Commonwealth of Pennsylvania and the Federal District Court for the Western District of Pennsylvania to decide all disputes regarding this Contract.
16. If Client becomes bankrupt or insolvent, or if a petition in bankruptcy is filed by or against Client or if a receiver is appointed for Client, Zambelli may refuse to perform under this Contract and may terminate this Contract without prejudice to the rights of Zambelli. If Client's financial condition becomes unsatisfactory to Zambelli, Zambelli may require that Client deposit the balance of the Purchase Price in escrow or provide sufficient proof of its ability to pay the balance of the Purchase Price.
17. Except to the extent, if any, specifically provided to the contrary herein, in no event shall Zambelli be liable to Client for any indirect, special, consequential, incidental or punitive damages or lost profits, however caused and on any theory of liability (including negligence of any kind, strict liability or tort) arising in any way out of this contract, whether or not Zambelli has been advised of the possibility of damages.



18. If Client fails to pay the monies due under this Contract, Zambelli is entitled to recover the balance due plus interest at one and one-half percent (1 ½ %) per month on amounts past due sixty (60) days or more. Further, on balances outstanding one hundred twenty (120) days or more, Zambelli is entitled to recover the balance due, plus accrued interest, plus attorneys fees of ten percent (10%) of the amount past due, plus court costs, or, if less, the maximum amount permitted by law.
19. This Contract shall not be construed to create a partnership or joint venture between the parties or persons mentioned herein.
20. Each party hereunder shall be excused for the period of delay in the performance of any of its obligations hereunder and shall not be liable for failure to perform or considered in default hereunder, when prevented from so performing by a cause or causes beyond its reasonable control, including but not limited to fire, storm, earthquake, flood, drought, accident, explosion, operation malfunction, or interruption, strikes, lockouts, labor disputes, riots, war (whether or not declared or whether or not the United States is a member), Federal, state, municipal or other governmental legal restriction or limitation or compliance therewith, failure or delay of transportation, shortage of, or inability to obtain materials, supplies, equipment, fuel, power, labor or other operational necessity, interruption or curtailment of power supply, or act of God, nature or public enemy.
21. This Contract constitutes the sole and entire understanding of the parties with respect to the matters contemplated hereby and supersedes and renders null and void all prior negotiations, representations, agreements and understandings (oral and written) between the parties with respect to such matters. No change or amendment may be made to this Contract except by an instrument in writing signed by each of the parties.
22. Notices, consents, requests or other communications required or permitted to be given by either party pursuant to this Contract shall be given in writing by first class mail, postage prepaid addressed as follows: if to Zambelli, to the address set forth below; if to Client, to PO Box 907, Idaho Springs, CO 80432.
23. This Contract may be executed in one or more counterparts, each of which shall be deemed to be an original but all of which together shall be deemed to be one and the same instrument. The exchange of copies of this Contract and of signature pages by facsimile transmission shall constitute effective execution and delivery of this Contract as to the parties and may be used in lieu of the original Contract for all purposes. This Contract and all the rights and powers granted by this Contract shall bind and inure to the benefit of the parties and their respective successors and assigns.
24. The parties understand and acknowledge that the City is subject to Article X, §20 of the Colorado Constitution ("TABOR"). The parties do not intend to violate the terms and requirements of TABOR by the execution of this Agreement. It is understood and agreed that this Agreement does not create a multi-fiscal year direct or indirect debt or obligation within the meaning of TABOR and, therefore, notwithstanding anything in this Agreement to the contrary, all payment obligations of the City are expressly dependent and conditioned upon the continuing availability of funds beyond the term of the City's current fiscal period ending upon the next succeeding December 31. Financial obligations of the City payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available in accordance with the rules and regulations of the City of Idaho Springs and other applicable law. Notwithstanding any other provision of this Agreement concerning termination, upon the City's failure to appropriate such funds, this agreement shall automatically terminate.

IN WITNESS WHEREOF, we set our hands and seals to the agreement in duplicate the day and year first above written.

FOR Client:

BY

Michael J. Hallman 10-13-15  
date

FOR: Zambelli Fireworks Manufacturing Co.

BY

Michael J. Hallman 10/16/15  
date

Please sign contract where indicated for Client and return all copies for final acceptance to:

**Zambelli Fireworks Manufacturing Co.**

1 West Camino Real Blvd, Ste 100

Boca Raton, FL 33432

561.395.0955

800.245.0397

FAX 561.395.1799

# City of Idaho Springs

## City Council Communication



Meeting Date: September 8, 2020

Presented By: Jonathan Cain, Assistant City Administrator

Item: Holiday Lights & Annual Tree Lighting

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### **Background**

For the past two years, the City has contracted with Colorado Christmas Lights for a Holiday Lights Display throughout the City. The City has also held a "Tree Lighting Event" at Citizens Park every year on the Saturday after Thanksgiving (This year, November 28). The City has budgeted \$28,000 for Holiday Decorating in 2020, and \$1,000 for the Tree Lighting Event on November 28<sup>th</sup>. Both of these budgeted costs were identified by staff and City Council earlier this year as items that could be eliminated in 2020 to reduce expenses due to the financial impacts of the COVID-19 pandemic.

### **Tree Lighting Event**

Traditionally, the City has held an event based around the Tree Lighting on the Saturday after Thanksgiving, which is also designated as Small Business Saturday. In past years, Santa has come to visit the children of Idaho Springs, either at the Recreation Center or at the Elks Lodge. Last year, he was at the Elks Lodge, and in years past has held a dinner event at the Recreation Center. At Citizens Park, the Mayor traditionally reads the Night Before Christmas, and the City's Christmas Tree is lit. The City usually uses the budget for this event to help subsidize the cost of the Children's event. This may be an event that could be "modified" to be held safely with COVID-19 restrictions; however, it is difficult to anticipate what, if any restrictions there may be on such an event in November.

### **Holiday Lights Display**

For the past two years, the City has contracted with Colorado Christmas Lights to put together the City's Light Display throughout town. There is significant work involved with installing lights, and this helps make sure that Public Works is available for other more pressing concerns. One of the reasons that we put up Holiday Lights is because they promote visits to our Downtown Area. One consideration regarding Christmas Lights is that the City no longer has a large "stock" of Christmas lights to install, as we have been using the private contractor.

### **Potential Alternatives**

1. The City could hold a modified Tree Lighting Event on November 28, 2020 based on the current public health situation and explore purchasing some Holiday Lights for a modified and minimal display at locations such as Citizens Park and City Hall. City Staff has identified a possible company in Evergreen that could sell us lights at bulk pricing. We could explore opportunities for a Landscape Company to install the lighting.
2. The City could enter into a contract with Colorado Christmas Lights or another firm to install lights in the Downtown area this year, as we have done in years past. It may be possible to do a modified program at a lower cost. We could hold a modified Tree Lighting Event based on the current public health situation in November.
3. We could pause all events this year, and work with the Businesses Downtown to try to encourage decorating of light posts, Store Windows and Building Facades in 2020 and reevaluate next year.

***Staff requests direction*** from City Council regarding a preferred alternative (and budget, if applicable) for Holiday Decorations, and whether or not the Tree Lighting Event should be held on November 28, 2020.