

ITEM#: 10
DATE: 06-13-23
DEPT: Admin.

COUNCIL ACTION FORM

SUBJECT: FIREWORKS PERMIT FOR INDEPENDENCE DAY FIREWORKS

BACKGROUND:

Discover Ames is organizing the annual Independence Day Fireworks Display, which will take place on July 3, 2023. The fireworks will be launched from ISU Parking Lot G10, east of Jack Trice Stadium. The display is anticipated to begin at 10:00 p.m. and will be between 15 and 20 minutes in length. A rain date has been requested for July 5.

The display operator is J&M Displays, which has substantial experience launching the Ames Independence Day fireworks display. The display operator and Discover Ames have filed a Fireworks Permit application (attached), which has received approval signature from representatives of ISU Environmental Health and Safety, ISU Police, ISU Risk Management, and the Ames Fire Inspector. A certificate of liability insurance is on file with the City Clerk's Office.

Community members can view the display from adjacent stadium parking lots. It should be noted that construction in the lots between Jack Trice Stadium and Hilton Coliseum will limit the available parking for the display. To address this, Discover Ames has arranged with ISU to make available several grass parking lots adjacent to the stadium.

ALTERNATIVES:

1. Approve a Fireworks Permit for the Independence Day Fireworks Display on July 3, with a rain date of July 5.
2. Do not approve a Fireworks Permit.

CITY MANAGER'S RECOMMENDED ACTION:

The Independence Day Fireworks Display is a popular community event. City staff has consulted with Discover Ames and ISU officials regarding the planning for the display, and all appropriate application materials and approvals have been obtained. Therefore, it is the recommendation of the City Manager that the City Council adopt Alternative No. 1 as described above.

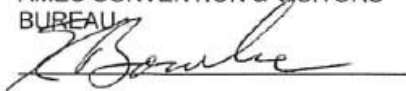
**IOWA STATE UNIVERSITY
FACILITY AND GROUNDS USE AGREEMENT
(FIREWORKS)**

This Facility and Grounds Use Agreement ("Agreement") is entered into by Iowa State University of Science and Technology ("ISU"), and J&M Displays, Inc., 18064 170th Avenue, Yarmouth, IA 52660 ("Display Operator"). The Effective Date of this Agreement shall be the date on which the last party signs this Agreement. Attachments A and B are incorporated into this Agreement by reference.

1. **Permission to Use Space.** ISU grants Display Operator and Display Operator's Sponsoring Organization (See Attachment A) permission to use the space described in Attachment A (Fireworks Application and Attachments and ISU Policy, Procedures) during the period described in Attachment A.
2. **Use of Space; ISU Access to Space.** Display Operator may use the Space only for the purpose described in Attachment A. Display Operator acknowledges that others may be using other areas of ISU's property during the Use Period. Display Operator shall not disrupt such use by others. ISU reserves the right to inspect the Space, access the Space to perform maintenance, enforce applicable laws, regulations, and policies and remove any person who is disruptive to ISU's operations or where ISU reasonably believes such person is acting in an unsafe manner or may cause or has caused harm to people, the Space, or other property.
3. **Compliance with Law and ISU Policies.** Display Operator shall comply with, and shall require its employees, agents, subcontractors and guests to comply with, all applicable laws, regulations, ordinances and ISU policies. ISU policies include, but are not limited to, the following prohibitions in ISU buildings and on ISU property: (a) smoking; (b) alcohol, unless prior written permission has been granted; (c) intoxicants, narcotics, and drugs; (d) firearms, weapons, ammunition, fireworks, explosives, and highly flammable materials; (e) gambling; and (f) solicitation. Motor vehicles of any type are prohibited from being driven on ISU sidewalks or outdoor green space areas. Illegally parked vehicles will be ticketed and subject to towing, without warning, at the owner's expense. Display Operator shall obtain the consent of ISU before bringing, or permitting its employees, agents, subcontractors or guests to bring animals on ISU property and shall comply with ISU's Animals on Campus policy and other applicable policies. Prior consent is not required when the animal is assisting persons with disabilities. With this agreement ISU grants Fireworks Display Operator permission to use fireworks.
4. **Display Operator Equipment and Property.** ISU shall not be responsible for loss or damage to property, material, or equipment belonging to Display Operator or its employees, agents, subcontractors, guests or sponsoring organization ("Display Operator Property"). Display Operator shall remove all Display Operator Property as agreed to in Attachment A or promptly upon termination or cancellation of this Agreement. ISU may remove and store any Display Operator Property that Display Operator fails to remove. Display Operator shall pay all expenses associated with such removal or storage.
5. **Decorations and Publicity.** All signs, banners, decorations, displays, and exhibits and the location of such items must have prior written approval from ISU. The parties agree not to use the name or trademarks of the other party or the name of any of the other party's employees in publicity or advertising without the prior written consent of the other party. Display Operator may use ISU's name when providing the address of the location of Display Operator's event. Unless express written permission has been granted, Display Operator shall not represent or imply that it is affiliated with ISU or that Display Operator's event is endorsed or approved by ISU.
6. **Vacating Space.** Display Operator shall vacate the Space at the end of the Use Period or upon cancellation of this Agreement and leave the Space in as good condition as the Space was upon entry by Display Operator, reasonable wear and tear excepted. Except for reasonable wear and tear, Display Operator shall be responsible for any damage to or loss of ISU property caused by Display Operator or Display Operator's employees, agents, subcontractors or guests and for any excessive trash. Display Operator shall notify ISU immediately of any such damage or loss. ISU may repair or replace such damaged or lost ISU property and remove excessive trash. In such event, ISU shall provide Display Operator with an invoice for the costs incurred by ISU for such repair, replacement or removal and Display Operator shall pay such invoice within fifteen days of receipt.
7. **Financial.** There is no fee for the use of space for the firework's shoot site.
8. **Insurance.** Insurance and indemnification requirements and limitations on liability are set forth in Attachment B.
9. **Cancellation.**

- b. **Display Operator Cancellation.** Display Operator may cancel this Agreement as set forth in Attachment A.
- c. **ISU Cancellation.** ISU may cancel this Agreement for the following reasons:
- i. **Force Majeure.** ISU may cancel this Agreement if its performance of any obligation under this Agreement is prevented or delayed by causes beyond its reasonable control, such as fire, strikes or labor disputes, floods, inclement weather, acts of God, war, terrorism, civil disturbances, or energy shortages. ISU's failure to perform or delayed performance for such reasons shall not be deemed a breach of this Agreement.
 - ii. **For Cause.** ISU may cancel this Agreement immediately upon written notice to Display Operator if: (a) Display Operator fails to pay ISU as set forth in Section 4; (b) Display Operator fails to carry the required insurance or submit evidence of insurance coverage as set forth in Attachment B; or (c) if Display Operator or Display Operator's employees, agents, subcontractors or guests (i) disrupt the ISU's operations or other's use of other ISU property, (ii) act in a manner ISU reasonably believes to be unsafe or that may cause or has caused harm to persons, the Space, or other property, or (iii) violate applicable laws, regulations, or ISU policies. ISU may also cancel if Display Operator fails to cure any other material breach of this Agreement within ten days of receiving written notice of such breach from ISU. The foregoing shall be in addition to any other remedies to which ISU is entitled.
10. **Notice.** Notices relating to this Agreement shall be in writing and shall be delivered by messenger, overnight carrier, e-mail or mailed by first class mail, certified mail or registered mail to the other party's contact person identified in Attachment A. Notices to ISU should be sent to the Office of Risk Management, 3618 Administrative Services Building, Ames, Iowa, or by FAX (515) 294-3105, or e-mail to orm@iastate.edu.
11. **Miscellaneous.** This Agreement constitutes the entire agreement between the parties with respect to the subject matter of this Agreement and supersedes all prior agreements, whether written, oral, or implied. This Agreement shall not be changed, modified, altered, or amended in any respect without the mutual consent of the parties. The parties' rights and obligations in this Agreement that, by their nature, would continue beyond the cancellation or expiration of this Agreement shall survive such cancellation or expiration. This Agreement shall be construed in accordance with the laws of the State of Iowa, and any litigation or actions commenced in connection with this Agreement shall be instituted in an appropriate court in the State of Iowa.

AMES CONVENTION & VISITORS
BUREAU




Name: Kevin Bourke

Title: President/CEO Ames CVB

Date: 5-8-23

42-1257573
IRS Entity Identification Number

J&M DISPLAYS, INC.


Name: James Oetken
Title: CEO

Date: April 23rd, 2023

42-1284583
IRS Entity Identification Number

Iowa State University

Signature 
Shawn Norman (May 25, 2023 07:09 CDT)

Title Senior vice President operations and finance

Date May 25, 2023

ATTACHMENT A

INSERT COPY OF FIREWORKS APPLICATION AND ATTACHMENTS

**City of Ames / Iowa State University
Fireworks Permit Application**

**City of Ames
Fireworks Show
Monday July 3rd, 2023**

Prepared By:

J & M Displays, Inc.



PERMIT TO DISPLAY FIREWORKS APPLICATION

Name of Event City of Ames Fireworks Display

Date & Time of Event 7/3/2023 10:00 p.m. Rain Date & Time 7/5/2023 10:00 p.m.

Applicant Name Kevin Bourke Phone 515.460.8870

Email kevinb@amescvb.com

Organization Name Ames Convention & Visitors Bureau

Address 1601 Golden Aspen Drive, Suite 110

City Ames State IA Zip Code 50010

Contact for Day of Display Kevin Bourke Phone 515.460.8870

Exact location of shoot/display ISU Parking Lot G10 - see attached maps

Attach diagram of display location

Size of shells and/or type of display 3", 4", 5" Aerial Shells

Attach effects list or schedule

Name of Display Operator/Responsible Shooter Tony Mosher
(This person is to be present on the day of the event.)

Attach a resume showing pyrotechnic certification/qualifications

Phone number for Display Operator/Responsible Shooter 515.210.7942

Name of Insurance Company Britton Gallagher agent for Everest Natl
See below for detailed information about insurance requirements.

Display sites are subject to examination by the City Fire Inspector or his/her designee. The Ames Fire Department has authority to cancel/postpone any display if it is determined that there are safety concerns.

Applicant Signature *Kevin Bourke* Date 5-8-23

Display Operator Signature *Tony Mosher* Date 4/23/2023

- City of Ames Insurance Requirements:
- Comprehensive General Liability limits in the amount of \$1,000,000 combined single limit and Excess Liability limits in the amount of \$5,000,000. Coverage shall be at least as broad as the ISO Form Number CG0001 covering commercial general liability written on an occurrence basis only.
 - Applicant and/or Sponsor must be named as certificate holder(s).
 - The City of Ames, its officers and employees must be named as additional insured.
 - A copy of the current insurance certificate must be filed with the City Clerk.

NOTE: This application not to be used for displays originating on Iowa State University property.

Submit your completed permit application to: diane.voss@cityofames.org
 City of Ames
 City Clerk's Office
 PO Box 811
 Ames, IA 50010

For displays on property owned by Iowa State University, an alternate application must be submitted to ISU Risk Management at least six (6) weeks prior to the event. Please refer to forms and information found at: <http://www.riskmanagement.iastate.edu/events/fireworks> or contact the ISU Office of Risk Management at 515-294-7711.

For Office Use Only

Documents Received

Date: _____

Completed Application

Sketch

ISU Property

Fee

Fee \$25.00

Date Fee Paid _____

Insurance

Received _____

Approved _____

Follow Up

Application approved

Fire Inspector approved

Permits database updated

Permit Letter prepared

Letter copied and mailed

City Council Meeting

Added to Agenda _____

City Council Approved _____

Permit Number _____

Special Conditions:

Application Denial Reasons:

**Fireworks, Pyrotechnics or Flame Effects Application
Iowa State University of Science and Technology**

Applicant Information

Name of Event: City of Ames Independence Day Celebration Fireworks
 Name of Organization Sponsoring Event: Ames Convention & Visitors Bureau
 Address of Organization: 1601 Golden Aspen Driver # 110, Ames, IA 50010
 Name of Applicant: Kevin Bourke
 Phone: 515.460.8870 Fax: _____ E-Mail: kevinb@amescvb.com

Event Information

Event Location: ISU Parking Lot G10 East of Jack Trice Stadium Estimated attendance: 15,000
 Event Date: 7/3/2023 Time: 10:00 pm a.m./p.m. Allernate Date (rain date) for event: 7/5/2023
 Organization's on-site manager or contact for day of Display: Kevin Bourke
 Phone: 515.460.8870 Fax: _____ E-Mail: kevinb@amescvb.com

Firework Display Information: Attach a copy of the Display Operator credentials and applicable U.S. DOT requirement information for transportation with this application

Display Operator (company name): J&M Displays
 Address: 18064 170th Avenue
 City: Yarmouth State: IA Zip Code: 52680
 Work-week Phone: 800.648.3890 Fax: _____ E-Mail: susan@jandmdisplays.com
 Operator Name for day of Display: Tony Mosher Cell Phone: 515.210.7942
 Other Contact for day of Display: Jake Amsden Cell Phone: 515.779.6296

NOTE: Electronic firing ONLY

Type of Fireworks: 3", 4", 5" Shells & Finale Strings - See attached **Attach Display Program**
 Length of Display: 15 to 20 Minutes
 Fireworks Supplier: J&M Displays
 Exact Location of Display: ISU Parking Lot G10 East of Jack Trice Stadium **Attach Diagram of Display/Shoot Location**

Insurance Requirements: Insurance coverage and certificate requirements are on the back of this form.

Student Organizations Only: Submit an Event Authorization and Notification Form with other event documents (including this application) at least 6 weeks prior to the event.

The display operator, EH&S and ISU Police will monitor weather conditions prior to and during the display event. EH&S, ISU Police or the Ames Fire Department have the authority to cancel or postpone any display if they determine there is not strict adherence to the approved application; or there is lightning, wind gusts or inclement weather that will cause risks to the crowd or surrounding property.

5-8-23
Date

[Signature]
Sponsoring Organization Representative Signature

I have read and agree to the responsibilities stated in the ISU Fireworks, Pyrotechnics and Flame Effects Procedures and also agree that I will meet all insurance requirements listed on this application and that this insurance will be primary.

5-8-23
Date

[Signature]
Display Operator Representative Signature

APPROVAL SIGNATURES:
May 16, 2023

Date
May 16, 2023

[Signature]
Troy Carey (May 16, 2023 08:59 CDT)
Environmental Health and Safety

Date
May 24, 2023

[Signature]
ISU Police
Jason E. Ziph (May 24, 2023 07:56 CDT)

Date
May 24, 2023

[Signature]
City of Ames Fire Inspector
Kurt Bayer
Office of Risk Management

Submittal Instructions on Page 2

DISPLAY OPERATOR INFORMATION:

The fireworks display company must carry fireworks display liability insurance with a company acceptable to Iowa State University. In accordance with the policies and procedures of Iowa State University, all event sponsors and participants must be adequately insured. An original Certificate of Insurance must be submitted with the Fireworks Application at least six (6) weeks prior to the event. Please share the following insurance requirements with your insurance agent to facilitate issuance of the certificate of insurance:

1. The company must be at least A Class VII rated by A. M. Best Company.

The insurance companies providing coverage must be of an acceptable financial rating as determined by Iowa State University Office of Risk Management.

Exceptions are possible; however, ISU retains the right to require the A rating. Unrated companies are not accepted.

2. State of Iowa; Board of Regents, State of Iowa; and Iowa State University must be named as additional insureds.

All legal entities referenced above must be individually listed on the certificate as an additional insured for liability coverage.

Additional insured status shall be on a primary and non-contributory basis.

3. We require occurrence coverage.

The certificates should be marked "occurrence." If there is no box marked "occurrence," we require the notation "occurrence form" in the Special Conditions box.

4. The certificate must be complete.

Certificates without limits, insurance company, or coverage indicated are not acceptable.

5. Limit Requirements:**• General Liability**

The policy must provide the following coverage and limits as a minimum: \$1,000,000 combined single limit per occurrence for bodily injury including death, personal injury and property damage.

• Automobile Liability

The policy must provide the following limit for Automobile Liability: \$1,000,000 combined single limit each accident.

• Worker's Compensation and Employer's Liability

The policy must provide for the Statutory Limits of \$100,000/\$500,000/\$100,000. Also required under Worker's Compensation is a Waiver of Subrogation in favor of Iowa State University/State Board of Regents.

• Excess Liability

The policy must provide \$5,000,000 for Excess Liability coverage.

6. The policy shall provide for thirty (30) days' written notice to Iowa State University in the event of any modification, cancellation, or termination.**7. Insurance policy term must be for the duration/term of contract or specific to the event date(s).****Certificate of Insurance**

Mail or fax the certificate to:

Office of Risk Management, Iowa State University
3618 Administrative Services Bldg., Ames, Iowa 50011
Fax #: (515) 294-3105

For questions or concerns contact: Deb Keys, Insurance Coordinator, at (515) 294-7711

Application Submittal

The application must include the following attachments:

- Certificate of insurance for the Display Operator with appropriate limits and named insureds
- Copy of the Display Operator's license
- Diagram of the display location from the Display Operator
- Effects list/schedule from the Display Operator (must indicate electronic firing will be used for ignition)
- \$100.00 application processing fee (check made payable to Iowa State University)

Mail the completed application with attachments at least six (6) weeks prior to the event to:

Office of Risk Management, Iowa State University, 3618 Administrative Services Building, Ames, Iowa 50011

For questions, please contact the Office of Risk Management

Phone: (515) 294-7711 Fax: (515) 294-3105