



**TOWN OF MILLIKEN
TOWN BOARD
AGENDA MEMORANDUM**

To: Mayor Tokunaga and Board of Trustees	Meeting Date:
From: Caree Rinebarger, Event Coordinator	Wednesday, June 24, 2015
Via: Kent Brown, Town Administrator	

Consent:	Action:	Discussion:	Information:
X			
Agenda Title: Approval of Resolution 15-13 for the Use of Fireworks at the Town's Annual Beef 'N Bean Day Celebration			
Attachments: Resolution 15-13 Agreement with Tri-State			

PURPOSE

To approve Resolution 15-13 for the use of Fireworks at the Town of Milliken's Annual Beef 'N Bean Day Celebration on August 8, 2015.

BACKGROUND

Milliken Municipal Code Section 10-10-20(a) states the Town Board of Trustees has the power to grant permits within the Town for supervised public displays of fireworks by the Town, fair associations, amusement parks and other organizations and groups, and to adopt reasonable rules and regulations for the granting of such permit.

Property owner notifications were sent via mail requesting written permission for the fireworks.

BUDGET IMPLICATIONS

\$4,200.00, if adequate sponsorships are not received.

SUGGESTED MOTION

"I move to approve Resolution 15-13 allowing Tri-State Fireworks Inc. to provide a public fireworks display during the Town's Annual Beef 'N Bean Day Celebration."



**TOWN OF MILLIKEN
RESOLUTION NO 15-13**

A RESOLUTION APPROVING TRI-STATE FIREWORKS INC. TO PROVIDE A PUBLIC FIREWORKS DISPLAY DURING THE TOWNS ANNUAL BEEF N' BEAN DAY EVENT BY THE BOARD OF TRUSTEES OF THE TOWN OF MILLIKEN.

WHEREAS, The Town of Milliken hosts the Annual Beef N' Bean Day event for the residents of Milliken; and

WHEREAS, The Town would like to provide fireworks as part of the events; and

WHEREAS, Milliken Municipal Code 10-10-20(a) states, the Board of Trustees has the power to grant permits within the Town for supervised public displays of fireworks by the Town, fair associations, amusement parks and other organizations and groups, and to adopt reasonable rules and regulations for the granting of such permits;

NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF TRUSTEES FOR THE TOWN OF MILLIKEN, COLORADO, to approve Tri-State Fireworks, Inc. to provide a public fireworks display during the Town's annual Beef N' Bean Day event on August 8, 2015 at Lola Park.

ADOPTED this 24th day of June, 2015

ATTEST:

Milt Tokunaga
Mayor

Cheryl L. Powell
Town Clerk

PYROTECHNIC/LASER DISPLAY AND SERVICES AGREEMENT

THIS PYROTECHNIC/LASER DISPLAY AND SERVICES AGREEMENT (hereinafter referred to as "Agreement" made and entered into this 24th day of June, by and between Tri-State Fireworks, Inc. P.O. Box 31 Brighton, CO 80601 (hereinafter referred to as "SELLER) and:

Town of Milliken
1101 Broad Street
Milliken, CO 80543

(hereinafter referred to as "Buyer")

1. **TIME AND PLACE: POSTPONEMENT/CANCELLATION, SELLER** agrees to design, produce and execute fireworks and Laser show, otherwise known as a display, on:

August, 8, 2015

At the following location:

Milliken, CO

Weather permitting. An alternate inclement weather (generally excessive wind and/or precipitation) date during the 2015 calendar year is to be designated by BUYER and agreed upon by SELLER, at the same place set forth herein above. It is agreed and understood by and between the parties hereto that SELLER shall have sole, exclusive and final determination of the suitability of the weather conditions at the time of the display, and in the event SELLER should determine that the weather conditions are such that an unsafe or hazardous condition may exist, SELLER shall have the exclusive right and option to postpone the starting time of the display and/ or delay the display in its entirety, until conditions have improved and are appropriate for the safety of all involved, or until the alternative inclement weather date as set forth hereinabove. As a part of the authority stated hereunder, SELLER reserves the right to prematurely end or place a hold on the continuance of the display in progress so as to create unsafe or hazardous situations. In the event the display cannot be postponed to an alternate date, SELLER shall have the right to retain, and BUYER agrees to pay SELLER, thirty five percent (35%) of the total contract price per display for expenses incurred and services rendered.

2. **INSURANCE:** SELLER agrees to provide a Certificate of Insurance showing SELLER and BUYER. The BUYER agrees to provide a complete list of additional insured to be named on the certificate.

3. **EQUIPMENT:** SELLER shall be responsible to install, set up, and remove the equipment and support hardware of the pyrotechnic display. BUYER shall provide sufficient trash receptacles for cleanup after execution of the display.

4. **SECURITY/SAFETY:** BUYER is responsible for procuring and managing the following: Adequate security personnel, barricades, ropes with flags, etc., to barricade all closed areas to spectators; sufficient space to be clear and free of all persons except those employed or expressly authorizes or put in place by SELLER.

5. **PREPERATION OF DISPLAY:** SELLER shall be responsible for all aspects of the setup and operation of the display.

6. **PLACEMENT:** BUYER and SELLER shall mutually determine and agree upon the placement and arrangement of fireworks display devices, spectator viewing areas, and any and all equipment involved with the pyrotechnic display to ensure the highest degree of show integrity and character, and present to the audience the most aesthetic artistic and safest program possible, SELLER shall have sole discretion over placement necessitated by applicable federal, state, local safety, fire or other regulations.

7. **LICENCES OR PERMITS:** SELLER will obtain federal and state license or permits required to execute the pyrotechnic display contemplated herein. BUYER shall pay all fire department fees associated with the execution of display. SELLER shall provide all necessary information; proof of insurance in accordance with paragraph three above, and other items required by the licensing authorities for issuance of such fire department permit.

8. **COMPENSATION:** Compensation shall be made to the SELLER in the amount of Four Thousand Two Hundred Dollars (\$4,200.00), to be paid within fifteen days of the date of display. Unpaid accounts are subject to one and one half percent (1 1/2%) interest charge per month after fifteen days. All applicable state or local sales taxes will be payable by the BUYER.

9. **INDEMNIFICATION:** It is understood that BUYER will indemnify and hold harmless the SELLER hereunder, its agents, employees and persons contracted by SELLER for and against all losses, damages, demands, costs, claims, suits and other related actions or proceedings of whatever nature or kind resulting from damages or injury arising in any way out of the fireworks products or other products furnished by SELLER under the terms of this Agreement, resulting from any source other than one the negligence of SELLER hereunder, or its agents or employees, or from a source other than one for which insurance coverage has been provided pursuant to paragraph three of this agreement above.

10. **FORCE MAJEURE:** Subject to the provisions of paragraph one above, any failure or omission of BUYER or SELLER under this Agreement due to an act of GOD, enactment, rule, order or any act of government instrumentality (whether federal, state, or local), other causes beyond the control of BUYER or SELLER, or force majeure will not constitute a breach or default under this agreement.

11. **CONSTRUCTION/ASSIGNMENT/APPLICABLE LAW:** If any term, provision, covenant, or condition of this Agreement is held by any court of competent jurisdiction to be invalid, void or unenforceable or in any such provision is waived or not enforced by any party hereunder, the remainder of the provisions of this Agreement shall remain in full force and effect, and shall in no way be affected, impaired or invalidated, This Agreement, including any documents incorporated or referred to herein, constitutes the entire Agreement between the parties, and this Agreement may not be altered or amended except by written addendum to this Agreement executed by both BUYER and SELLER, This Agreement shall be binding upon the heirs, executors, administrators, personal representatives, successors and assigns of each of the parties. It is agreed and understood by and between the parties hereto that this Agreement is subject to, and shall be interpreted under, the laws of the State of Colorado, and any aspect of this Agreement shall be controlled by and interpreted under the laws of the State of Colorado, as they may exist from time to time.

12. **ATTORNEY FEES:** If any legal action is necessary to enforce the terms and conditions of this Agreement, the prevailing party shall be entitled to recover all costs of suit and reasonable attorney's fees.

TRI-STATE FIREWORKS, INC.

Town of Milliken

“SELLER”

“BUYER”

By:  _____

By: _____

Date: May 18, 2015

Date: _____