



**CITY OF WENTZVILLE
WENTZVILLE, MO 63385**

INVITATION FOR BID COVER PAGE

IFB #: 16-202
TITLE: Firework Display Service
Bid Issued: November 14, 2016

CONTACT: Jill Schmitz
PHONE NO.: (636) 639-2188
EMAIL: Jill.Schmitz@wentzvillemo.org

RETURN BID NO LATER THAN: December 6, 2016, 2:00 PM prevailing Central time

MAILING INSTRUCTIONS: The Bidder is to print or type **IFB Number, Return Due Date, and Title** on the lower left hand corner of the envelope or package. Delivered sealed bids must be in the Procurement Department by return bid date and time.

RETURN BID TO: **CITY OF WENTZVILLE**
 IFB #16-202
 310 W. PEARCE BLVD
 WENTZVILLE, MO 63385

This document constitutes a request for sealed bids from qualified companies, individuals, and/or organizations to furnish the product and services as described herein. The bidder hereby declares understanding, agreement and certification of compliance to provide the product and services, at the prices quoted, in accordance with all requirements and specifications contained herein and the City of Wentzville Terms and Conditions. The bidder further agrees that the language of this IFB shall govern in the event of a conflict with his/her bid. The bidder further agrees upon receipt of an authorized purchase order from the City of Wentzville is issued by an authorized official of the City of Wentzville, a binding contract shall exist between the bidder and the City of Wentzville.

BIDDER SIGNATURE REQUIRED

AUTHORIZED SIGNATURE	DATE
PRINTED NAME	TITLE
COMPANY NAME	(Individual Or Partnership Or Corporation) STATE OF:
MAILING ADDRESS	PHONE NO.
CITY, STATE, ZIP	FAX NO.
FEDERAL EMPLOYER ID NO.	Missouri Charter Number (if licensed in MO)
EMAIL ADDRESS	

PART ONE - STANDARD INSTRUCTIONS TO BIDDERS

- 1.1 GENERAL INFORMATION:** The City of Wentzville is seeking to establish a contract with a qualified, experienced pyrotechnic Firm to provide and perform the July 4th firework display.

Term: The contract period shall be January 1, 2017 through December 31, 2018 with the City having the option to renew for four (4) additional consecutive twelve month periods.

- 1.2 CHECKLIST FOR SUBMITTING A BID:** This checklist is provided for the Bidder's information only and is not part of the Specifications and Contract Documents.

Bid package submittal shall consist of 1 original of the following:

- ✓ BID COVER PAGE, Page #1
- ✓ Scope of Services
- ✓ Bid Pricing Page completely filled out, properly executed by Bidder including manual signature
- ✓ Non-Collusive Affidavit filled out on the form provided
- ✓ References
- ✓ Any addenda issued to this bid

Bid Quotation and all required attachments enclosed in a sealed envelope and

- ✓ Marked with Bid Number and Bid Title
- ✓ Marked with name of Bidder
- ✓ Due Date of Bid

- 1.3 FAX / E-MAIL:** The City of Wentzville for this IFB will not accept bid submissions by fax or email.

- 1.4** All bid pricing must be submitted on the City's IFB Pricing Pages.

1.5 QUESTIONS AND UPDATES:

- A. Bidders are encouraged to submit written questions through the Procurement Department's contact person shown on the Invitation for Bid Cover Page.

In order to ensure all potential respondents receive the same information, the City will post its response on the City's website www.wentzvillemo.org/bidding-opportunities.aspx. **Bidders are responsible for checking the City's website for the issuance of any addendums.** The Bidding Opportunities website shall be the official site for information as related to this IFB. Any documentation posted elsewhere will not be applicable should a bidder use the information as related to a contract protest. Please visit this site periodically to check for any additional information.

- B. Any information provided to a bidder outside of the procedural guidelines of this IFB shall be considered not to be valid and will not be considered during the evaluation process.

- C. To ensure fair consideration for all bidders, the City prohibits communication to or with any City department(s), board member(s), or employee(s) during the submission process, except as provided above. Additionally, the City prohibits communications initiated by a bidder to the City official(s) or employee(s) evaluating or considering the

bids prior to the time an award decision is made. Any communication between Bidder and the City will be initiated by the appropriate City official(s) or employee(s) in order to obtain information or clarification needed to develop a proper, accurate evaluation of the bid. Such communications initiated by a bidder may be grounds for disqualifying the offending bidder from consideration for award of the bid and/or any future bid(s).

D. The City may add, delete, or amend services as it may deem advisable. Any and all addendums or amendments as related to this IFB must be processed and approved through the City's Procurement Department to be applicable to this IFB.

1.6 PREPARATION OF BIDS:

A. Bidders are expected to examine the Specifications, delivery schedule, requirements and all instructions of the Invitation for Bid. Failure to do so will be at Bidder's risk. In case of a mistake in extension, the unit price(s) will govern.

B. All supplies and equipment offered in a bid must be new and of current production unless the Invitation for Bid clearly specifies that used or reconditioned supplies or equipment may be offered.

1.7 PRICE:

A. All prices shall be as indicated on the Pricing Page. The City shall not pay nor be liable for any other additional costs including but not limited to fuel, fuel surcharges, taxes, shipping and handling charges, personnel, time, travel, vehicles, mileage, insurance, interest, penalties, termination payments, attorney fees, liquidation damages, etc.

B. Unless otherwise indicated, prices quoted shall be firm for acceptance for ninety (90) calendar days from bid opening and for the specified contract period.

1.8 DEVIATION OF SPECIFICATION: Any bidder deviating from the specifications must provide supportive documentation explaining such deviation. The supportive documentation is required with the bid submission.

1.9 OPEN COMPETITION: Any manufacturer's name, trade names, brand names, information and/or catalog numbers listed in a specification and/or requirement are for informational purposes only and are not intended to limit competition. The bidder may offer any brand of product that meets or exceed the specifications. Determination of equivalency shall rest solely with the City. Bids that do not comply with the requirements and specifications, are subject to rejection without further consideration.

1.10 ESTIMATED QUANTITY: The quantity specified in this IFB is an estimate only. If the City requires more or less material than stated, the Seller shall furnish and deliver the City's requirements at the contracted unit price. The Seller shall not be entitled to damages and/or additional compensation by reason of quantity reductions.

1.11 MODIFICATION OR WITHDRAWALS OF BIDS: Bids may be modified or withdrawn by written notice received prior to the official closing date and time specified. A bid may also be withdrawn or modified in person by the Bidder or his authorized representative provided proper identification is presented before the official closing date and time. Verbal phone requests to withdraw or modify a bid will not be considered. After the official closing date and time, no bid may be modified or withdrawn.

- 1.12 INCURRED EXPENSES:** The City is not responsible for any expenses which bidders may incur in preparing and submitting bids called for in this Invitation for Bid.
- 1.13 BID OPENING:** The bid opening shall be public on the date and at the time specified on the Invitation for Bid document.
- 1.14 TABULATIONS:** The bid tabulation will be posted on the City's website http://www.wentzvillemo.org/departments/procurement/current_bidding_opportunities.php
- 1.15** All bids become the property of the City. If any proprietary information is contained in the bid, it should be clearly identified. Marking the entire bid as proprietary will be neither accepted nor honored. If a request is made to view a Bidder's bid submission, the City will comply according to Missouri Sunshine Law.
- 1.16 PAYMENT:** Bidder shall be paid the amount quoted on the Pricing Page. The Bidder shall submit all invoices complete with necessary support documentation to City and City shall make payment within 30 days of receipt of an invoice after satisfactory performance of the delivery and receipt of the products as shown on the Pricing Page.
- 1.17 COMPLIANCE WITH TERMS AND CONDITIONS:** The Bidder is cautioned when submitting pre-printed terms and conditions regarding proprietary information, copyright, usage restrictions, license agreements, etc., to make sure such documents do not contain other terms and conditions which conflict with those of the IFB and its contractual requirements.
- 1.18 BUY AMERICAN:** Bidders are encouraged to purchase American-made equipment and products.
- 1.19 BUY STATE OF MISSOURI PREFERENCE:** Bidders are encouraged to purchase commodities and tangible property manufactured, produced, or grown within the local area and in State of Missouri and from all firms, corporations, or individuals with licensed businesses in the State of Missouri. This guideline pertains to all commodities and tangible property when quality is equal or better and the delivered price is the same or less, or when competing bids, in their entirety, is comparable.
- 1.20 CITY SEAL, FLAG AND LOGO:** In accordance with City of Wentzville Ordinance No. 2633, the City of Wentzville logo is a registered trademark. The City logo is not to be used in bid submissions or advertisements. The Bidder agrees that it shall not use in any form or medium the name of the City for any advertising unless it receives the prior written consent of the Board of Aldermen of the City.
- 1.21** The City of Wentzville hereby notifies all bidders that it will affirmatively ensure that in any contract entered into pursuant to this solicitation, disadvantaged business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

PART TWO – GENERAL INFORMATION AND SCOPE OF SERVICES

2.1 GENERAL INFORMATION

Schedule: The following schedule of events is anticipated by the City. The City may, at its' discretion, revise the schedule of events at any time as may be in the best interests of the City.

Publish the Invitation for Bid	November 14, 2016
Deadline for Questions from Bidders	November 29, 2016
City's Response to Questions	November 30, 2016
Bid Due Date	December 6, 2016

Term: The contract period shall be January 1, 2017 through December 31, 2018 with the City having the option to renew for four (4) additional consecutive twelve month periods.

Background: In 2016 the July 4th fireworks display was approximately eighteen (18) minutes long. The Shooting Zone (Exhibit A) is directly across Wentzville Parkway from the back of the football field on Progress Park Property.

The display consisted of the following fireworks synchronized with music:

Opening Presentation

40	2.5" shells
2	4" shells
2	5" shells
1	6" shells

Body Presentation

144	3" shells
90	4" shells
75	5" shells
44	6" shells

Special Effects Barrages

14	49 shot – 380 shot barrages
12	Bundle Candles (48 shots each)

Grand Finale

1700	1" shells
394	3" shells
36	4" shells
20	5" shells
12	6" shells

2.2 SCOPE OF SERVICES

Event Details:

Date and time: July 4th at approximately 9:05 pm with the warning shot and approximately 9:10 pm for the display.

Location of Shoot: Progress Park, see Shooting Zone – Exhibit A
This location is subject to change beginning in 2018

Length of Display: The display shall be a minimum of 18 minutes with a mini finale about 2/3 of the way through the display and approximately a two (2) minute grand finale at the end of the display.

Budget: Not to exceed \$ 15,500.00. This amount may increase depending on sponsorship.

- A. Firm can begin set up on July 4th and will be required to provide security if needed.
- B. Clean up shall begin immediately following the finale.
- C. Six inch (6") shells are the maximum size to be shot.
- D. No more than fifty percent (50%) of total shells to be shot, including special effect, shall be less than three inches (3").
- E. Fireworks are to be electronically fired. The system to be used shall be specified on the Pricing Page.
- F. Display shall be vivid in color, loud in report and present an overwhelming bombardment effect.
- G. Display shall include special effect fireworks such as smiley faces, hearts, peace signs and others.
- H. Firm shall comply with all provisions of the National Fire Protection Association (NFPA) 1123, Code for Firework Displays and NFPA 1124, Code for the Manufacture, Transportation and Storage of Fireworks and Pyrotechnics Articles. The City will schedule a meeting approximately two week prior to the event to include the Fireworks Display Technician, Fire Marshall, Police Department and the City. The City shall verify the total number of shells to be fired and the total number of shells fired the day of the event. The City shall not be billed for any duds; non-firing shells.
- I. The City shall have the option to expand the display each year based on the unit prices submitted.

Required Information to be Submitted with Bid:

- A. Firm shall include the number of employees who will work on the creation of the display and number of employees to be used the day of the event at the launch site. Names and resumes of key member to team to be involved, including site manager. Firm shall include the certifications for all operators involved in the display.
Submitted with Bid Yes No
- B. Describe on a separate sheet in detail any special effects to be provided. Description should include number and size of shells included in effect.
Submitted with Bid Yes No
- C. Describe in detail the planned capital investment in electronic firing system which is intended to be installed and operated at the bidder's sole expense at the launch site.
Submitted with Bid Yes No
- D. Firm shall include a statement of safety management procedures to insure a safe, successful firework display. The procedures shall include drawings that are specific to the launch site and proximity to buildings, roads and spectators.
Submitted with Bid Yes No
- E. Firm shall submit a statement indicating the number of insurance claims in the past three (3) years. Include location and a brief description of the claim. Firm shall submit a written statement granting the City permissions to verify claim with Firms agency.
Submitted with Bid Yes No
- F. Firm shall submit a detailed list of shells for the display complete with name, size, EX number and unit prices.
Submitted with Bid Yes No
- G. Firm shall list the specific shell types, sizes, cost per shell and placement in display; opening barrage, main, special effects and finale on separate sheet with unit prices.
Submitted with Bid Yes No
- H. Firms shall describe the display sequences and segment durations, firing rates (shell per minute), disbursal patterns, colors, bombardment effects, special effects and the total number of shells by type and size for each segment. If ground display pieces are submitted as part of the proposed display, they shall not exceed two (2) minutes total time of the entire display.
Submitted with Bid Yes No
- I. Firm shall provide a glossary of terms for description used including colors and sequences with the shells.
Submitted with Bid Yes No
- J. Firm shall provide a complete printed inventory of all fireworks used in the display, citing unit pricing as part of the bid and again to the City Event Coordinator on the day of the event.
Submitted with Bid Yes No
- K. Firm shall submit a contingency plan for bad weather; rain or excessive wind.
Submitted with Bid Yes No

PART THREE – PRICING PAGE

The Bidder shall provide the following bid prices for providing services in accordance with the provisions and requirements stated herein. All costs (shipping/handling, personnel, time, travel, fuel, fuel surcharge, vehicles, mileage, reporting, state and local permits, technician fees, all labor, supervision, equipment set-up and tear-down, clean-up, safe removal and all duds and all other costs to ensure a safe display) associated with providing the services listed below shall be considered incidental and are to be included in the bid price. **Deliveries shall be FOB Destination.**

Attach a complete break-out of pricing including the number of shells in the display, the size of the shell with complete shell description and type of shell including unit and extended price. In addition, include specialty fireworks with unit prices that could be added to each display each year at the City's request. The unit prices shall be good for the length of the contract but the total display price may vary from year to year.

Total for Fireworks Display Services for 2017 \$ _____

Total for Fireworks Display Services for 2017 written out

Proposed Electronic Firing System **Make:** _____ **Model:** _____

Maximum percent increase for 2018 in shell cost _____%

Exact increase shall be agreed upon at renewal.

Maximum percent increase for 2019 in shell cost _____%

Exact increase shall be agreed upon at renewal.

Maximum percent increase for 2020 in shell cost _____%

Exact increase shall be agreed upon at renewal.

Maximum percent increase for 2021 in shell cost _____%

Exact increase shall be agreed upon at renewal.

Estimated Delivery Date after receipt of order: _____ days

Bid prices valid until (display date): _____

Company Legal Name: _____

Address: _____

Signature: _____ Print Name: _____

Phone: _____ Fax: _____

Email: _____

State in which bidding company is incorporated: State of _____ and the

State Registration Number: _____

REFERENCES FORM

List at least three (3) references within the past five (5) years with displays of equal magnitude and complexity to the display proposed.

Reference 1: _____

Name of City or Government Agency: _____

Contact Person(s), Phone #, e-mail: _____

Total cost display: _____

Reference 2: _____

Name of City or Government Agency: _____

Contact Person(s), Phone #, e-mail: _____

Total cost display: _____

Reference 3: _____

Name of City or Government Agency: _____

Contact Person(s), Phone #, e-mail: _____

Total cost display: _____

PART FOUR – BID EVALUATION AND AWARD

4.1 Method of Award:

The solicitation shall be awarded to the lowest, responsive, responsible bidder. The City reserves the right, in its sole discretion, to reject any or all bids, or portions thereof, to waive technicalities or deficiencies in any or all the bids.

The responsiveness of the bidder shall be determined by the City based whether their bid fully confirms in all material respects to the solicitation and all of its requirements, including all form and substance; as well as quality and quantity of the fireworks.

The responsibility of the bidder shall be determined by the City based on whether the bidder is capable of meeting all of the requirements of the solicitation and subsequent contract; possesses fully capability, including financial and technical, to perform as contractually required; and the quality and performance of previous contracts or services

4.2 Before providing the City with the item(s), Seller must receive a properly authorized Purchase Order.

NON-COLLUSIVE AFFIDAVIT OF PRIME BIDDER

State of Missouri)
S.S.
County of _____)

_____, being first duly sworn, deposes and says that:

1. They are the (owner, partner, officer, representative, or agent) of _____, the Bidder that has submitted the attached Bid;
2. They are fully informed respecting the preparation and contents of the attached Bid and of all pertinent circumstances respecting such Bid;
3. Such bid is genuine and is not a collusive or sham bid; and that all statements made and fact set out in the Proposal are true and correct;
4. Neither the said Bidder nor any of its officers, partners, owners, agents, representatives, employees, or parties in interest including this affidavit, has in any way colluded, considered, connived, or agreed, directly or indirectly with any other bidder, firm, or person, to submit a sham bid in connection with the Contract for which the attached bid has been submitted or to refrain from bidding in connection with such Contract; or has in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other bidder, firm, or person to fix the price or prices in the attached Bid or of any other bidder, or to fix the overhead, profit, or cost element of the Bid price of the other bidder, or to secure through any collusion, conspiracy, connivance, or unlawful agreement any advantage against the City of Wentzville or any person interested in the Proposed Contact.
5. The price or prices quoted in the attached Bid are fair and proper, and are not tainted by any collusion, conspiracy, connivance, or unlawful agreement on the part of the bidder or any of its agents, representatives, owners, employees, or parties in interest, including this affidavit; and
6. They further certify that bidder is not financially interested in or financially affiliated with any other Bidder on this project.

Signed: _____

Title: _____

Subscribed and sworn to before me this _____ day of _____, 2016.

Notary Public

My Commission expires: _____



Presented as sample – not required with bid
**AFFIDAVIT OF PARTICIPATION IN
FEDERAL WORK AUTHORIZATION PROGRAM**

Comes now _____ as _____ first being duly sworn, on my
(name) (office held)
oath, affirm _____ is enrolled and will continue to participate in a federal
(company name)
work authorization program in respect to employees that will work in connection with the
contracted services related to _____ for
the duration of the contract, if awarded, in accordance with Section 285.530.2, Revised
Statutes of Missouri. I also affirm that _____ does not and will not
(company name)
knowingly employ a person who is an unauthorized alien in connection with the
contracted services for the duration of the contract, if awarded.

Attached to this affidavit is documentation of _____'s
(company name)
participation in a federal work authorization program.

**(ATTACH DOCUMENTATION SHOWING THAT COMPANY PARTICIPATES IN FEDERAL
WORK AUTHORIZATION PROGRAM)**

In Affirmation thereof, the facts stated above are true and correct (The undersigned understands that false statements made in this filing are subject to the penalties provided under Section 575.040, RSMo).

Signature (person with authority)

Printed Name

Title

Date

State of Missouri)

) ss.

County of _____)

Subscribed and sworn to before me this _____ day of _____, 2016.

My commission expires:

Notary Public

For bidder information – not required with bid

**PROOF OF E-VERIFICATION WITH U.S. DEPARTMENT OF
HOMELAND SECURITY**

Attach Electronic Signature Page



Presented as Sample
CITY-FIRM AGREEMENT
#16-202, FIREWORKS DISPLAY SERVICE

THIS CITY-FIRM AGREEMENT (this "Agreement"), is made and entered into as of this ____ day of _____, 2016, by and between _____, a _____ having a principal office at _____ (the "Seller"), and the City of Wentzville, a Missouri municipal corporation located in St. Charles County (the "City"). *All capitalized terms used and not defined herein shall have the meanings ascribed to them in the Contract Documents (as hereinafter defined).*

RECITALS

A. In response to INVITATION FOR BID #16-202 of the City requesting bids for certain Fireworks Display Service; the Seller has submitted a certain bid in accordance with the Bid Documents to perform the Services.

B. After due consideration, the City has accepted the bid response of the Bidder, and the parties hereto desire to enter into this Agreement whereby the Bidder shall undertake the performance of the Services in accordance with the Contract Documents and the City shall pay the Bidder as hereinafter specified.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals and of the mutual promises hereinafter set forth the City and the Bidder hereby agree as follows:

1. **Contract Documents:** This Agreement shall consist of: (i) IFB #16-202, Fireworks Display Service including, without limitation:
 - a. Invitation for Bids
 - b. Bid Cover Page
 - c. Scope of Services
 - d. Pricing Page(s) completely filled out
 - e. Shooting Zone – Exhibit A
 - f. References Form
 - g. Non-Collusive Affidavit filled out on the form provided
 - h. E-Verify Memorandum of Understanding with Electronic Signatures
 - i. Affidavit of Participation in Federal Work Authorization Program Form
 - j. Supporting Documentation
 - k. Certificate of Insurance
 - l. Executed City-Firm Agreement
 - m. General Conditions

and shall also include any exhibits to the above documents, any addenda issued prior to receipt of bids, any duly-issued modifications, and all other documents contained or specified within the specifications, details or job special provisions, as such may be on file in the office of the Procurement Department and Office of the City Clerk of Wentzville, Missouri

(all of the foregoing collectively referred to as the "Contract Documents" are hereby incorporated in this Agreement by reference). When any provision(s) of the Contract Documents conflict, the provision(s) most advantageous to the City shall govern.

2. **Term:** The contract period shall be January 1, 2017 through December 31, 2018 with the City having the option to renew for four (4) additional consecutive twelve month periods subject to the "Multi-year contracts; Non-appropriation" paragraph below.

3. **Payment Terms:** Seller shall be paid the amount quoted on the Pricing Page. The Seller shall submit all invoices complete with necessary support documentation to City and City shall make payment within 30 days of receipt of an invoice after satisfactory performance of the delivery and receipt of the products as shown on the Pricing Page. Payment Terms are net 30 days.

Remit Address is City of Wentzville, Accounts Payable, 5 W. Pearce Blvd., Wentzville, MO 63385.

4. **Independent Firm:** The Firm shall be and operate as an independent Firm in the performance of this Agreement. The Firm shall have complete charge of the personnel engaged in the performance of the Services, and all persons employed by the Firm shall be employees of said Firm and not employees of the City in any respect.

5. **Firm's Liability Insurance:** The Firm shall obtain and maintain during the term of the Project and the City Firm Agreement the insurance coverage's at least equal to the coverage's set forth in this paragraph 10, and as further provided in the General Conditions, but no event less than the individual and combined sovereign immunity limits established by Section 537.610 RSMo. Insurance policies providing required coverage's shall be with companies licensed to do business in the State of Missouri and rated no less than AA by Best or equivalent. All costs of obtaining and maintaining insurance coverage's are included in the Bid Amount and no additional payment will be made therefor by the City:

Comprehensive General Liability Insurance (including coverage for Bodily Injury and Property Damage)	\$1,000,000 per occurrence \$2,735,000 aggregate
Comprehensive Automobile Liability Insurance (including coverage for Bodily Injury and Property Damage)	\$1,000,000 per occurrence
Employer's Liability	\$1,000,000 bodily injury by accident (each accident) \$1,000,000 bodily injury by disease (each employee) \$1,000,000 bodily injury policy limit

In addition, the Firm and all subcontractors shall provide Worker's Compensation Insurance in at least statutory amounts for all workers employed at the Project site. The Firm shall also provide a policy of Builder's Risk Insurance in the amount of 100% of the complete insurable

value of the Project, which policy shall protect the Firm and the City, as their respective interests shall appear.

Before commencing any work, the Firm shall provide to the City certificates of insurance evidencing the issuance and maintenance in force of the coverage's required by this paragraph 10. Each such certificate shall show the City, and such other governmental agencies as may be required by the City to be insured by underlying grant or contract relating to the Project, as an additional insured, on a primary and non-contributory basis, and shall bear an endorsement precluding cancellation of or change in coverage without at least thirty (30) days written notice to the City.

The City may waive any insurance coverage's or amounts required by this paragraph 10 when the City deems such waiver to be in the interest of the public health, safety, and general welfare.

6. **Indemnification:** To the fullest extent permitted by law, the Firm agrees to defend with counsel approved by the City, and indemnify and hold harmless the City, its officers, engineers, representatives, agents and employees from and against any and all liabilities, damages, losses, claims or suit, including costs and attorneys' fees, for or on account of any kind of injury to person, bodily or otherwise, or death, or damage to or destruction of property, or money damages, or trespass, or any other circumstances, sustained by the City or others, arising from the Firm's breach of the Contract or out of services or products provided by the Firm or its subcontractors under the terms of this agreement. The Firm shall not be liable for any loss or damage attributable solely to the negligence of the City. To the extent required to enforce this provision, the Firm agrees that this indemnification requires the Firm to obtain insurance in amounts specified in the Contract Documents and that the Firm has had the opportunity to recover the costs of such insurance in the compensation set forth in this Agreement.

In any and all claims against the City or any of its agents or employees by any employee of the Firm, any Subcontractor, anyone directly or indirectly employed by any one of them or anyone for whose acts any of them may be liable, this indemnification obligation shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Firm or any Subcontractor under workmen's compensation acts, disability benefit acts or other employee benefit acts.

7. **Attorney Fees' and Costs:** The Firm shall reimburse to the City any costs and attorneys' fees that the City may reasonably incur in pursuit of any remedies at law or equity or enforcement of any rights established in this Agreement, which may result from the Firm's breach of the Agreement, the Firm's failure to perform any obligation or requirement contained herein, or the City's enforcement of this Agreement.
8. **Termination:** The City shall have the right to terminate this Agreement at any time for any reason by giving the Firm written notice to such effect. The City shall pay to the Firm in full satisfaction and discharge of all amounts owing to the Firm under this Agreement an amount equal to the cost of all Services performed by the Firm up to such termination date, less all amounts previously paid to the Firm on account of this Agreement Price. The Firm shall submit to the City its statement for the aforesaid amount, in such reasonable detail as the City shall request, within thirty (30) days after such date of termination. The City shall not be liable to the Firm for any damages on account of such termination for loss of anticipated future profits with respect to the remainder of the Services.

9. **Compliance with Federal, State and Local Law:** The Firm shall comply with all applicable federal, state and local law requirements for performance under this Agreement. The Firm shall abide by all health and environmental requirements imposed by law in performance of its duties.
10. **Taxes:** The City is exempt from federal excise tax and Missouri sales tax and the Firm shall not charge the same to the City and shall comply in all respects with the Special Sales Tax Provisions of the General Conditions.
11. **Other Representations, Warranties and Other Covenants by the Firm:** The Firm represents and warrants that the Firm has been engaged in such work as is required for the Services and has provided services such as the ones to be performed under this Agreement to other municipalities and/or private enterprises and that the Firm has sufficient expertise, knowledge, information and data, and engages sufficient personnel to perform the Firm's obligations under this Agreement. The Firm further represents and warrants that the Firm is an equal opportunity employer. The Firm agrees that the Firm shall not use in any form or medium the name of the City for any advertising unless the Firm receives the prior written consent of the City.
12. **Amendment; Waiver:** No amendment, modification or waiver of any provision of this Agreement shall be effective unless in writing signed by an authorized representative of the party against whom such provision as amended or modified or such waiver is sought to be enforced. Failure to insist upon strict compliance with any of the terms or conditions of the Agreement shall not be deemed a waiver of such term or condition.
13. **Compliance with State Immigration Statutes:** As a condition for the award of this Agreement, the Firm shall, by sworn affidavit and provision of documentation, affirm its enrollment and participation in a federal work authorization program with respect to the employees working in connection with the Services. The Firm shall also sign an (Affidavit of Participation in Federal Work Authorization Program) affirming that it does not knowingly employ any person who is an unauthorized alien in connection with the Services. The Firm shall not be required to provide these affidavits to the City if such affidavits have been previously provided to the City within the past year. All words in this paragraph shall have the definitions as provided in Section 285.525 RSMo.
14. **Governing/Choice of Law; Jurisdiction:** This Agreement shall be governed by and construed and interpreted in accordance with the internal laws of the State of Missouri, without regard to its principles of conflict of laws, and shall be deemed to be executed and performed in the County of St. Charles, Missouri. Any legal action arising out of, or relating to this agreement, shall be governed by the laws of the State of Missouri, and the parties agree to the exclusive jurisdiction and venue over them by a court of competent jurisdiction located in the County of St. Charles, Missouri, or the U.S. District Court for the Eastern District of Missouri.
15. **Headings:** The paragraph and section headings contained herein are for convenience only and are not intended to limit, vary, define or expand the content thereof.
16. **Representations:** Firm agrees that it has not relied on any representations or warranties of the City, oral or written, other than expressly identified in this Agreement. The parties agree this Agreement represents the entire agreement between the parties.

17. **Severability:** The invalidity or unenforceability of any portion or provision of this Agreement shall not affect the validity or enforceability of any other portion or provision of this Agreement, which shall remain in full force and effect to the maximum extent permitted by law.
18. **Counterparts:** This Agreement may be executed in one or more counterparts each of which shall be deemed an original and all of which shall constitute one and the same agreement.

FIRM

By: _____
Signature

Name & Title

Date

CITY OF WENTZVILLE, MISSOURI

By: _____

Date

GENERAL CONDITIONS

Independent Firm. The Firm shall be and operate as an independent Firm in the performance of this Agreement. The Firm shall have complete charge of the personnel engaged in the performance of the Services, and all persons employed by the Firm shall be employees of said Firm and not employees of the City in any respect.

Compliance with Laws. The Firm shall comply with all applicable City ordinances and other laws and regulations, Federal, State, and any political subdivision thereof, including but not limited to, unemployment and workers' compensation, occupational safety, equal employment and affirmative action and wage and price laws insofar as applicable to the performance of this Agreement. In the event of a conflict between laws, codes and regulations of various governmental entities having jurisdiction over the Services, the Firm shall notify the City of the nature and impact of such conflict.

Sub-contracts. The Firm shall not subcontract any of the Services to be performed by it hereunder without the express written consent of the City, except as provided herein. In the event Firm utilizes a subcontractor, the Firm shall ensure that any agreement between Firm and such subcontractor complies with all requirement imposed for such agreement by federal, state, and local law. In addition, this Agreement shall not be assigned by the Firm.

If the Firm submits invoices to the City which include payments to be made on account of work performed by a subcontractor, such payments shall be conditioned upon submission by the Firm of waiver of liens, or such other documents satisfactory to the City to protect the City's title to land, buildings, or improvements or to otherwise protect the City's interest. By submitting an invoice to the City, the Firm warrants and guarantees that title to all land, buildings or improvements which may be subject to a lien under 429.015 RSMo., upon the receipt of such payment by the Firm, will not be subject to a lien under 429.015 RSMo.

Indemnification. To the fullest extent permitted by law, the Firm agrees to defend with counsel approved by the City, and indemnify and hold harmless the City, its officers, engineers, representatives, agents and employees from and against any and all liabilities, damages, losses, claims or suits, including costs and attorneys' fees, for or on account of any kind of injury to person, bodily or otherwise, or death, or damage to or destruction of property, or any other circumstances, sustained by the City or others, arising from breach of this Agreement or out of services negligently performed hereunder by the Firm, or claims relating thereto, and including but not limited to the City's reliance on or use of the services or products provided by the Firm under the terms of this agreement. The Firm shall not be liable for any loss or damage attributable solely to the negligence of the City. To the extent required by law to enforce this provision, the Firm agrees that this indemnification requires the Firm to obtain insurance in amounts specified herein and that the Firm has had the opportunity to recover the costs of such insurance in the Compensation set forth in this Agreement.

No Aldermen, officer, administrator, director, board member, or employee of the City shall have any personal liability, directly or indirectly, under or in connection with this Agreement or any agreement made or entered into under or pursuant to the provisions of this Agreement. The Firm shall look solely to the City for the satisfaction of any claims the Firm may have arising under this Agreement.

Insurance. The Firm shall furnish the City the certificates of insurance for workers' compensation, public liability, and property damage, including automobile coverage in the amounts specified by the City in the request for proposals, if any, otherwise in the amounts required by the City, if any, but in no event less than the

maximum amounts of liability set forth in Chapter 537.610 RSMo., as amended, applicable to political subdivisions. The policies of insurance shall be in such form and shall be issued by such company or companies as may be satisfactory to the City. In addition to the foregoing, the Firm shall maintain Professional Liability "errors and omissions" insurance in the form for the coverages satisfactory to City as indicated in the request for proposals, if any, but in no event less than the maximum amounts of liability set forth in Chapter 537.610 RSMo. applicable to political subdivisions unless otherwise approved by the City. The City, and such additional persons and entities as may be deemed to have an exposure to liability as a result of the performance of the Firm's services, as determined by the City, shall be named as additional insured on a primary and non-contributory basis, with duty of defense on all insurance policies required hereunder.

Non-disclosure/Confidentiality. The Firm agrees that it will preserve the confidentiality of all City data and account information and will not divulge to third parties without the written consent of the City any information obtained from or through the City in connection with the performance of this Agreement.

Changes. No change in this Agreement shall be made except in writing prior to the change in Services or terms being performed. The Firm shall make any and all changes in the Services without invalidating this Agreement when specifically ordered to do so in writing by the City. The Firm, prior to the commencement of such changed or revised Services, shall submit promptly to the City, a written cost or credit proposal for such revised Services. If the City and the Firm shall not be able to agree as to the amount, either in consideration of time or money to be allowed or deducted, it shall nevertheless be the duty of the Firm, upon written notice from the City, to immediately proceed with such alteration or change, and the Firm shall be compensated the reasonable value of such Services. **No work or change shall be undertaken or compensated for without prior written authorization from the City and shall be subject to any required approval from state or federal departments or agencies.**

Multi-year contracts; Non-appropriation. Notwithstanding any provision herein to the contrary, the City is obligated only to make the payments set forth in the attached contract as may lawfully be made from funds budgeted and appropriated for that purpose during the City's then current fiscal year at the discretion of the City. If no funds are appropriated or otherwise made legally available to make the required payments for this Agreement during the next occurring fiscal year (an "**Event of Non-appropriation**"), this Agreement will terminate at the end of the then current fiscal year as if terminated expressly. The failure or inability of the City to appropriate funds for this Agreement in any subsequent fiscal year shall not be deemed a breach of this Agreement by any party. If applicable, this Agreement may be annually renewed at each fiscal year by inclusion of specific appropriation for this Agreement, from year to year not to exceed the maximum renewal period or term as set forth in the Agreement.

Accounting. During the period of this Agreement, the Firm shall maintain books of accounts of its expenses and charges in connection with this Agreement in accordance with generally accepted accounting principles and practices. The City shall at reasonable times have access to these books and accounts to the extent required to verify all invoices submitted hereunder by the Firm.

Other Firms. The City reserves the right to employ other Firms in connection with the Services.

Request for Proposals. If the City issued a request for proposals in connection with the Services, such request for proposals and the proposal of the Firm in response thereto are incorporated herein by reference and made a part of this Agreement. In case of any conflicts between the request for proposals and the executed Firm/Services Agreement or proposal of the Firm, the requirements of the City's Request for Proposal

and this executed Firm/Professional Services Agreement shall control and supersede unless a change thereto is specifically stated in this Agreement.

Work Records and Work Product. The Firm shall provide the City with copies of all documents pertinent to the Services which shall include, without limitation, reports, correspondence, meeting minutes, and originals of all deliverables. The City shall own all right, title and interest, including without limitations, all copyrights and intellectual property rights, to all documents and Work Product of the Firm created in performance of or relating to this Agreement. The Firm agrees to take all steps reasonably requested by the City to evidence, maintain, and defend the City's ownership rights in the Work Product. Upon termination of this Agreement, the Firm shall promptly deliver to City any documents, and work product, whether printed or electronic.

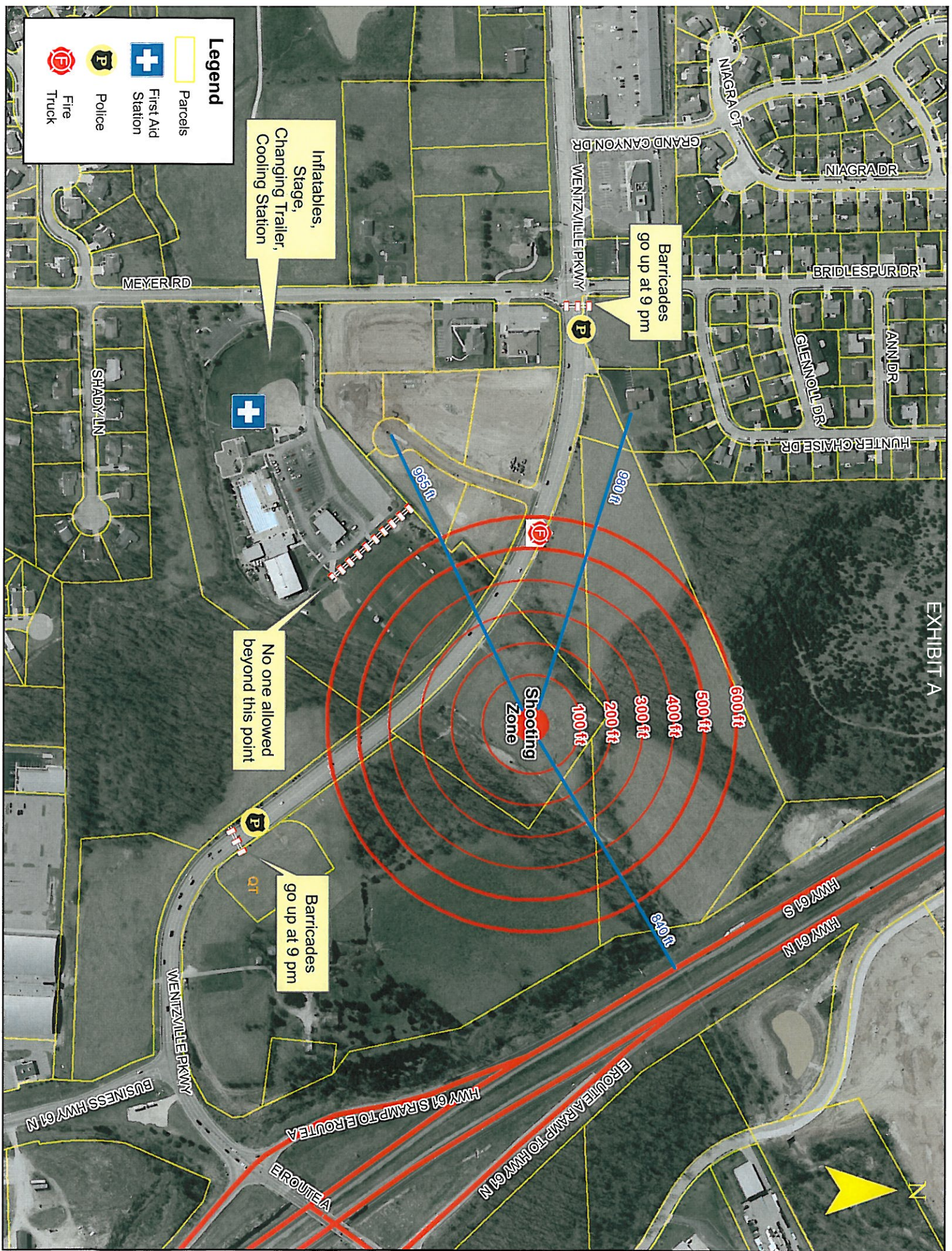
Personnel. The Services shall be performed exclusively by the personnel of the Firm identified in the Firm's proposal and no other personnel of the Firm shall perform any of the Services without the express written approval of the City.

Compliance with State Immigration Statutes. As a condition for the award of this Agreement, the Firm shall, by sworn affidavit and provision of documentation, affirm its enrollment and participation in a federal work authorization program with respect to the employees working in connection with the Services. The Firm shall also sign an (Affidavit of Participation in Federal Work Authorization Program) affirming that it does not knowingly employ any person who is an unauthorized alien in connection with the Services. The Firm shall not be required to provide these affidavits to the City if such affidavits have been previously provided to the City within the past year. All words in this paragraph shall have the definitions as provided in Section 285.525 R.S.Mo.

Representations. The Firm agrees that it has not relied on any representations or warranties of the City, oral or written, other than expressly identified in this Agreement. The parties agree this Agreement represents the entire agreement between the parties.

Governing/Choice of Law; Jurisdiction. This Agreement shall be governed by and construed and interpreted in accordance with the internal laws of the State of Missouri, without regard to its principles of conflict of laws, and shall be deemed to be executed and performed in the County of St. Charles, Missouri. Any legal action arising out of, or relating to this Agreement, shall be governed by the laws of the State of Missouri, and the parties agree to the exclusive jurisdiction and venue over them by a court of competent jurisdiction located in the County of St. Charles, Missouri or the U.S. District Court for the Eastern District of Missouri.

Counterparts. This Agreement may be executed in one or more counterparts each of which shall be deemed an original and all of which shall constitute one and the same agreement.



Legend

- Parcels
- First Aid Station
- Police
- Fire Truck

Inflatables,
Stage,
Changing Trailer,
Cooling Station

Barricades
go up at 9 pm

No one allowed
beyond this point

Barricades
go up at 9 pm

