

**ADDENDUM TO THE AGREEMENT BETWEEN MELROSE NORTH
PYROTECHNICS, INC. AND THE CITY OF RAPID CITY FOR 2009 FIREWORKS
DISPLAY.**

THIS AGREEMENT is made and entered into, by and between the CITY OF RAPID CITY, located at 300 Sixth Street, Rapid City, SD 57701, herein after referred to as the "City," and MELROSE NORTH PYROTECHNICS, INC., located at 9405 River Road SE, Clear Lake, MN 55319, herein after referred to as "Melrose."

RECITALS

WHEREAS, Melrose has submitted a detailed proposal to the City for providing a Fourth of July firework display in 2009; and

WHEREAS, the City would like to retain Melrose to put on the display contained in its detailed proposal; and

WHEREAS, Melrose has submitted a form agreement for the City to sign; and

WHEREAS, the City desires making some slight modifications to the form agreement submitted by Melrose.

NOW THEREFORE, the parties hereby agree as follows:

1. Melrose will provide the City with a July Fourth firework display which is consistent with the detailed proposal it has negotiated with the City. The detailed proposal is hereby incorporated into and made part of this agreement. All other terms shall be governed by the agreement submitted by Melrose which is dated April 1, 2009, and signed by Dale Nowak except as specifically modified by this addendum.
2. Melrose will provide the City with an invoice for the show upon its completion. The City shall pay the invoice within 45 days of its receipt. The provision requiring the City to pay a service fee of 1 1/2% per month for not paying within 30 days of the show is stricken from the agreement.
3. The provision requiring the customer to pay any and all collection costs, including reasonable attorney's fees is stricken from the agreement.
4. The parties' rights and obligations under this Agreement shall be governed by, and construed in accordance with, the laws of the State of South Dakota. Any dispute concerning this Agreement shall be venued and litigated in the Circuit Court for the Seventh Judicial Circuit, located in Rapid City, Pennington County, South Dakota.

MELROSE NORTH PYROTECHNICS, INC.

CITY OF RAPID CITY

By _____
Its _____

Alan Hanks, Mayor

ATTEST:

Finance Officer

MELROSE NORTH PYROTECHNICS, INC.

AGREEMENT

This contract entered into this **1st** Day of **April** AD **2009** by and between MELROSE NORTH PYROTECHNICS, INC. of Clear Lake, MN and **City of Rapid City** (Customer) of City **Rapid City** State **South Dakota** .

WITNESSETH: MELROSE NORTH PYROTECHNICS, INC. for and in consideration of the terms hereinafter mentioned, agrees to furnish to the CUSTOMER **one** Fireworks Display(s) as per agreement made and accepted and made a part hereof, including the services of our Operator to take charge of and fire display under the supervision and direction of the Customer, said display to be given on the evening of **July 4, 2009 (rain date of July 5, 2009)** Customer Initial _____, weather permitting, it being understood that should inclement weather prevent the giving of this display on the date mentioned herein the parties shall agree to a mutually convenient alternate date, within six (6) months of the original display date. Customer shall remit to the first party an additional 15% of the total contract price for additional expenses in presenting the display on an alternate date. The determination to cancel the show because of inclement or unsafe weather conditions shall rest within the sole discretion of MELROSE NORTH PYROTECHNICS, INC. In the event the customer does not choose to reschedule another date or cannot agree to a mutually convenient date, MELROSE NORTH PYROTECHNICS, INC. shall be entitled to 40% of the contract price for costs, damages and expenses. If the fireworks exhibition is canceled by CUSTOMER prior to the display, CUSTOMER shall be responsible for and shall pay to MELROSE NORTH PYROTECHNICS, INC. on demand, all MELROSE NORTH PYROTECHNICS, INC.'s out of pocket expenses incurred in preparation for the show including but not limited to, material purchases, preparation and design costs, deposits, licenses and employee charges.

MELROSE NORTH PYROTECHNICS, INC. agrees to furnish all necessary fireworks display materials and personnel for a fireworks display in accordance with the program approved by the parties. Quantities and varieties of products in the program are approximate. After final design, exact specifications will be supplied upon request. MELROSE PYROTECHNICS, INC. enters this agreement contingent upon its ability to secure delivery of product for the display.

It is further agreed and understood that the CUSTOMER is to pay MELROSE NORTH PYROTECHNICS, INC. the sum of **\$20,000.00 (Twenty thousand and 00/100 dollars)**. A service fee of 1 1/2 % per month shall be added, if account is not paid within 30 days of the show date.

MELROSE NORTH PYROTECHNICS, INC. will obtain Public Liability and Property Damage and Workers Compensation Insurance.

Customer will provide the following items:

- (a) Sufficient area for the display, including a minimum spectator set back of **560** feet at all points from the discharge area.
- (b) Protection of the display area by roping-off or similar facility.
- (c) Adequate police protection to prevent spectators from entering display area.
- (d) Search of the fallout area at first light following a nighttime display.

It is further agreed and mutually understood that nothing in this contract shall be constructed or interpreted to mean a partnership, both parties being hereto responsible for their separate and individual debts and obligations and neither party shall be responsible for any agreements not stipulated in this contract. Customer agrees to pay any and all collection costs, including reasonable attorneys fees and court costs incurred by MELROSE NORTH PYROTECHNICS, INC. in the collection or attempted collections of any amount due under this agreement and invoice.

The parties hereto do mutually and severally guarantee terms, conditions, and payments of this contract, these articles to be binding upon the parties, themselves, their heirs, executors, administrators, successors and assigns.

MELROSE NORTH PYROTECHNICS, INC.

By _____

Dale M. Nowak
DA

Date Signed: **April 1, 2009**

Dale M. Nowak
9405 River Road SE
Clear Lake, MN 55319
(800) 771-7976

CUSTOMER
CITY OF RAPID CITY

By _____

its duly authorized agent, who represents he/she has full authority to bind the customer.

Date Signed _____

ATTEST: (PLEASE TYPE OR PRINT)

Name _____

Address **Finance Officer**

Phone _____

Email _____