



REPORT TO CITY COUNCIL

DATE: OCTOBER 14, 2015
TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL
FROM: GREG RAMIREZ, CITY MANAGER 
BY: LOUIS CELAYA, DEPUTY CITY MANAGER 
SUBJECT: APPROVAL AWARD OF CONTRACTOR SERVICES AGREEMENT WITH STEVE JOHNSON PAINTING FOR EXTERIOR PAINTING SERVICES (CITY HALL/LIBRARY)

Over the years, exterior painting is completed to keep the Civic Center in a pristine state, avoid long-term damage to the various materials (wood structures, wood siding, railings, etc), and the keep the facilities maintained on systematic schedule. Past practices have included painting of exterior surfaces in sections to minimize the cost. In 2014, the rotunda and front portions of City Hall and the Library were painted. During the spring of 2015, railings along the rear portion of City Hall and on the south side of the library were refurbished and repainted. Now, the west and north side of City Hall and the Library are in need of re-painting, as they are demonstrating wear from the weather. The project will consist of:

- Prepping/Priming of Riggers, Fascia, and Wood Siding
- Painting of Riggers, Fascia, and Wood Siding

During the 2015-16 Budget process, the Public Facilities fund was allocated funding for the exterior painting of City Hall and the Library along with other facility improvements. In July, City staff prepared a Request for Qualifications (RFQ) to solicit potential painting contractors with experience in exterior painting of commercial/government facilities, including requiring a mandatory job site visit with staff. The City received interest from twelve companies, and, ultimately, received seven bids ranging in cost from \$19,000 to \$117,000. City staff narrowed down the bids to the top three companies based on experience, proposed cost, and the budgeted amount allocated for the project:

Company Name	Cost
Steve Johnson Painting	\$40,300.00
Leo's A-C Inc.	\$24,300.00
AJ Fistes Corp	\$19,560.00

City staff performed reference checks of all three companies to verify work experience, work quality, timely completion of projects, and types of exterior painting services performed. At the conclusion of the reference check process, it was decided that Steve Johnson Painting would perform the best quality work to meet the City needs. Steve Johnson Painting is based locally, and has a wealth of experience providing commercial

painting services, including the sole proprietor of maintenance of the Dole Food Co., in Westlake Village. The Public Facilities fund currently has funding to complete the exterior painting project.

This report seeks City Council approval of the contractor services agreement with Steve Johnson Painting to provide exterior painting services on the west and north side of City Hall and the Library. Should the City Council approve the agreement, exterior painting would commence in a few weeks and take approximately 45 days to complete.

The proposed agreement has been reviewed by the City Attorney and approved as to form.

RECOMMENDATION

Staff respectfully recommends the City Council approve the contractor services agreement with Steve Johnson Painting for exterior painting services for City Hall/Library.

Attachment: Agreement for Contractor Services – Steve Johnson Painting

**AGREEMENT FOR CONTRACTOR SERVICES
WITH THE CITY OF AGOURA HILLS**

NAME OF CONTRACTOR:	Steve Johnson Painting
RESPONSIBLE PRINCIPAL OF CONTRACTOR:	Attn: Steve Johnson
CONTRACTOR'S ADDRESS:	2219 Thousand Oaks Blvd. Suite # 155 Thousand Oaks, CA 91362
CITY'S ADDRESS:	City of Agoura Hills 30001 Ladyface Court Agoura Hills, CA 91301 Attn: City Manager
PREPARED BY:	Louis Celaya
COMMENCEMENT DATE:	October 14, 2015
TERMINATION DATE:	June 30, 2016
CONSIDERATION:	Contract Price Not to Exceed: \$40,300.00

**AGREEMENT FOR CONTRACTOR SERVICES BETWEEN
THE CITY OF AGOURA HILLS AND STEVE JOHNSON
PAINTING**

THIS AGREEMENT is made and effective as of October 14, 2015, between the City of Agoura Hills, a municipal corporation ("City") and Steve Johnson Painting ("Contractor"). In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

1. TERM

This Agreement shall commence on October 14, 2015, and shall remain and continue in effect until tasks described herein are completed, but in no event later than June 30, 2016, unless sooner terminated pursuant to the provisions of this Agreement.

2. SERVICES

Contractor shall perform the services and tasks described and set forth in Exhibit A, attached hereto and incorporated herein as though set forth in full. Contractor shall complete the tasks according to the schedule of performance which is also set forth in Exhibit A.

3. PERFORMANCE

In meeting its obligations under this Agreement, Contractor shall at all times faithfully and competently perform all tasks described herein in a manner satisfactory to CITY and consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing in the same locality under similar conditions.

4. PREVAILING WAGES

A. Prevailing wages are required on all CITY agreements involving construction, design, and preconstruction phases of construction (including, but not limited to, inspection and land surveying work), and maintenance (except for janitorial or security guards) for work on CITY property.

B. Pursuant to the provisions of Section 1773 of the Labor Code of the State of California, the City Council has obtained the general prevailing rate of per diem wages and the general rate for holiday and overtime work in this locality for each craft, classification, or type of workman needed to execute by this Contractor from the Director of the Department of Industrial Relations. Copies may be obtained from the California Department of Industrial Relations Internet website at <http://www.dir.ca.gov>. Contractor shall provide a copy of prevailing wage rates to any staff or sub-contractor hired, and shall pay the adopted prevailing wage rates as a minimum. Contractor shall comply with the provisions of Sections 1773.8, 1775, 1776, 1777.5, 1777.6, and 1813 of the Labor Code. Pursuant to the provisions of 1775 of the Labor Code, Contractor shall forfeit to the City, as a penalty, the sum of \$50.00 for each calendar day, or portion

thereof, for each laborer, worker, or mechanic employed, paid less than the stipulated prevailing rates for any work done under this contract, by him or by any sub-contractor under him, in violation of the provisions of the Agreement..

5. PAYMENT

A. The City agrees to pay Contractor monthly, in accordance with the payment rates and terms and the schedule of payment as set forth in Exhibit B, Payment Rates and Schedule, attached hereto and incorporated herein by this reference as though set forth in full, based upon actual time spent on the above tasks. Any terms in Exhibit B other than the payment rates and schedule of payment are null and void. This amount shall not exceed Forty Thousand Three Hundred Dollars and Zero Cents (\$40,300.00) ("Contract Price") for the initial Term of the Agreement unless additional payment is approved as provided in this Agreement.

Contractor shall not be compensated for any services rendered in connection with its performance of this Agreement which are in addition to those set forth herein, unless such additional services are authorized in advance and in writing by the City Manager. Contractor shall be compensated for any additional services in the amounts and in the manner as agreed to by the City Council and Contractor at the time City's written authorization is given to Contractor for the performance of said services.

B. Contractor shall submit invoices monthly for actual services performed. Invoices shall be submitted between the first and fifteenth business day of each month, for services provided in the previous month. Payment shall be made within thirty (30) days of receipt of each invoice as to all non-disputed fees. If the City disputes any of Contractor's fees, it shall give written notice to Contractor within thirty (30) days of receipt of an invoice of any disputed fees set forth on the invoice. For all reimbursements authorized by this Agreement, Contractor shall provide receipts on all reimbursable expenses in excess of Fifty Dollars (\$50) in such form as approved by the Director of Finance.

6. SUSPENSION OR TERMINATION OF AGREEMENT WITHOUT CAUSE

A. The City may at any time, for any reason, with or without cause, suspend or terminate this Agreement, or any portion hereof, by serving upon the Contractor at least ten (10) days prior written notice. Upon receipt of said notice, the Contractor shall immediately cease all work under this Agreement, unless the notice provides otherwise. If the City suspends or terminates a portion of this Agreement, such suspension or termination shall not make void or invalidate the remainder of this Agreement.

B. In the event this Agreement is terminated pursuant to this Section, the City shall pay to Contractor the actual value of the work performed up to the time of termination, provided that the work performed is of value to the City. Upon termination of the Agreement pursuant to this Section, the Contractor will submit an invoice to the City pursuant to Section entitled "PAYMENT" herein.

7. DEFAULT OF CONTRACTOR

A. The Contractor's failure to comply with the provisions of this Agreement shall constitute a default. In the event that Contractor is in default for cause under the terms of this Agreement, City shall have no obligation or duty to continue compensating Contractor for any work performed after the date of default and can terminate this Agreement immediately by written notice to the Contractor. If such failure by the Contractor to make progress in the performance of work hereunder arises out of causes beyond the Contractor's control, and without fault or negligence of the Contractor, it shall not be considered a default.

B. If the City Manager or his delegate determines that the Contractor is in default in the performance of any of the terms or conditions of this Agreement, it shall serve the Contractor with written notice of the default. The Contractor shall have ten (10) days after service upon it of said notice in which to cure the default by rendering a satisfactory performance. In the event that the Contractor fails to cure its default within such period of time, the City shall have the right, notwithstanding any other provision of this Agreement, to terminate this Agreement without further notice and without prejudice to any other remedy to which it may be entitled at law, in equity or under this Agreement."

8. OWNERSHIP OF DOCUMENTS

A. Contractor shall maintain complete and accurate records with respect to sales, costs, expenses, receipts and other such information required by City that relate to the performance of services under this Agreement. Contractor shall maintain adequate records of services provided in sufficient detail to permit an evaluation of services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Contractor shall provide free access to the representatives of City or its designees at reasonable times to such books and records, shall give City the right to examine and audit said books and records, shall permit City to make transcripts there from as necessary, and shall allow inspection of all work, data, documents, proceedings and activities related to this Agreement. Such records, together with supporting documents, shall be maintained for a period of three (3) years after receipt of final payment.

B. Upon completion of, or in the event of termination or suspension of this Agreement, all original documents, designs, drawings, maps, models, computer files containing data generated for the work, surveys, notes, and other documents prepared in the course of providing the services to be performed pursuant to this Agreement shall become the sole property of the City and may be used, reused or otherwise disposed of by the City without the permission of the Contractor. With respect to computer files containing data generated for the work, Contractor shall make available to the City, upon reasonable written request by the City, the necessary computer software and hardware for purposes of accessing, compiling, transferring and printing computer files.

9. INDEMNIFICATION

Contractor shall defend, indemnify, and hold the City, its officials, officers, employees, agents and independent contractors serving in the role of City officials, and volunteers (collectively "Indemnities") free and harmless from any and all claims, demands, causes of action, proceedings, costs, expenses, liabilities, losses, damages or injuries, in law or equity, to property or persons, including wrongful death (collectively "Claims"), in any manner arising out of or incident to any acts or omissions of Contractor, its officials, officers, employees, agents or sub-contractors in connection with the performance of this Agreement, including without limitation the payment of all consequential damages, attorneys' fees, and other related costs and expenses, except for such Claims arising out of the sole negligence or willful misconduct of the Indemnities. With respect to any and all such Claims, Contractor shall defend Indemnities at Contractor's own cost, expense, and risk and shall pay and satisfy any judgment, award, or decree that may be rendered against Indemnities. Contractor shall reimburse Indemnities for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Contractor's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by Contractor or Indemnities. All duties of Contractor under this Section shall survive termination of this Agreement.

10. INSURANCE REQUIREMENTS

Prior to commencement of work, Contractor shall procure, provide, and maintain, at Contractor's own expense, for the duration of this Agreement, insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the work hereunder by the Contractor, its agents, representatives, or employees.

A. Minimum Scope of Insurance. Coverage shall be at least as broad as:

1) Insurance Services Office Commercial General Liability form No. CG 00 01 11 85 or 88, or equivalent.

2) Insurance Services Office Business Auto Coverage form CA 00 01 06 92, or equivalent, covering Automobile Liability, code 1 (any auto). If the Contractor owns no automobiles, a non-owned auto endorsement to the General Liability policy described above is acceptable.

3) Worker's Compensation insurance as required by the State of California and Employer's Liability Insurance. If the Contractor has no employees while performing under this Agreement, worker's compensation insurance is not required, but Contractor shall execute a declaration that it has no employees.

B. Minimum Limits of Insurance. Contractor shall maintain limits no less than:

1) **General Liability:** \$1,000,000 per occurrence for bodily injury, personal injury and property damage, including without limitation, blanket contractual liability. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

2) **Automobile Liability:** \$1,000,000 per accident for bodily injury and property damage for all activities of the Contractor arising out of or in connection with work to be performed under this Agreement, including coverage for any owned, hired, non-owned or rental vehicles.

3) **Worker's Compensation as required by the State of California; Employer's Liability:** One million dollars (\$1,000,000) per accident for bodily injury or disease.

C. **Deductibles and Self-Insured Retentions.** Any deductibles or self-insured retentions must be declared to and approved by the City Manager. At the option of the City Manager, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, officials, employees and volunteers; or the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

D. **Other Insurance Provisions.** The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1) The City, its officers, officials, employees and volunteers are to be covered and named as additional insured's in respect to: liability arising out of activities performed by or on behalf of the Contractor; products and completed operations of the Contractor; premises owned, occupied or used by the Contractor; or automobiles owned, leased, hired or borrowed by the Contractor. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officers, officials, employees or volunteers.

2) For any claims related to this project, the Contractor's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees and volunteers. Any insurance or self-insured maintained by the City, its officers, officials, employees or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

3) Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the City, its officers, officials, employees or volunteers.

4) The Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

5) Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice has been given to the City. Contractor agrees to oblige its insurance agent or broker and insurers to provide City with a thirty (30) day notice of cancellation (except for nonpayment for which a ten (10) day notice is required) or nonrenewal of coverage for each required coverage.

E. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A: VII, unless otherwise acceptable to the City. Self insurance shall not be considered to comply with these insurance requirements.

F. Verification of Coverage. Contractor shall furnish the City with original endorsements, specifically naming the City of Agoura Hills, its officers, officials, employees and volunteers as additional insured, effecting coverage required by this clause. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. The endorsements are to be on forms acceptable to the City. Insurance certificates and endorsements must be received and approved by City's Risk Manager prior to commencement of performance. Current insurance certificates and endorsements shall be kept on file with the City at all times during the term of this agreement. City reserves the right to require complete, certified copies of all required insurance policies, at any time.

G. Mailing Instructions. Insurance documents shall be mailed with the signed Agreement to the attention of the staff person indicated on the cover sheet of this Agreement, to the City of Agoura Hills, 30001 Ladyface Court, Agoura Hills, CA 91301. Executed Agreement(s) cannot be released nor may any work commence on a project until the signed Agreement and appropriate insurance documents are on file with the City Clerk.

11. INDEPENDENT CONTRACTOR

A. Contractor is and shall at all times remain as to the City a wholly independent contractor. The personnel performing the services under this Agreement on behalf of Contractor shall at all times be under Contractor's exclusive direction and control. Neither City nor any of its officers, employees, agents, or volunteers shall have control over the conduct of Contractor or any of Contractor's officers, employees, or agents except as set forth in this Agreement. Contractor shall not at any time or in any manner represent that it or any of its officers, employees or agents are in any manner officers, employees or agents of the City. Contractor shall not incur or have the power to incur any debt, obligation or liability whatever against City, or bind City in any manner.

B. No employee benefits shall be available to Contractor in connection with the performance of this Agreement. Except for the fees paid to Contractor as provided in the Agreement, City shall not pay salaries, wages, or other compensation to Contractor for performing services hereunder for City. City shall not be liable for

compensation or indemnification to Contractor for injury or sickness arising out of performing services hereunder.

12. LEGAL RESPONSIBILITIES

The Contractor shall keep itself informed of all local, State and Federal ordinances, laws and regulations which in any manner affect those employed by it or in any way affect the performance of its service pursuant to this Agreement. The Contractor shall at all times observe and comply with all such ordinances, laws and regulations. The City, and its officers and employees, shall not be liable at law or in equity occasioned by failure of the Contractor to comply with this section.

13. RELEASE OF INFORMATION

A. All information gained by Contractor in performance of this Agreement shall be considered confidential and shall not be released by Contractor without City's prior written authorization. Contractor, its officers, employees, agents or sub-contractors, shall not without written authorization from the City Manager or unless requested by the City Attorney, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement or relating to any project or property located within the City. Response to a subpoena or court order shall not be considered "voluntary" provided Contractor gives City notice of such court order or subpoena.

B. Contractor shall promptly notify City should Contractor, its officers, employees, agents or sub-contractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed there under or with respect to any project or property located within the City. City retains the right, but has no obligation, to represent Contractor and/or be present at any deposition, hearing or similar proceeding. Contractor agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Contractor. However, City's right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

14. NOTICES

Any notices which either party may desire to give to the other party under this Agreement must be in writing and may be given either by: (i) personal service, (ii) delivery by a reputable document delivery service, such as but not limited to, Federal Express, that provides a receipt showing date and time of delivery, or (iii) mailing in the United States Mail, certified mail, postage prepaid, return receipt requested, addressed to the address of the party as set forth below or at any other address as that party may later designate by Notice. Notice shall be effective upon delivery to the addresses specified below or on the third business day following deposit with the document delivery service or United States Mail as provided above.

To City: City of Agoura Hills
30001 Ladyface Court
Agoura Hills, California 91301
Attention: City Manager

To Contractor: Steve Johnson Painting
2219 Thousand Oaks Blvd., Suite # 155
Thousand Oaks, CA 91362
Attention: Steve Johnson

15. ASSIGNMENT

The Contractor shall not assign the performance of this Agreement, nor any part thereof, nor any monies due hereunder, without prior written consent of the City. Upon termination of this Agreement, Contractor's sole compensation shall be payment for actual services performed up to, and including, the date of termination or as may be otherwise agreed to in writing between the City Council and the Contractor.

16. LICENSES

At all times during the term of this Agreement, Contractor shall have in full force and effect, all licenses required of it by law for the performance of the services described in this Agreement.

17. GOVERNING LAW

The City and Contractor understand and agree that the laws of the State of California shall govern the rights, obligations, duties and liabilities of the parties to this Agreement and also govern the interpretation of this Agreement. Any litigation concerning this Agreement shall take place in the municipal, superior, or federal district court with geographic jurisdiction over the City of Agoura Hills. In the event such litigation is filed by one party against the other to enforce its rights under this Agreement, the prevailing party, as determined by the Court's judgment, shall be entitled to reasonable attorney fees and litigation expenses for the relief granted.

18. PROHIBITED INTEREST

No officer, or employee of the City of Agoura Hills shall have any financial interest, direct or indirect, in this Agreement, the proceeds thereof, the Contractor, or Contractor's sub-contractors for this project, during his/her tenure or for one year thereafter. The Contractor hereby warrants and represents to the City that no officer or employee of the City of Agoura Hills has any interest, whether contractual, non-contractual, financial or otherwise, in this transaction, or in the business of the Contractor or Contractor's sub-contractors on this project. Contractor further agrees to notify the City in the event any such interest is discovered whether or not such interest is prohibited by law or this Agreement.

19. ENTIRE AGREEMENT

This Agreement contains the entire understanding between the parties relating to the obligations of the parties described in this Agreement. All prior or contemporaneous agreements, understandings, representations and statements, oral or written, are merged into this Agreement and shall be of no further force or effect. Each party is entering into this Agreement based solely upon the representations set forth herein and upon each party's own independent investigation of any and all facts such party deems material.

20. AUTHORITY TO EXECUTE THIS AGREEMENT

The person or persons executing this Agreement on behalf of Contractor warrants and represents that he or she has the authority to execute this Agreement on behalf of the Contractor and has the authority to bind Contractor to the performance of its obligations hereunder.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first above written.

CITY OF AGOURA HILLS

Illece Buckley Weber,
Mayor

ATTEST:

Kimberly M. Rodrigues, MMC
City Clerk

Date Approved by City Council: _____
To Be Completed by City Clerk

APPROVED AS TO FORM:

Candice K. Lee,
City Attorney

CONTRACTOR

Steve Johnson Painting
2219 Thousand Oaks Blvd., Suite # 155
Thousand Oaks, CA 91362
Steve Johnson
Ph. 805-379-0549, Fax 805-870-4354

By: _____

Name: _____

Title: _____

Steve Johnson
Steve Johnson
Owner

By: _____

Name: _____

Title: _____

[Signatures of Two Corporate Officers Required]

EXHIBIT A

TASKS TO BE PERFORMED

The specific elements (scope of work) of this service include:

Exterior painting of City Hall and Library of Agoura Hills, 30001 Ladyface Court, Agoura Hills, CA, including repainting of all fascia's, riggers including prepping, sanding, priming & painting, and repainting or staining wood siding shingles including prepping, sanding, priming & finishing (North and West Side of facility as detailed in Site Visit).

Surface Preparation & Finish Schedule

Remove all dirt, chalk, and all surface contaminants that will interfere with adhesion of subsequent coats without damaging the substrates or adjacent areas. Wire brush all loose and peeling paint and dust all surfaces before spot priming or applying finish coats. Perform preparation and cleaning procedures in strict accordance with coating manufacturer's instructions for each substrate condition.

Protect previously installed work and materials, which may be affected by work of this section. Protect pre-finished surfaces, lawns, shrubbery and adjacent surfaces against paint and damage. Furnish sufficient dropcloths, shields, and protective equipment to prevent spray or splatter from fouling surfaces not being painted. Protect surfaces, roof tiles, equipment, and fixtures from damage resulting from use of fixed, movable and hanging scaffolding, planking, and staging. Provide wet paint signs, barricades, and other devices required to protect newly finished surfaces

Apply painting and finishing materials in accordance with the manufacturer's submittals, as approved. Use applicators and techniques best suited for the material and surfaces to which they are applied. 2 coat applications.

Finish Schedule

- Spot prime ultra grip premium, acrylic wood primer/sealer
- First coat evershield, exterior 100% acrylic flat paint (ssh10)
- Second coat evershield, exterior 100% acrylic flat paint (ssh10)

City Staff and Contractor to work on color schedule.

EXHIBIT B

PAYMENT RATES AND SCHEDULE

Repaint all fascia's & riggers as specified including prepping, sanding, priming & painting; Repaint or stain wood siding shingles including prepping, sanding, priming & finishing:

TOTAL – \$40,300 (not to exceed)

Payments to be made on 25/25/50 schedule

- (1) 25% completed (Progress Payment 1)
- 2) 25% completed (Progress Payment 2)
- 3) Final 50% at project completion and City Staff release (Final Payment)

Estimated Time Schedule: 430 hours

Rate: \$85.00/hr

Materials to be billed on final invoice with receipts.