

RULES FOR PARTICIPATING IN THE TENDER FOR THE 39TH “TROFEU VILA DE BLANES” COSTA BRAVA INTERNATIONAL FIREWORKS COMPETITION 2009

Rule 1.- Subject matter

The subject matter of these Rules is the determination of the requirements to be met by the pyrotechnics firms who bid for the performance of the fireworks displays to be presented at the 39th “Trofeu Vila de Blanes” Costa Brava International Fireworks Competition. Each firm will have one date between 22 and 27 July 2009.

Rule 2.- Amount of the Contract

The Town Council will pay a maximum amount of 21,000 euros, including VAT, per display.

Rule 3.- Prizes

The winners of the Competition will receive the following cash prizes:

- First prize €9,000 (VAT not included) + trophy
- Second prize €6,000 (VAT not included)

These amounts will be subject to the pertinent tax withholdings and the winner will be invited to participate in the 2010 Competition.

The Technical Committee of the Evaluating Jury reserves the right not to award one or more of the two prizes.

Rule 4.- Bidding

The tender is open to all individuals or corporate persons who are in full possession of their legal and contractual capacities and do not incur any of the causes of incapacity or incompatibility laid down in the current legislation for contracting with Public Administrations. The firms participating in the tender may do so by themselves or represented by persons who are duly empowered for this procedure.

Rule 5.- Submission of proposals and period

The bidding firms shall submit their proposals in the following terms:

1. The pyrotechnic firms have to present acceptance of the amount of the contract, including taxes as established in Rule 2. They also have to present a breakdown of the aesthetic characteristics, proposed improvements and other elements to be considered in the adjudication, as set out in Rule 6 relating to the proposed display.
2. Original or authentic copy of the bidder's National Identity Document and Tax Code Certificate. If the bidder is a corporate person, they must also submit the documents certifying the firm's legal representative and a notarial deed or public document accrediting the firm's representative who has signed the proposal, validated by the clerk of the corporation or a legal officer. (When validation of the deed of powers by the Clerk of Blanes Town Council is required, this must be requested with a minimum of two days notice from the date of delivery.)
3. Bidder's declaration, declaring that under their own responsibility:
 - a) They are not incurring any of the prohibitions laid down in Article 49 of Law 30/2007, 30 October, Public Sector Contracts.
 - b) They are being up to date in its compliance with tax and Social Security obligations. Before the formalisation of the contracts, the awardees must submit certifications of these points issued by the respective administrations.
 - c) All of the employees in charge of the assembly, manipulation and launching of pyrotechnic devices are registered with Social Security on the performance date.
4. Certifications of the bidder's economic-financial and technical solvency, issued respectively by the financial institutions with which it operates and by the firm itself, regarding the resources it possesses and the works carried out in the last three years.
5. All of the documentation on fireworks displays required by the Acts of 20 October 1988, published in the Official Gazette of the Spanish State no. 260 of 29 October 1988, and 2 March 1989, regulating the handling and use of pyrotechnic devices in the performance of public fireworks displays. A sworn declaration following the model attached as Appendix 1 to these Rules must also be enclosed.
6. Certification of the existence of a public liability insurance policy covering at least 1,000,000.00 euros for risks which may arise out of the fireworks display, and free of excess clauses. In the case of pyrotechnic firms resident outside the Spanish State, this policy must have international coverage and comply with the current Spanish regulations.

7. For those firms resident outside the Spanish State, a document certifying that the fireworks display performed in Blanes will be launched under the supervision of a Spanish firm, in accordance with Appendix 2 and the requirements of the Spanish State.
8. A memorandum of the technical and artistic features of the pyrotechnic devices which the bidder intends to present in this competition, setting out the various stages of the launches, with their effects and all of the details that contribute to a fuller appreciation of the proposal.

This project may not be modified in any way if the Technical Committee has not been notified of this before 6 May 2009.

9. The pyrotechnic firm will complete the Civil Protection form, according to appendix 3, stating:
 - a) Net weight of all the explosives that will perform the firework display.
 - b) Types of devices to be launched. It must be specified when devices such as change, time or repetition shells are to be used, independently of their brand, including their calibre.
 - c) Exterior diameter of any other devices of 150 mm. calibre or greater.
 - d) Identification of both the pyrotechnic personnel who will take part in the display and the designated person responsible for the display, together with a permanent contact telephone number.
 - e) Insurance policy, stating the amount insured and the current receipt of payment. The amounts must be expressed in euros, the official currency.
 - f) Time of the display in seconds.
 - g) Date, homologation and cataloguing number and manufacturer of each of the firework devices to be launched.
 - h) Identification of the main launching system that the participating pyrotechnic firm will use and an alternative system in case of failure of the main system.
 - i) And all of the certifications required in the Municipal Bye-Laws for Fire Events, plus all necessary certifications according to the regulations of the Government of Catalonia or the Spanish State.

This documentation must be submitted in the form of original documents or authentic copies in accordance with the current legislation, and must be delivered to the AMIC office (Entry Register) located at Passeig de Dintre 29, opening hours from Monday

to Friday from 8.30 a.m. to 3.00 p.m. and on Saturdays from 9.30 a.m. to 1.30 p.m., before 17 April 2009.

Rule 6.- Adjudication criteria

The following criteria are established as the basis for awarding the respective contracts, in decreasing order and by the corresponding weighting:

- 1) Characteristics of the display as designed60%
- 2) Technical innovations and other original aspects in the performance of the display30%
- 3) Prizes obtained in the last 5 years10%

Rule 7.- Communication of selection to the participating firms

The Technical Committee will propose to the Local Government Board the pyrotechnic firms which are to participate in the competition. The result of their decision will be communicated to all the bidders before 8 May 2009. Among the pyrotechnic firms selected there will be the winner of the “Trofeu Vila de Blanes” Costa Brava International Fireworks Competition 2009.

The Technical Committee is made up of persons of recognised competence in this field, designated by the Local Government Board at the proposal of the Councillor for Fairs and Festivities.

Rule 8.- Provisional and final adjudications

The provisional adjudication will be agreed by the contracting authority and they will notify the bidders and will publish it in an official newspaper or in the contractor profile of the contracting authority.

A final adjudication may not be determined earlier than fifteen working days from the date after the publication in an official newspaper or in the contractor profile of the contracting authority.

During this period, the provisional awarded pyrotechnic firms will have to submit documents evidencing compliance with tax obligations and Social Security contributions and having deposited with the Municipal Treasury a guarantee deposit for the amount mentioned in the next rule.

Rule 9.- Guarantee deposit

Once the provisional adjudication has been published, the awarded pyrotechnic firms must submit within fifteen working days a final deposit of 5 percent of the amount adjudicated, not including VAT. The guarantee deposit may be provided in any of the ways established in Art. LCSP 84, with the requirements of Art. 55 et seq. of RGLCAP

The return and cancellation of deposits shall be made in accordance with LCSP in Article 90 and 65.2 and 3 of RGLCAP.

Rule 10.- Formalisation of the Contract

The contract shall be formalised in an administrative document, and in all cases it shall be formalised before the display.

Rule 11.- Conditions of execution.

11.1.- General conditions

- a. Each participant will be liable for any personal injury and material damage which may be caused by its fireworks display.
- b. The expenses of insurance of the material and accommodation in Blanes for the pyrotechnician and the personnel under his/her orders will be exclusively at the expense of each participant.
 - b.1.- The Council will provide each pyrotechnic firm taking part in the competition with two triple bedrooms. If the firms wish to take on such accommodation, it will have to be requested, on paper, when presenting the rest of the documents. The Council will pay for this expense.
- c. All customs duties and import expenses, if applicable, will be at the expense of each participant firm.
- d. Foreign participants must certify the availability in Spain of the material of their displays with two days notice of their performance in the competition. These participants must also send to the Mines Board at Paseo de la Castellana 160, Madrid, the document certifying that the fireworks display to be performed in Blanes will be launched under the supervision of a Spanish firm.
- e. Blanes Town Council will inform any competitors, who request it, about possibilities of accommodation. In this case, they must request it in writing at least 20 days before their arrival.

f. If the distance between the head office of a participating pyrotechnics firm and Blanes is greater than seven hundred kilometres, Blanes Town Council will pay the firm the amount of €1,200.-, including VAT, in order to contribute to its travel expenses.

g. Blanes Town Council will supply pictures of the location of the fireworks display launch site.

h. Blanes Town Council, in accordance with the current regulations, will mark out and guard the safety zones defined in the emergency and security plan.

i. The Organisation will place at the disposal of the participating pyrotechnics firms a mechanical dumper in the assembly enclosure in order to facilitate the handling of the pyrotechnic material.

It will also provide a lavatory in the launching zone and non-alcoholic drinks for the pyrotechnic staff.

11.2.- Specific conditions

In order to carry out the corresponding assembly, the pyrotechnic material must be in Blanes before 10 p.m. on the day prior to the launch in order to guarantee the organisation of the assembly and launch of the fireworks display on the allocated day.

In the event of the launch planned for a specific night having to be postponed due to causes of *force majeure*, the pyrotechnician(s) will previously accept any delay which may be established.

The pyrotechnic firms which have their displays on the 22nd, 23rd, 24th, 25th and 27th of July will prepare a luminous pyrotechnic sign with the inscription "Blanes 2009" with at least the following measurements: 6 metres long by 1.5 metres high. This must be lit up before the start or before the end of the fireworks display.

The pyrotechnic firm which has its display on the 26th of July will prepare a luminous pyrotechnic sign with the inscription "Glòria Santa Anna", with the same sizes.

The displays will be both in the air and in the water. They must emphasize the natural setting around the rock known as "Sa Palomera".

The water fireworks must be launched in two directions, to the east and west of the rock.

The simple firing of flares to the sea will not be considered water fireworks.

The display will last between a minimum of 20 minutes and a maximum of 25 minutes, and the fireworks must be launched uninterruptedly with absolute continuity between the luminous effect of one launch and the one immediately following.

The duration of the display will be timed by a person designated by the Technical Committee.

The calculation of the launch time starts with the luminous effect of the third warning rocket and ends with the luminous effect of the third closing rocket.

The control of the timing of the launches will be carried out by a designated member of the technical committee.

11.3. Security

11.3.1 Setting up of the display

a) The mortars or cannons will be installed in the planned launching zone in such a manner that the fireworks are projected either vertically or in a direction away from the spectators. Under no circumstances may any mortar or cannon be installed if they do not comply with the current sectoral legislation of fireworks.

It is totally forbidden to install mortars or cannons at an angle directed towards the spectators.

b) The fixing of the launching devices must prevent any variation from the vertical or, if applicable, the predetermined launch angle.

c) Each day the Head of Civil Protection (or the municipal technician designated for the purpose) will make an inspection in the launching zone to verify the firing direction and the fixing of the launching devices. In all cases, this person may request modifications to ensure the safety of the spectators.

d) Each day the Head of Civil Protection (or the municipal technician designated for the purpose) will provide the representative of the pyrotechnics firm with a plan setting out the safety measures: launching zone, security zone, public zone, command/coordination zone, maritime security zone. The representative of the pyrotechnics firm will verify these safety measures and approve them by signing a copy of this document.

e) For reasons of weather or the characteristics of the display, the firm's representative may modify the distances of the public zones and/or the maritime security zones, these modifications being recorded and signed by both the firm and the municipal technician.

11.3.2 Transportation and storage of the pyrotechnic material.

a. The moment the vehicle with the pyrotechnic material arrives in Blanes, it will be kept in the assigned designated place. This place will have to be permanently watched and guarded by local authority run security personnel as long as explosive material remains.

- b. Moving from the storage area to the launch area will be done with a local Police escort.
- c. Once the unloading has taken place in the launch area, lorries will leave this place and park in any normal parking place in the town. Lorries will be treated as conventional vehicles (if there is no pyrotechnic material inside).
- d. Blanes Town Council will keep the launch area permanently watched by contracted security personnel.

In case of an accident it is completely forbidden to move or alter the position of any item from the pyrotechnic display until the Head of Civil Protection or any other authorized person indicates it.

Rule 12. Period of execution

The fireworks displays will be held between 22 and 27 July 2009.
The date of the launch for the various pyrotechnics firms will be communicated to them before 29 June of the same year.

Rule 13.- Determination of the Festival winner and prize

The Technical Committee will oversee the technical quality of the launches, special effects and other characteristics. It will also evaluate and ensure that the contents of the descriptive memorandum of the fireworks display required by Rule 5 coincide with the material launched during the fireworks display. Each member of the Committee may grant from 0 to 50 votes per pyrotechnic firm and day.

Also, a Popular Jury will evaluate colour, rhythm and difficulty, originality, the use of fireworks over water, the use of the setting and the general artistic effect of the display. Each member of the Popular Jury may grant from 0 to 50 votes per pyrotechnic firm and day.

The Popular Jury will be made up by the Local Government Committee, and will be made up of those people proposed by the Technical Committee and by members of Local political groups.

The final score of the competing firms will be obtained from the result of applying the following formula.

FS	= Final Score
NMPJ	= Number of Members of Popular Jury
TCV	= Technical Committee Vote
NMTC	= Number of Members of Technical Committee
PJV	= Popular Jury Vote

$$FS = \left(\frac{PJV}{NMPJ} + \frac{TCV}{NMTC} \right) \times 100$$

In case of a tie, the vote of the Technical Committee will prevail.

The Evaluating Jury of the displays performed by the awarded firms will issue its verdict of the final classification of the 39th "Trofeu Vila de Blanes" Costa Brava International Fireworks Competition from 8.00 p.m. on 30 July 2009. The jury's verdict will be final.

Rule 14.- Form of payment

1. Payment of displays: The participating firms will submit invoices to the Municipal Invoice Register of the Blanes Town Council, and payment will be made 60 days after the date of registration following technical certification.
2. Payment of prizes: Payment of prizes will be made 60 days after the Local Government Board officially proclaims the top two firms of the competition.

Rule 15.- Performance of the contract

If the contractor fails to perform the obligations arising out of the contract in full or in part, Blanes Town Council will be entitled to demand the fulfilment or declare the contract terminated, with payment for damages and the consequences determined in the current legislation, without prejudice of applying the penalty rule in the following rule.

Rule 16.- Penalty Rule

In accordance with the nature of the contracts of the subject matter of these rules, and with the aim of ensuring their correct execution, the following penalty rules are established:

1) When the duration of the fireworks display is less than the 20 minimum minutes determined in the aforementioned rules, a proportional reduction of the price of the contract (price of the launching, VAT included) will be applied, by way of penalties, in accordance with the following criteria:

- 1 minute, or fraction thereof, of launch time reduction3% discount on the price of the contract.
- 2 minutes, or fractions thereof, of launch time reduction6% discount on the price of the contract.
- 3 minutes, or fractions thereof, of launch time reduction9% discount on the price of the contract.
- 4 minutes, or fractions thereof, of launch time reduction15% discount on the price of the contract.
- 5 minutes, or fractions thereof, of launch time reduction25% discount on the price of the contract.

2) In the case of the pyrotechnic display not lasting over 15 minutes, the contract will be understood as incomplete by a lack of service on behalf of the contractor, and Blanes Town Council will be authorized to resolve it. In such case the contractor will not receive any amount of money for their display, and they will have to compensate for possible damages and prejudices caused by their breach of contract.

3) In the case of a defective pyrotechnic display a proportional reduction of the price of the contract will be applied, by way of penalties, at the discretion of the Technical Committee

A defective pyrotechnic display is one with no water fireworks, one with no luminous pyrotechnic sign as established in Rule 11.2, and in general, one which does not fulfil the complete execution of the display as proposed by the contracted pyrotechnic firm.

The Technical Committee will suggest the imposition of the relevant penalties to the Local Government Committee.

Rule 17.- Nature of the contract, interpretation and jurisdiction

1. The contract formalised with the awarded firms will be of a private nature, under the terms of Article 20 of Law 30/2007, Public Sector Contracts.

The drafting and awarding of the contract will be governed by the rules of administrative law and its effects and termination by the rules of private law.

2. The interpretation of the contract and settlement of any doubts raised by its performance will be determined by Blanes Town Council.

3. Any disputes arising between the contracting parties will be settled under civil law. However, any acts of law decreed in relation with the drafting and awarding of the contract will be considered separable acts, and consequently may be challenged under contentious-administrative law in accordance with the governing regulations of this jurisdiction.

Rule 18.- Applicable regulations

In all matters not provided for in these Rules, the applicable regulations will be the specific provisions of the Order of the Ministry of Parliamentary Relations and the Government Secretariat of 20/10/1988 (Official Gazette of the Spanish State no. 260 of 29/10/1988) regulating the handling and use of pyrotechnic products in the performance of public firework displays, modified by the Order of 02/03/1989 (Official Gazette of the Spanish State no. 53 of 03/03/1989) completing and perfecting the previous regulations, and Royal Decree no. 230/1998 of 16 February passing the regulations on explosives, and in a general nature in the Reformed Text of the Public Administrations Contracting Act passed by Royal Legislative Decree no. 2/2000 of 16 June and Royal Decree no. 1098/2001 of 12 October passing the General Regulations of the Public Administrations Contracting Act; Act no. 7/85 of 2 April regulating the Rules of Local Government, modified by Act no. 57/2003 of 16 December on Measures for the Modernisation of Local Government; Legislative Decree no. 2/2003 of 28 April passing the Reformed Text of the Local and Municipal Government Act of Catalonia, and Royal Legislative Decree no. 781/186 of 18 April passing the Reformed Text of current legal provisions concerning local government; and the other regulations of Administrative Law and pertinent provisions of Private Law.

APPENDIX 1

Sworn declaration of strict compliance with the provisions of the Order of the Ministry of Parliamentary Relations and the Government Secretariat of 20 October 1988 (Official Gazette of the Spanish State no. 260) and the requirements of the Order of 2 March 1989 completing and perfecting the governing regulations.

Mr/Ms. _____, with National Identity Document no. _____ and in his/her capacity as _____ of the pyrotechnics firm _____, with registered address at _____ and Tax Code _____,

declares under oath his/her strict compliance with the provisions of the Order of the Ministry of Parliamentary Relations and the Government Secretariat of 20 October 1988 (Official Gazette of the Spanish State no. 260) and the requirements of the Order of 2 March 1989 completing and perfecting the governing regulations.

In witness whereof, he/she signs the present document in _____ on _____ 2009.

Signature of the interested party and stamp

APPENDIX 2

Sworn declaration of strict compliance with the obligation of the fireworks display being launched under the supervision of a Spanish firm.

Mr/Ms. _____, with National Identity Document no. _____ and in his/her capacity as _____ of the pyrotechnics firm _____ with registered address at _____ of the State of _____ and Tax Code _____,

declares under oath his/her strict compliance with the obligation that its fireworks display, along with any tests and trials of pyrotechnic devices imported into the Spanish State, will be launched in the fireworks competition organised by the Blanes Town Council in the month of July under the supervision of the Spanish pyrotechnics firm _____, with registered address at _____ and Tax Code _____,

In witness whereof, he/she signs the present document in _____ on _____ 2009.

Signature and stamp



AJUNTAMENT DE BLANES
Protecció Civil

APPENDIX 3

Net weight of all the explosives that will perform the firework display. ☐

Types of devices to be launched. It must be specified when devices such as change, time or repetition shells are to be used, independently of their brand, including their calibre. ☐

Exterior diameter of any other devices of 150 mm. calibre or greater. ☐

Identification of both the pyrotechnic personnel who will take part in the display and the designated person responsible for the display, together with **a permanent contact telephone number**. (*) ☐

Insurance policy, stating the amount insured and the current receipt of payment. The amounts must be expressed in euros, the official currency. ☐

Time of the display in seconds. ☐

Date, homologation and cataloguing number and manufacturer of each of the firework devices to be launched. ☐

Identification of the main launching system that the participating pyrotechnic firm will use and an alternative system in case of failure of the main system. ☐

(*)Accuracy of given data, as well as compliance with the necessary requirements of the rules within the pyrotechnical profession will be the exclusive responsibility of the pyrotechnic company.