



STAFF REPORT

SAUSALITO CITY COUNCIL

AGENDA TITLE:

Authorize the City Manager to sign an agreement with Pyro Spectaculars North Incorporated to provide the Fourth of July Fireworks display for the City of Sausalito on July 4, 2008.

RECOMMENDED MOTION:

Authorize the City Manager Pro Tem to sign the agreement with Pyro Spectaculars North Incorporated and direct staff to facilitate the Fireworks event at Gabrielson Park on July 4, 2008.

SUMMARY

The Parks and Recreation Department, with support from the Sausalito Chamber of Commerce, will celebrate the Fourth of July with a fireworks display at Gabrielson Park. The event is financially supported by donations from the community. The City of Sausalito had a long standing relationship with Boom Boom Incorporated, which was recently purchased by Pyro Spectaculars North Incorporated

Pyro Spectaculars has prepared all Coast Guard applications and permits and also secured a barge which will be shared by the City of Richmond. By sharing the barge the City will save approximately \$3,000.00. The cost of the tug, barge and personnel is \$7,025.00. This is in addition to the cost of the firework display and contracted through Westar Marine Services.

The City has budgeted \$25,000 for fireworks expenses in 2008-09 budget, and \$25,000 is budgeted in revenues to offset the expenses. A mail campaign is underway with a posting in the current brochure and a direct mail letter to all 2007 -2008 donors. The Parks and Recreation Department is also working directly with the Chamber of Commerce to solicit donations from local businesses and individuals.

BACKGROUND

For the past seven years, the City of Sausalito has enjoyed the fireworks display produced by Boom Boom Incorporated, (now Pyro Spectaculars North Incorporated) supported by Westar Marine Services. The fireworks display is funded by the generous donations provided by our residents and businesses. The fireworks display culminates the day's events that include the Fourth of July Parade and the community picnic and festivities at Dunphy Park, and Jazz by the Bay at Gabrielson Park.

Item #: 404
Meeting Date: _____
Page #: 1

Attached is a draft of the agreement for your review with Pyro Spectaculars North Incorporated. The execution date will be changed to May 21, 2008 and the City Attorney will review the final agreement prior to execution by the City Manager.

ISSUES

None

FISCAL IMPACT

Total fiscal impact for the Fourth of July fireworks display is \$22,150.00

- \$17,975 for the fireworks display provided by Pyro Spectaculars North Incorporated.
- \$7,025 for the barge and licensees


STAFF RECOMMENDATIONS

Authorize the City Manager to sign an agreement with Pyro Spectaculars North Incorporated to provide the Fourth of July fireworks display for the City of Sausalito and direct staff to facilitate the fireworks event at Gabrielson Park on July 4, 2008.

ATTACHMENTS

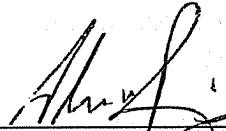
Pyro Spectaculars North Incorporated fireworks display contract.

PREPARED BY:



Mike Langford
Parks and Recreation Director

SUBMITTED BY:



Adam W. Politzer
City Manager



Independence Day 2008

PYRO
SPECTACULARS
by Sierra

***Pyrotechnic Proposal for:
Sausalito Parks and
Recreation Department***

Independence Day 2008

April 21, 2008

Pyro Spectaculars North, Inc.
PO Box 6775, Oakland, CA 94603
Phone: 510.632.4516
Fax: 510.632.5061
www.PyroSpectaculars.com

Sausalito Parks and Recreation Department
Jeanne Friedel
420 Litho Street
Sausalito, CA 94965

Dear Ms. Friedel,

Thank you for the opportunity to submit our pyrotechnic proposal for your July 4, 2008 fireworks display. We are honored to highlight your event with a Pyro Spectaculars North, Inc. fireworks extravaganza, celebrating America's Birthday and Independence. A very sincere effort has gone into the enclosed proposal which outlines your custom designed show in detail.

We are proposing our special Program "A" in the amount of \$17,975.00. Your display is scheduled for 9:30 p.m. and will be approximately 15 minutes in duration. Our plan is to use the winning combination of our products, people and production capabilities to produce the best fireworks entertainment package possible.

This program price includes the services of a licensed pyrotechnic operator, an electronic firing system, insurance coverage, sales tax and delivery. We will process the necessary fire department permit application. Sausalito Parks and Recreation Dept will be responsible for provisions for security, and payment of the Southern Marin Fire Protection District permit fee and/or standby firemen fees, if any. The Fire Department may bill you directly for any standby fees.

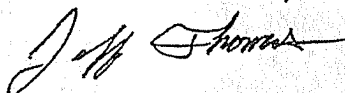
You will also be responsible for all costs associated with barges and tugs under a separate contract with a barge company. We will assist you with these arrangements and the costs will be directly billed to you.

Enclosed you will find a Product Synopsis, Display Checklist and Display Agreements for signature and initialing. Please have one copy of this fully executed agreement returned to our office by May 15, 2008 along with your deposit.

Please take the time to review this proposal in detail. If you wish to make any changes in your program or need more information, please call either myself or your Customer Service Representative Nick Castaneda at (909) 355-8120 ext. 240.

Sincerely,

PYRO SPECTACULARS, INC.

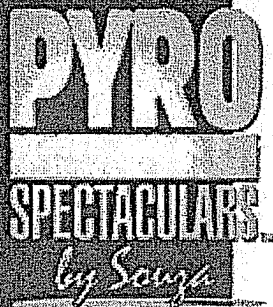


Jeff Thomas
PYRO Show Producer

JT/cp

Enclosures

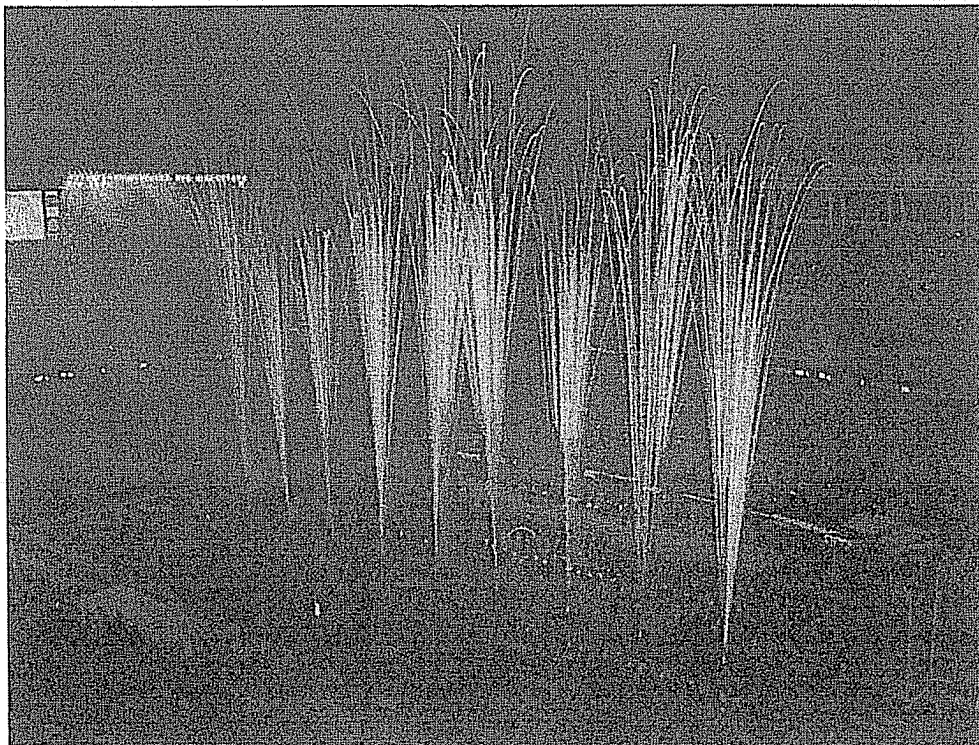
www.pyrospectaculars.com



Independence Day 2008

Proposal Outline for Sausalito Parks and Recreation Department

- Product Synopsis
- Display Checklist
- Company Profile
- Marquee Event Photos
- Conclusion and Commitment
- Other Available Options
- Display Agreement



Holiday Bowl 2003- Qualcomm Stadium - San Diego

www.pyrospectaculars.com

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Independence Day 2008

Product Synopsis Pyrotechnic Proposal Sausalito Parks and Recreation Department Program A \$17,975.00

Opening

<u>Description</u>	<u>Quantity</u>
◆ 3" Souza Designer Opening Salutes	60
Total of Opening	60

Main Body - Aerial Shells

<u>Description</u>	<u>Quantity</u>
◆ 3" Souza Designer Selections	144
◆ 4" Souza Designer Selections	108
◆ 5" Souza Designer Selections	54
◆ 6" Souza Designer Selections	36
◆ 10" Souza Designer Selections	4
Total of Main Body - Aerial Shells	346

Pyrotechnic Devices

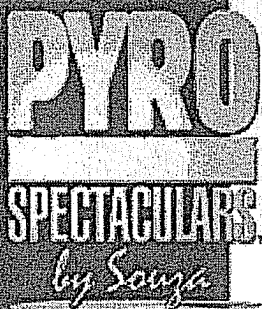
<u>Description</u>	<u>Quantity</u>
◆ 2.5" 36 Shot Assorted Palm Trees	72 Shots
Total of Pyrotechnic Devices	72

Grand Finale

<u>Description</u>	<u>Quantity</u>
◆ 3" Souza Designer Finale Shells	120
◆ 4" Souza Designer Finale Shells	30
◆ 5" Souza Designer Finale Shells	16
Total of Grand Finale	166

Grand Total 644

WWW.PYROSPETACULARS.COM



Independence Day 2008

Display Checklist



Sausalito Parks and Recreation Department Agrees to:

- Return contract by May 15, 2008.
- Send 50% of deposit by May 15, 2008.
- Send balance of payment to arrive by July 7, 2008.
- Provide suitable firing site, barges and tugs, pay necessary deposits and fees in accordance with all applicable laws.
- Provide adequate security as required by local fire authority.
- Provide two-way communication to the pyrotechnician from command center to firing site(s).

Pyro Spectaculars Agrees to:

- Provide a Professional Full Service fireworks production.
- Provide fireworks general liability insurance and transportation insurance in the amounts of \$1 million and \$5 million respectively, as well as workers compensation coverage for pyrotechnicians.
- Apply for all necessary federal, state, and local fireworks display permits and licenses.
- Provide a licensed pyrotechnic operator and crew.
- Provide all necessary pyrotechnic equipment.

707.770.7707 pyrospectaculars.com

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by Souza

Independence Day 2008

Conclusion & Commitment



We sincerely thank Sausalito Parks and Recreation Department for allowing us to make this presentation.

A sincere effort has gone into preparing this proposal. We are eager to hear your comments and answer any questions you may have.

We are confident that after your complete review of our ideas and performance capabilities you will select Pyro Spectaculars by Souza as your fireworks company.

Jeff Thomas
PYRO Show Producer

www.pyrospectaculars.com

PYRO
SPECTACULARS
by Souza

Pyro Spectaculars North, Inc.
5301 Lang Avenue
McClellan Park, CA 95652
Tel: 909-355-8120 ::: Fax: 909-355-9813

Sausalito Parks and Recreation Department
PRODUCTION AGREEMENT July 4, 2008
Page 1 of 3

This agreement ("Agreement") is made this _____ day of _____, 2008 by and between Pyro Spectaculars North, Inc., a California corporation, hereinafter referred to as ("PYRO"), and Sausalito Parks and Recreation Department, hereinafter referred to as ("CLIENT"). PYRO and CLIENT are sometimes referred to as "Party" or collectively as "Parties" herein.

1. **Engagement** - CLIENT hereby engages PYRO to provide to CLIENT one fireworks production ("Production"), and PYRO accepts such engagement upon all of the promises, terms and conditions hereinafter set forth. The Production shall be substantially as outlined in Program "A", attached hereto and incorporated herein by this reference.

1.1 **PYRO Duties** - PYRO, at its own expense, shall provide all pyrotechnic equipment, trained pyrotechnicians, shipping, pyrotechnic products, application for specific pyrotechnic permits relating to the Production, insurance covering the Production and the other things on its part to be performed as more specifically set forth below in this Agreement and in the Scope of Work ("Scope of Work"), attached hereto, incorporated herein by this reference, and made a part of this Agreement as though set forth fully herein.

1.2 **CLIENT Duties** - CLIENT, at its own expense, shall provide to PYRO the Site (as hereinafter defined), security for the Site as set forth in Paragraph 6 hereof, access to the Site, any permission necessary to utilize the Site for the Production, and the other things on its part to be performed as more specifically set forth below in this Agreement and in the Scope of Work. All Site arrangements are subject to PYRO's reasonable approval as to pyrotechnic suitability, security, and safety. All other conditions of the Site shall be the responsibility of CLIENT, including, but not limited to, access, use, control, parking and safety with respect to the public, CLIENT personnel and other contractors.

2. **Time and Place** - The Production shall take place on July 4, 2008, at approximately 9:30pm, at Bay off Spinnaker Point ("Site").

3. **Fees, Interest, and Expenses** -

3.1 **Fee** - CLIENT agrees to pay PYRO a fee of \$17,975.00 USD (SEVENTEEN THOUSAND NINE HUNDRED SEVENTY FIVE) ("Fee") for the Production. CLIENT shall pay to PYRO \$8,987.50 USD (EIGHT THOUSAND NINE HUNDRED EIGHTY SEVEN AND FIFTY CENTS) of the Fee plus estimated permit and standby fees, specified production costs, and other regulatory costs approximated at \$00.00, for a total of \$8,987.50, as a deposit ("Deposit") upon the execution of this Agreement by both parties but no later than May 15, 2008. The balance of the Fee shall be paid no later than July 7, 2008.

3.2 **Interest** - In the event that the Fee is not paid in a timely manner, CLIENT will be responsible for the payment of 1.5% interest per month or 18% annually on the unpaid balance. If litigation arises out of this Agreement, the prevailing party shall be entitled to reasonable costs incurred in connection with the litigation, including, but not limited to attorneys' fees.

3.3 **Expenses** - PYRO shall pay all normal expenses directly related to the Production including freight, insurance as outlined, pyrotechnic products, pyrotechnic equipment, experienced pyrotechnic personnel to set up and discharge the pyrotechnics and those additional items as outlined as PYRO's responsibility in the Scope of Work. CLIENT shall pay all costs related to the Production not supplied by PYRO including, but not limited to, those items outlined as CLIENT's responsibility in this Agreement and Scope of Work.

4. **Proprietary Rights** - PYRO represents and warrants that it owns all copyrights, including performance rights, to this Production, except that PYRO does not own CLIENT-owned material or third-party-owned material that has been included in the Production, and as to such CLIENT-owned and third-party-owned material, CLIENT assumes full responsibility therefore. CLIENT agrees that PYRO shall retain ownership of, and all copyrights and other rights to, the Production, except that PYRO shall not acquire or retain any ownership or other rights in or to CLIENT-owned material and third-party-owned material and shall not be responsible in any way for such material. If applicable, CLIENT consents to the use of CLIENT-owned material and represents that it has or will obtain any permission from appropriate third parties sufficient to authorize public exhibition of any such material in connection with this Production. PYRO reserves the ownership rights in its trade names that are used in or are a product of the Production. Any reproduction by sound, video or other duplication or recording process without the express written permission of PYRO is prohibited.

5. **Safety** - PYRO and CLIENT shall each comply with applicable federal, state and local laws and regulations and employ safety programs and measures consistent with recognized applicable industry standards and practices. At all times before and during the Production, it shall be within PYRO's sole discretion to determine whether or not the Production may be safely discharged or continued. It shall not constitute a breach of this Agreement by PYRO for fireworks to fail or malfunction, or for PYRO to determine that the Production cannot be discharged or continued as a result of any conditions or circumstances affecting safety beyond the reasonable control of PYRO.

6. **Security** - CLIENT shall provide adequate security personnel, barricades, and Police Department services as may be necessary to preclude individuals other than those authorized by PYRO from entering an area to be designated by PYRO as the area for the set-up and discharge of the Production, including a fallout area satisfactory to PYRO where the pyrotechnics may safely rise and any debris may safely fall. PYRO shall have no responsibility for monitoring or controlling CLIENT's other contractors, providers or volunteers; the public; areas to which the public or contractors have access; or any other public or contractor facilities associated with the Production.

7. **Cleanup** - PYRO shall be responsible for the removal of all equipment provided by PYRO and clean up of any live pyrotechnic debris made necessary by PYRO. CLIENT shall be responsible for any other clean up which may be required of the Production or set-up, discharge and fallout areas including any environmental clean-up.

Pyro Spectaculars North, Inc.
5301 Lang Avenue
McClellan Park, CA 95652
Tel: 909-355-8120 :: Fax: 909-355-9813

Sausalito Parks and Recreation Department

July 4, 2008

Page 2 of 3

8. **Permits** - PYRO agrees to apply for permits required for the discharge of pyrotechnics from the Southern Marin Fire Protection District (or other authority having jurisdiction), FAA, USCG, and the State of California, as required. CLIENT shall be responsible for any fees associated with these permits including standby fees. CLIENT shall be responsible for obtaining any other necessary permits, paying associated fees, and making other appropriate arrangements for Police Departments, other Fire Departments, road closures, event/activity or land use permits or any permission or permit required by any Local, Regional, State or Federal Government.

9. **Insurance** - PYRO shall at all times during the performance of services herein ensure that the following insurance is maintained in connection with the Production: (1) commercial general liability insurance, including products, completed operations, and contractual liability under this Agreement; (2) automobile liability insurance, (3) worker's compensation insurance and employer liability insurance. Such insurance is to protect CLIENT from claims for bodily injury, including death, personal injury, and from claims of property damage, which may arise from PYRO's performance of this Agreement. The types and amounts of coverage shall be as set forth in the Scope of Work.

The coverage of these policies shall be subject to reasonable inspection by CLIENT. Certificates of Insurance evidencing the required general liability coverage shall be furnished to CLIENT prior to the rendering of services hereunder and shall include the following: (1) that it may not be canceled or modified without the insurance carrier providing at least thirty (30) days prior written notice to CLIENT; and (2) that the following are named as additionally insured: CLIENT; Sponsors, Landowners, Barge Owners, if any; and Permitting Authorities, with respect to the operations of PYRO at the Production. Pyrotechnic subcontractors or providers, if any, not covered under policies of insurance required hereby, shall secure, maintain and provide their own insurance coverage with respect to their respective operations and services. Evidence of other insurance shall be provided upon CLIENT's written request to PYRO.

10. **Indemnification** - PYRO represents and warrants that it is capable of furnishing the necessary experience, personnel, equipment, materials, providers, and expertise to produce the Production in a safe and professional manner. Notwithstanding anything in this Agreement to the contrary, PYRO shall indemnify, hold harmless, and defend CLIENT and the additional insureds from and against any and all claims, actions, damages, liabilities and expenses, including but not limited to, attorney and other professional fees and court costs, in connection with the loss of life, personal injury, and/or damage to property, arising from or out of the Production and the presentation thereof to the extent such are occasioned by any act or omission of PYRO, their officers, agents, contractors, providers, or employees. CLIENT shall indemnify, hold harmless, and defend PYRO from and against any and all claims, actions, damages, liability and expenses, including but not limited to, attorney and other professional fees and court costs in connection with the loss of life, personal injury, and/or damage to property, arising from or out of the Production and the presentation thereof to the extent such are occasioned by any act or omission of CLIENT, its officers, agents, contractors, providers, or employees. In no event shall either party be liable for the consequential damages of the other party.

11. **Force Majeure** - CLIENT agrees to assume the risks of weather, strike, civil unrest, terrorism, military action, governmental action, and any other causes beyond the control of PYRO which may prevent the Production from being safely discharged on the scheduled date, which may cause the cancellation of any event for which CLIENT has purchased the Production, or which may affect or damage such portion of the exhibits as must be placed and exposed a necessary time before the Production. If, for any such reason, PYRO is not reasonably able to safely discharge the Production on the scheduled date, or at the scheduled time, or should any event for which CLIENT has purchased the Production be canceled as a result of such causes, CLIENT may (i) cancel the Production and pay PYRO such sums as provided in Section 12, based upon when the Production is canceled, or (ii) reschedule the Production and pay PYRO such sums as provided in Section 13.

12. **Right To Cancel** - CLIENT shall have the option to unilaterally cancel the Production prior to the scheduled date. If CLIENT exercises this option, CLIENT agrees to pay to PYRO, as liquidated damages, the following percentages of the Fee as set forth in Section 3.1. 1) 50% if cancellation occurs 30 to 90 days prior to the scheduled date, 2) 75% if cancellation occurs 15 to 29 days prior to the scheduled date, 3) 100% thereafter.

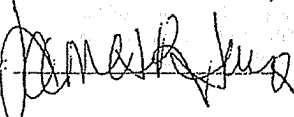
13. **Rescheduling Of Event**: If CLIENT elects to reschedule the Production, PYRO shall be paid the original Fee plus all additional expenses made necessary by rescheduling plus a 15% service fee on such additional expenses. Said expenses will be invoiced separately and payment will be due in full within 5 days of receipt. CLIENT and PYRO shall agree upon the rescheduled date taking into consideration availability of permits, materials, equipment, transportation and labor. A Production shall not be rescheduled between June 15th and July 15th unless the original date was July 4th of that same year, or between December 15th and January 15th unless the original date was December 31st of the earlier year unless PYRO agrees that such rescheduling will not adversely affect normal business operations during those periods.

14. **Applicable Law** - This Agreement and the rights and obligations of the Parties hereunder shall be construed in accordance with the laws of California. In the event that the scope of the Production is reduced by authorities having jurisdiction or by either Party for safety concerns, the full dollar amounts outlined in this Agreement are enforceable.

EXECUTED as of the date first written above:

PYRO SPECTACULARS NORTH, INC.

Sausalito Parks and Recreation Department

By: 

By: _____

Its: President

Its: _____

Print Name

SHOW PRODUCER: Jeff Thomas

Pyro Spectaculars North, Inc.
 5301 Lang Avenue
 McClellan Park, CA 95652
 Tel: 909-355-8120 :::: Fax: 909-355-9813

Sausalito Parks and Recreation Department

July 4, 2008

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PYRO SPECTACULARS NORTH, INC. ("PYRO")
 and
Sausalito Parks and Recreation Department ("CLIENT")

SCOPE OF WORK

PYRO shall provide the following goods and services to CLIENT:

- One Pyrotechnic Production on July 4, 2008, at approximately 9:30pm, at Barge off Spinnaker Point.
- All pyrotechnic equipment, trained pyrotechnicians, shipping, and pyrotechnic products.
- Application for specific pyrotechnic permits relating to the Production.
- Insurance covering the Production as set forth in the Agreement with the following limits:

<u>Insurance Requirements</u>	<u>Limits</u>	
<u>Commercial General Liability</u>	\$1,000,000.00	Combined Single Limit- Each Occurrence (Bodily Injury & Property Damage)
<u>Business Auto Liability- Owned, Non-Owned and Hired Autos</u>	\$5,000,000.00	Combined Single Limit- Each Occurrence (Bodily Injury & Property Damage)
<u>Workers' Compensation</u>	Statutory	
<u>Employer Liability</u>	\$1,000,000	Per Occurrence

CLIENT shall provide to PYRO the following goods and services:

- All on-site labor costs, if any, not provided or performed by PYRO personnel including, but not limited to, local union requirements, all site security, Police and Fire Dept. standby personnel, stagehands, electricians, audio and fire control monitors, carpenters, plumbers, clean-up crew. All these additional personnel and services shall be fully insured and the sole responsibility of CLIENT.
- Coordination and any applicable non-pyrotechnic permitting with the local, state or federal government that may hold authority within the Production.
- Costs of all permits required for the presentation of the Production and the event as a whole.
- Provision of a Safety Zone in accordance with applicable standards and all requirements of the authorities having jurisdiction throughout the entire time that the pyrotechnics are at the show site or the load site (if different) on the date of the show and all set-up and load-out dates, including water security if applicable, to keep unauthorized people, boats, etc. from entering the Safety Zone.
- Marine services including but not limited to tugs and barges with tie-downs and anchors which shall be clean and free of debris for PYRO crew workplace, anchor and safety buoy securement and placement, as well as berthing and mating crews. General services required: forklifts, cranes, and other heavy equipment, planks, metal ramps, welders, sand, electrical power, fire suppression equipment, dumpsters, port-a-john, etc.
- 24-hour on-site security for any time that pyrotechnic worksites are unattended by PYRO personnel.
- General Services including, but not limited to, site and audience security, fencing, secure parking for PYRO vehicles, access to washrooms, fire suppression equipment, access to worksites, necessary credentialing, etc., will be required as necessary.

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