AGREEMENT FOR JULY 4, 2022 FIREWORKS DISPLAY

THIS AGREEMENT is made and entered this ____ day of _____, 2022, by and between ISLAND OUTDOOR MANAGEMENT, INC., a Florida corporation, d/b/a NORTH FLORIDA PYROTECHNICS (the "Contractor") whose mailing address is 805 Arthur Moore Drive, Green Cove Springs, Florida 32043 and the CITY OF FLAGLER BEACH, FLORIDA (the "City"), a municipal corporation, whose mailing address is 105 S. Second Street, P.O. Box 70, Flagler Beach, Florida 32136.

WHEREAS, the Contractor is in the business of performing exhibitions of fireworks and hereby certifies that it possesses all necessary qualifications, experience, staff, and licenses to perform the work contemplated herein; and

WHEREAS, the parties acknowledge that the City has relied upon Contractor's representations regarding its qualifications, experience, staffing, and licensure as material inducements to enter this Agreement; and

WHEREAS, the City desires that the Contractor provide an exhibition of fireworks for the City pursuant to the terms of this Agreement.

NOW, THEREFORE, in consideration of the mutual agreements contained herein, the parties agree as follows:

- 1. THE DISPLAY. The Contractor agrees to sell, furnish, and deliver, to the City an aerial fireworks display on July 4, 2022 (the "Display") lasting at least twenty (20) minutes in length. For purposes of this Agreement, a substantial pause or interruption shall be deemed to mean a pause or interruption lasting longer than sixty seconds. In the event the Contractor must pause or interrupt the display longer than sixty seconds due to safety considerations, the time of such pause or interruption shall not be counted toward the required total Display length. In the event the Contractor fails to deliver the Display in accordance with this Paragraph, unless for a reason specifically set forth herein, the Contractor shall forfeit all payments provided for herein and return all deposits or other payments received by the City. In the event the Contractor experiences or anticipates any necessary modifications to the Display due to supply chain limitations, the Contractor shall notify the City at least thirty days prior to the Display date and renegotiate payment terms based on products available within the supply chain at such time; if the Contractor and the City are unable to agree to modified payment terms, the City may terminate this Agreement and the Contractor shall return to the City all deposits or other monies paid by the City.
- 2. THE LOCATION. The location for the Display shall be the City of Flagler Beach Pier.
- 3. **THE CONTRACT PRICE.** The **City** shall pay the **Contractor** TWENTY-FOUR THOUSAND DOLLARS (\$24,000.00) (the "Contract Price") for the Display as follows:
 - a. At the time of entering this Agreement, the **City** shall pay to the **Contractor** a deposit equal to one-half (1/2) of the Contract Price (the "Deposit").
 - b. Upon completion of the Display, the **Contractor** shall apply the Deposit to the amount due from the **City**. Within seven (7) days of the completion of the Display, the **City** shall pay to the **Contractor** the remaining outstanding balance of the Contract Price. In the event payment is not timely paid, late payments shall accrue interest at the rate of

eighteen percent (18%) per annum from the first day after the payment was due until payment is made.

- 4. **CITY RESPONSIBILITIES.** The **City** acknowledges that is responsible for providing a suitable location for the Display, which shall include making arrangements to keep all spectators at least three hundred fifty (350) feet away from the area where the aerial fireworks firing will take place. The **City** shall furnish necessary police and fire protection, and crowd control. The **City** shall be responsible for all fire watch / inspection fees incurred by the **Contractor**. Said fees will be paid by the **City** to the **Contractor** upon notification of any amounts due. The **City** shall be responsible for removal or protection of all property within the "fireworks fallout zone" as shown in Exhibit 1 to this Agreement. By entering this Agreement the **City** agrees to indemnify and hold harmless the **Contractor** for damage caused to property or persons within the "fireworks fallout zone" resulting from any source other than the fireworks presented by the **Contractor**.
- 5. CONTRACTOR RESPONSIBILITIES. The Contractor will obtain all required permits for the firing of the Display and secure any security bonds required by law. At the completion of the Display, the Contractor will clear all equipment, debris, and any unexploded fireworks from the firing site. The Contractor shall arrange for fire watch / inspection. The Contractor shall furnish the services of display technicians who are sufficiently trained to present the Display in a safe and professional manner. The Contractor shall notify and obtain any necessary permission from the Federal Aviation Administration for the Display.
- 6. EXHIBITION INSURANCE. Within seven (7) days of entering this Agreement, the Contractor shall furnish to the City proof of insurance coverage in the amount of five million dollars \$5,000,000.00 per Occurrence combined single limit for bodily injury and property damage, including products liability, which insurance shall include the City as additional insured. The insurance furnished by the Contractor shall include a provision that it shall not be cancelled without prior written notice to the City. If the Contractor fails to furnish the required insurance or if the insurance is canceled prior to the Display, the City may immediately and without prior notice terminate this Agreement without penalty or expense and the Contractor shall return all monies received from the City within seven (7) days of written notice of termination of the Agreement.
- 7. WORKERS' COMPENSATION INSURANCE. The Contractor shall obtain workers' compensation insurance for its employees as required by law. No employee of Contractor shall be allowed to provide any services to the City unless covered by workers' compensation insurance.
- CANCELLATION INSURANCE. The City may, at its option, procure insurance to cover the risk of loss due to cancellation of the Display.
- 9. INDEMNIFICATION. The Contractor shall protect, defend, indemnify, save and hold harmless the City, all departments, agencies, boards and commissions, its officers, agents, servants, and employees, from and against any and all claims, demands, expense, and liability arising out of injury or death to any person or the damage, loss, or destruction of any property which may occur in any way arising from the Display due to the negligent act or omission of the Contractor, its agents or employees. Nothing in this indemnification provision shall be interpreted as a waiver of the City's sovereign immunity rights, including those provided under Section 768.28, Florida Statutes. This indemnification shall survive any expiration or termination of this Agreement.
- 10. **POSTPONEMENT OF DISPLAY.** It is agreed and understood that should inclement weather prevent firing of the Display on the Display date, then the Display shall be postponed and fired on a postponement date that shall occur within seven months of the originally planned Display date.

- If the **City** does not provide a postponement date within seven months of the originally planned Display date, the **Contractor** shall be entitled to keep the Deposit paid by the **City**.
- 11. **PROMOTION.** The **City** will include reference to the **Contractor** in is promotional materials, including event schedules and radio, television, newspaper and internet announcements.
- 12. **GOVERNING LAW AND VENUE.** The laws of the State of Florida shall govern this agreement, and in the event of any dispute, venue for all proceedings, be they litigation, mediation, arbitration or otherwise shall be in a court of appropriate jurisdiction in Flagler County, Florida.
- 13. ATTORNEYS' FEES AND WAIVER OF JURY TRIAL. In the event of litigation or arbitration to enforce the terms of this Agreement the prevailing party shall be entitled to recover a reasonable fee for its attorneys and to recover all costs reasonably incurred in such proceedings. IN THE EVENT OF ANY LITIGATION ARISING OUT OF THIS AGREEMENT, EACH PARTY HEREBY KNOWINGLY, IRREVOCABLY, VOLUNTARILY, AND INTENTIONALLY WAIVES ITS RIGHT TO TRIAL BY JURY.
- 14. **CONTROLLING AGREEMENT.** This writing expresses the entire agreement between the parties, integrating all previous agreements, understandings, practices and discussions, and no modification shall be made to this Agreement except as expressed in writing and executed by both parties.
- 15. **CANCELLATION OF DISPLAY.** The **City** may cancel the Display for any reason subject to written notice to the **Contractor** and subject to the following:
 - a. If the City cancels the Display thirty (30) or more days prior to the Display date, the Contractor shall be entitled to payment of twenty-five percent (25%) of the Contract Price, which amount shall be paid from the Deposit and the remainder of the Deposit returned to the City less any reimbursable fees paid by Contractor;
 - b. If the CITY cancels the Display eleven (11) to twenty-nine (29) days before the Display date, the Contractor shall be entitled to payment of thirty-five percent (35%) of the Contract Price, which amount shall be paid from the Deposit and the remainder of the Deposit returned to the City less any reimbursable fees paid by Contractor;
 - c. If the City cancels the Display three (3) to ten (10) days prior to the Display date, the Contractor shall be entitled to payment of forty-five percent (45%) of the Contract Price, which amount shall be paid from the Deposit and the remainder of the Deposit returned to the City less any reimbursable fees paid by Contractor;
 - d. If the **City** cancels the Display 48 -24 hours prior to the Display date, the **Contractor** shall be entitled to payment of seventy percent (70%) of the Contract Price.
 - e. If the **City** cancel s the Display less than 24 hours prior to the Display date, the **Contractor** shall be entitled to payment of one hundred percent (100%) of the Contract Price.
- 16. TERMINATION FOR CAUSE. In the event either party is in default of any term of this Agreement, the other party may terminate this Agreement immediately upon written notice to the party in default. In the event the City terminates this Agreement due to any breach by the Contractor, the Contractor shall forfeit any payments due from the City and return all deposits or other monies already paid by the City.
- 17. COOPERATION WITH REGULATORY AGENCIES. The parties agree to cooperate with all regulatory agencies 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. The parties acknowledge

- that such governmental regulatory authorities have the right to prohibit the Display until unsafe or unsuitable conditions are corrected.
- 18. **COMPLIANCE WITH LAWS.** The parties agree to comply with all applicable laws, ordinances, rules, regulations, and lawful orders of public authorities in carrying out the Display.
- 19. **DISSOLUTION, BANKRUPTCY, OR RECEIVERSHIP** In the event the **Contractor** is dissolved, files a petition in bankruptcy, or has a receiver appointed for it prior to the Display, the **Contractor** shall forfeit any payments due from the City and the **City** shall be entitled to immediate return of the full amount of the Deposit or other monies already paid by the **City**.
- 20. **FORCE MAJEURE.** Each party shall be excused for the period of delay in the performance of any of its obligations and shall not be liable for failure to perform or considered in default hereunder when prevented from performing by a natural disaster.
- 21. **NOTICES.** Notices required or permitted to be given by either party in writing shall be deemed delivered when mailed via certified mail to the respective addresses first set forth above or any other address provided in writing by either party.
- 22. **COUNTERPARTS.** This Agreement may be executed in on 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.
- 23. **SUCCESSORS AND ASSIGNS.** This Agreement and all the rights and powers granted thereby shall bind and inure to the benefit of the parties and their respective successors and assigns.
- 24. **PUBLIC RECORDS.** All work, deliverables, and services provided by the **Contractor** are subject to Florida's Public Records Law (Chapter 119, Florida Statutes, including but not limited to the following:
 - All records, books, documents, maps, data, deliverables, papers, and financial information (the "Records") that result from the Contractor providing the agreed upon services to the City shall be the property of the City;
 - b. The Contractor agrees to keep and maintain public records in the Contractor's possession or control in connection with the Contractor's performance under this Agreement. The Contractor further agrees to comply with the provisions of Section 119.0701, Florida Statutes. The Contractor shall ensure that public records that are exempt or confidential from public records disclosure requirements are not disclosed except as authorized by law, for the duration of the Agreement and, following completion of the Agreement, until the records are transferred to the City;
 - c. Upon request from the custodian of records for the **City**, the **Contractor** shall provide the **City** with a copy on any requests records related to the provision of services pursuant to this Agreement within a reasonable time at a cost that does not exceed that allowed by Chapter 119, Florida Statutes, or as otherwise provided by law;
 - d. Upon completion of this Agreement or in the event of termination by either party, any and all public records relating to the Agreement in the possession of the **Contractor** shall be delivered to the **City** at no cost to the **City**.

IF THE CONTRACTORS HAS QUESTIONS RELATED TO THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATED TO THIS AGREEMENT, IT SHOULD CONTACT THE CUSTODIAN OF RECORDS FOR THE CITY, PENNY

OVERSTREET, CITY CLERK, (386) 517-2000, POVERSTREET@CITYOFFLAGLERBEACH.COM.

[SIGNATURE PAGES TO FOLLOW]

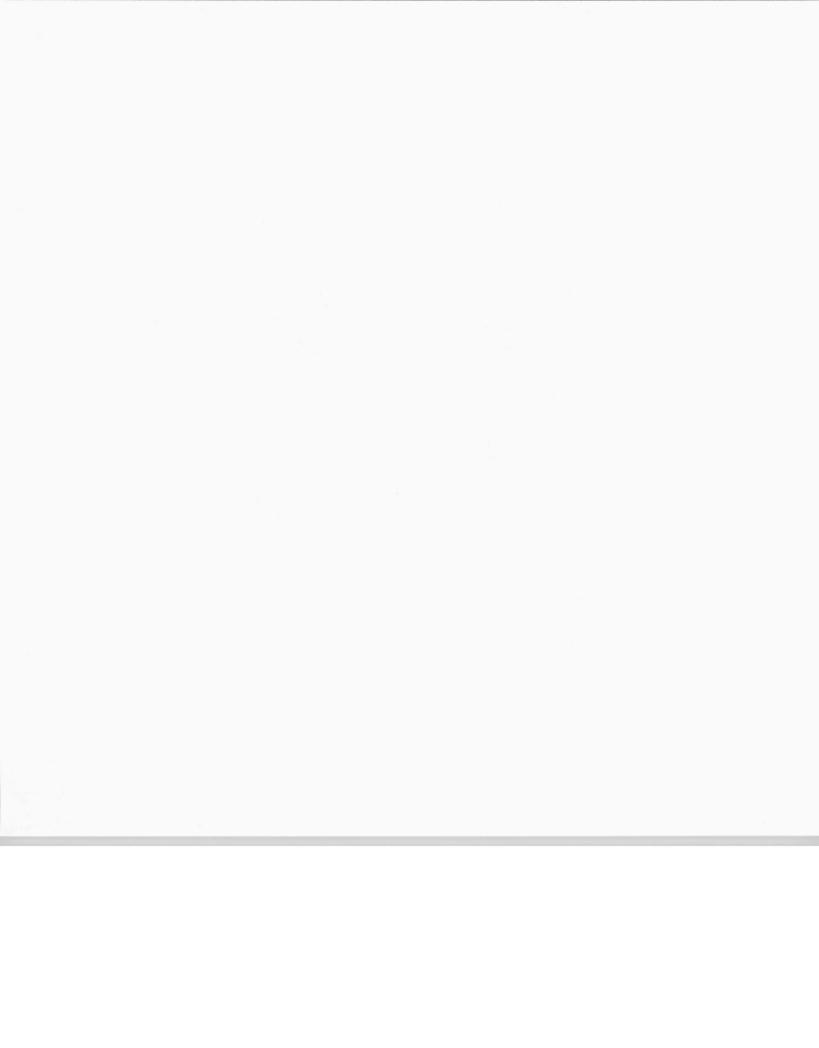
IN WITNESS WHEREOF, the parties have set their hand and seal as set forth below:

CITY OF FLAGLER BEACH

ISLAND OUTDOOR MANAGEMENT, INC.
d/b/a North Florida Pyrotechnics

BY: ______ Date: _____ Date _____
SUZIE JOHNSTON, MAYOR

RYAN L. ALLEN



Penny Overstreet

From:

William Whitson

Sent:

Thursday, May 12, 2022 12:34 PM

To: Cc: Elected Officials Department Heads

Subject:

FW: City of Flagler Beach Collaborative 4th of July Fireworks Proposal

Attachments:

ETE AUD City of Flagler Beach 2022 Fireworks Proposal.pdf

FYI......This will be discussed tonight. I will try and round up some additional details as well.

In advance, thank you for your time and patience with this process. COVID-19 has effected so many things and services we use to take for granted.

Sincerely,

W W

From: Ryan Allen <sales@wholesalefireworksdirect.com>

Sent: Thursday, May 12, 2022 9:58 AM

To: William Whitson < wwhitson@cityofflaglerbeach.com>

Cc: sales@angryunicornimports.com

Subject: Fwd: City of Flagler Beach Collaborative 4th of July Fireworks Proposal

William, Attached is an updated proposal based upon our research on past shows including 2019 which Santore produced for Flagler Beach. The first proposal I saw was very old and was missing quite a bit of data. As earlier discussed this is a collaboration between Explosive Touch Enterprises and North Florida Pyrotechnics sharing our resources and man power to save The Forth of July Fireworks for Flagler Beach.

Ryan Allen
904-333-6622
North Florida Pyrotechnics
Wholesale Fireworks Direct
www.wholesalefireworksdirect.com
sales@wholesalefireworksdirect.com
Facebook@wholesalefireworksdirect

Begin forwarded message:

From: "info explosivetouch.com" < info@explosivetouch.com>

Date: May 12, 2022 at 9:12:53 AM EDT

To: Ryan Allen <sales@wholesalefireworksdirect.com>

Subject: City of Flagler Beach Collaborative 4th of July Fireworks Proposal

Here you go!

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8



JOINT COLLABORATIVE FIREWORKS PROPOSAL TO SAVE THE

City of Flagler Beach, FL 4th of July 2022 Fireworks Display



A Spectacular Division of....



WE CREATE BLASTING IMPRESSIONS!

City of

Flagler Beach

Fireworks Display

July 4th, 2022

About Angry Unicorn Displays:

Angry Unicorn Displays was established in 2018 and is a sister company of Explosive Touch Enterprises. It is branded to coincide with ETE's Import Company Angry Unicorn Imports and evolved from the experience of a decade old fireworks company that originated in the Theme Park Entertainment Capital of the World, Orlando, FL.

Angry Unicorn Displays will be your direct source of fireworks and special effect entertainment especially with our sister company Angry Unicorn Imports supplying all of our High Quality Fireworks.

We have experience with all types of events which range from small backyard type displays to Major Professional Aerial Productions. To achieve success with all of our events, we use state of the art digital electronic firing systems and design software that gives us the availability to produce world class displays using the most brilliant and unique effects the industry has to offer. From large sky filling displays, to concise choreographed pyro-musicals... we can do it all!

In closing, Angry Unicorn Displays offers our (AIS) All-Inclusive solution in producing the fireworks and special effects elements of your show or event. All of our events include site inspections, display permits, Coast Guard permits (if necessary), FAA clearance (if necessary) \$1,000,000.00 in General and \$5M Auto Liability Insurance, Fire Marshal Fire Watch fees, Fire Truck Standby Fee (If Required), all travel costs, professional and trained pyrotechnics crew, and of course cleanup.



Westgate Resorts - Orlando, FL; River Ranch, FL; Kissimmee, FL



Six Flags Over Georgia Theme Park - Austell, GA

Our Displays

Our pyrotechnic displays include over 100 different types of pyrotechnic effects and patterns. We have the highest selection of premium products from all over the world including, but not limited to Europe, Asia, and the United States. We combine the pyrotechnic effects from these countries to provide you with the best possible design or synchronization to reflect the musical score of your show.

We have the newest and most technologically advanced computerized digital firing systems to ensure the effects are perfectly and safely fired or choreographed to any genre of live or pre-recorded music.





Featured Manufacturers:

1.3G Display Fireworks:









1.4G UN0431 Articles Pyrotechnics:









The Westin Resort Cape Coral, FL



Wall of Fire Special F/X
High Explosives



Sun 'n Fun AirShow

Our Team and Crews

The leadership at Angry
Unicorn Displays has over 50 combined
years of experience working with
fireworks and special effects for
some of the largest entertainment
companies and venues in the world.
We ensure that our technicians are
educated annually on all applicable
safety standards including new ATF
regulations, NFPA Codes, DOT
standards and more, ensuring that
your show will meet and exceed all
safety standards.

EJ Weppel - CEO and President

EJ is the founder of Angry Unicorn Displays. He began his career working for a major theme park in Orlando, FL. When he left there, he continued his path to pyrotechnic greatness working with a large competing company. From there, he decided to branch out on his own and Angry Unicorn Displays was born.

Pyrotechnic Crew

Angry Unicorn Displays has a vast pool of pyrotechnicians that work with us on a regular basis. Senior Shooters have been with the company since the beginning and have been trained and certified each year. Most of them have other fulltime jobs for some of the biggest names in the Entertainment Industry and shoot their shows regularly. All our show site assistants are 100% trained in the company policies of safe handling of materials and under the direction of the onsite shooter. Assistants have a wide range of skill sets and most are working toward being full fledged pyrotechnic shooters within the company.



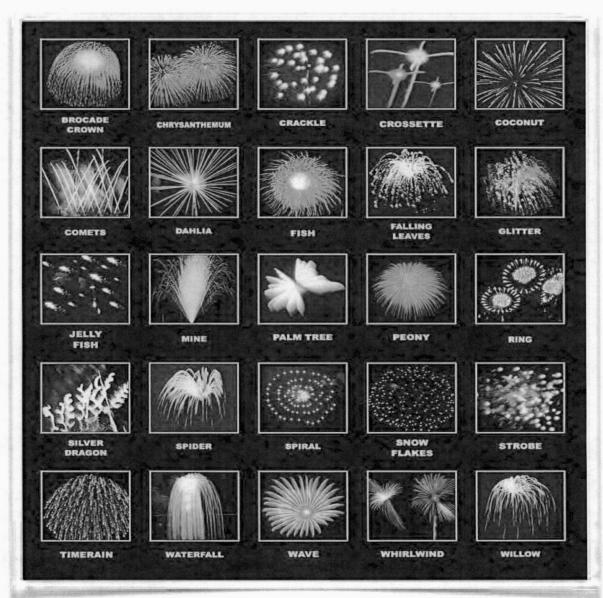
Technician Fireworks Display Proposal

| Opener: | 166 | Total Display Shells | | | | | | |
|-----------|---|---|--|--|--|--|--|--|
| - | 100 : 1" - 2.5" Premiur | m single shot and multi shot cake effects | | | | | | |
| | 30 : 3" Premium Fireworks variety of effects | | | | | | | |
| | 18 : 4" Premium Fireworks variety of effects | | | | | | | |
| | 12 : 5" Premium Fire | : 5" Premium Fireworks variety of effects | | | | | | |
| | 6 : 6" Premium Fire | : 6" Premium Fireworks variety of effects | | | | | | |
| | : 7" Premium Fireworks variety of effects | | | | | | | |
| | : 8" Premium Fire | eworks variety of effects | | | | | | |
| | : 10" Premium Fireworks variety of effects | | | | | | | |
| | | | | | | | | |
| Main Body | | | | | | | | |
| | | m single shot and multi shot cake effects | | | | | | |
| | | eworks variety of effects | | | | | | |
| | 270: 4" Premium Fire | eworks variety of effects | | | | | | |
| | 198 : 5" Premium Fireworks variety of effects | | | | | | | |
| | 75 : 6" Premium Fireworks variety of effects | | | | | | | |
| | : 7" Premium Fireworks variety of effects | | | | | | | |
| | | : 8" Premium Fireworks variety of effects | | | | | | |
| | : 10" Premium Fir | reworks variety of effects | | | | | | |
| Grand Fin | de: 729 | Total Display Shells | | | | | | |
| | 300 : 1" - 2.5" Premius | m single shot and multi shot cake effects | | | | | | |
| | 300 : 3" Premium Fire | eworks variety of effects | | | | | | |
| | 72 : 4" Premium Fire | : 4" Premium Fireworks variety of effects | | | | | | |
| | 30 : 5" Premium Fire | : 5" Premium Fireworks variety of effects | | | | | | |
| | 27 : 6" Premium Fire | : 6" Premium Fireworks variety of effects | | | | | | |
| | : 7" Premium Fire | eworks variety of effects | | | | | | |
| | : 8" Premium Fireworks variety of effects | | | | | | | |
| | : 10" Premium Fir | reworks variety of effects | | | | | | |
| | 2,408 TOTAL SH | IELL COUNT | | | | | | |
| | | of Fireworks Display | | | | | | |

 \star All Fireworks/Effects will be fired 100% electronically. We do not hand fire any of your display which provides you with non-stop action $\!\star$



Our most commonly used effects inventory used to create a unique display keeping your audience excited and craving more!





Pyrotechnic Effect Definitions

Brocade — A spider like effect in the sky, much like fine lace. The brocade effect is generally a golden tail effect, and is brighter than the willow or tiger tail effect. Most brocade effects use glitter to produce the long brocade tails.

Chrysanthemum - A flower-like aerial pattern, usually resulting from a cake or mortar.

Comet - A type of star that leaves a long trail of sparks as it flies through the air.

Crossette - A type of comet that breaks into multiple comets, usually forming a cross shape.

Pearls - Bright balls of color that fly through the sky and burn themselves out after reaching maximum height.

Dragon Eggs - A delayed crackle effect displayed in egg-shaped patterns with loud crackle near the end.

Waterfall - Glowing embers that fall slowly in the air, creating a willow or waterfall effect.

Flying Fish — An aerial effect that looks like a swarm of objects squirming though the air. This effect usually lasts only a few seconds. Fish are a type of fuse that propels itself through the air, creating a swimming effect.

Palm Tree — An aerial effect that produces a gold or silver stem as the shell rises into the sky (known as a rising tail), followed by a brocade or willow effect that creates palm fronds. It resembles a gold or silver palm tree in the sky.

Peony - An aerial effect that looks like a spherical ball of colored lights in the sky. A very common aerial effect on most fireworks displays.

Ghost - An aerial effect that creates a disappearing and re-appearing color trail new to the fireworks industry.

Rising Tail - A rising tail is a gold or silver tail effect that is created when a shell is shot into the sky, similar to the



trunk of a tree. Commonly used with palm tree shells.

Strobe – A strobe is a blinking effect. When used in a shell with hundreds of strobe stars, the strobe effect looks like shimmering water in the sky. Strobes can be a variety of colors, including white, green, blue, and orange.

Tourbillion – Another name for a serpent. A tourbillion is a type of star that spins in the sky and gives off large quantities of gold, silver, or white light.

Willow – An aerial effect that looks like a giant gold willow tree in the sky. A true willow effect has delicate golden trails that hang in the sky ten seconds or more.

Pattern - An aerial effect Including but not limited to Smiles, Hearts, Squares, Diamonds, Stars, 3D Cubes always a crowd pleaser





What is included in your All-Inclusive Package

SITE INSPECTION

FIREWORKS DISPLAY PERMIT

COAST GUARD PERMIT (IF REQUIRED)

FAA CLEARANCE (IF REQUIRED)

\$5,000,000.00 GENERAL LIABILITY INSURANCE

\$5,000,000.00 AUTO LIABILITY INSURANCE AS REQUIRED BY THE US DOT

FIRE MARSHAL FIRE WATCH FEES

FIRE TRUCK STANDBY FEE (IF REQUIRED)

ALL TRAVEL/LOGISTICS COSTS

PROFESSIONAL PYROTECHNICS CREW

100% ELECTRONICALLY FIRED DISPLAY

STRIKE/CLEAN UP



Explosive Touch Enterprises

4260 Amelia Plantation Court Vero Beach, FL 32967

Phone Number: 1-800-590-7929
Email address: info@explosivetouch.com

Please make check payable to: Explosive Touch Enterprises, LLC.

City of Flagler Beach

ESTIMATE

Client name: William Whitson

Address: 105 S 2nd Street P.O. Box 70 Flagler Beach, FL

Phone: 386.517.2000

E-mail: wwhitson@cityofflaglerbeach.com

Invoice Number

Invoice Date

NA

NA

CUSTOMER REGION

VALID UNTIL

Flagler Beach, FL

NA

| ТЕМ NO. | DESCRIPTION | Unit Cost | QTY | Total |
|---------|----------------------------------|----------------------|--------|----------------------|
| FWD | July 4th, 2022 Fireworks Display | \$ 60,00 0.00 | 1 | \$ 60,000 .00 |
| | | | | |
| | | | | |
| | | | | |
| | | Cult | total: | |
| | | Subi | iotar: | \$60,000.00 |
| | | Grand | Total: | \$60,000.00 |

Payment Details: 50% Dep./ 50% Bal.

Payment Methods: Check, ACH, WIRE

Thank You For Your Business!