



# staff report

TO: Honorable Mayor and Members of the City Council

ATTENTION: Jeffrey L. Stewart, City Manager

FROM: *EM* P.J. Mellana, Director of Parks and Recreation

SUBJECT: Consideration and possible action to receive and file Agreement File No. XXX with Johnsen Commercial Services, dba The Jarvis Company for the Installation and Removal of Holiday Decorations for 2016.

DATE: October 10, 2016

## EXECUTIVE SUMMARY

On an annual basis, the City of Bellflower's Christmas Tree Lighting requires that lights and decorations be professionally installed prior to the event and removed after the event. This Agreement addresses that requirement, enables the City to decorate prominent facilities and the downtown boulevard area, and is part of the overall budget for the Christmas Tree Lighting event.

This Agreement No. XXX will be executed by the City Manager on October 11, 2016, pursuant to Bellflower Municipal Code § 2.40.050(C).

## RECOMMENDATION TO CITY COUNCIL

- 1) Receive and file Agreement File No. XXX; or
- 2) Alternatively, discuss and take other action related to this item.

## FISCAL IMPACT

The cost of the Agreement is \$13,089.86 and funds are budgeted in the City's Fiscal Year 2016-2017 Operating Budget in Account No. 010-41311-1012.

## DISCUSSION

Services included in the Agreement include the installation and removal of 5,000 lights and approximately 250 ornaments for the City tree at Friendship Square; 27 Street Pole Decorations at various locations; and large wreaths and garland at City Hall, the Bellflower Substation, and Simms Park.

## ATTACHMENT

Agreement File No. XXX.....2

**AGREEMENT FILE NO. XXX  
MAINTENANCE AGREEMENT  
BETWEEN  
THE CITY OF BELLFLOWER AND  
JOHNSEN COMMERCIAL SERVICES  
DBA  
THE JARVIS COMPANY**

**THIS MAINTENANCE AGREEMENT** ("Agreement") is made and entered into this 11th day of October, 2016, by and between the CITY OF BELLFLOWER, a general law city and municipal corporation ("CITY") and JOHNSEN COMMERCIAL SERVICES dba THE JARVIS COMPANY, a California Corporation ("CONTRACTOR").

The Parties agree as follows:

**1. CONSIDERATION.**

- A. As partial consideration, CONTRACTOR agrees to perform the work listed in the SCOPE OF SERVICES, below;
- B. As additional consideration, CONTRACTOR and CITY agree to abide by the terms and conditions contained in this Agreement;
- C. As additional consideration, CITY agrees to pay CONTRACTOR for CONTRACTOR's services not to exceed sum(s) as set forth in duly executed Task Order(s). CITY will pay this sum(s) on the basis of the hourly rates and cost reimbursement rates as specified in the attached Exhibit "A," which is incorporated herein.

**2. TERM.** The term of this Agreement will be from November 1, 2016, to January 31, 2017. The Agreement may be renewed upon mutual consent of the parties.

**3. SCOPE OF SERVICES.**

- A. CONTRACTOR will perform the services listed in the attached Exhibit "A." The provisions contained in this Agreement will supersede any conflicting provisions in Exhibit A.
- B. CONTRACTOR will, in a professional manner, furnish all of the labor, technical, administrative, professional and other personnel, all supplies and materials, equipment, printing, vehicles, transportation, office space and facilities, and all tests, testing and analyses, calculation, and all other means whatsoever, except as herein otherwise expressly specified to be furnished by CITY, necessary or proper to perform and complete the work and provide the maintenance services required of CONTRACTOR by this Agreement.

**4. PREVAILING WAGES.**

- A. Pursuant to Labor Code § 1720, and as specified in 8 California Code of Regulations § 16000, CONTRACTOR must pay its workers prevailing wages. It is CONTRACTOR's responsibility to interpret and implement any prevailing wage requirements and CONTRACTOR agrees to pay any penalty or civil damages resulting from a violation of the prevailing wage laws.
- B. In accordance with Labor Code § 1773.2, copies of the prevailing rate of per diem wages are available upon request from CITY's Engineering Division or the website for State of California Prevailing wage determination at <http://www.dir.ca.gov/DLSR/PWD>. CONTRACTOR must post a copy of the prevailing rate of per diem wages at the job site.
- C. CITY directs CONTRACTOR's attention to Labor Code §§ 1777.5, 1777.6 and 3098 concerning the employment of apprentices by CONTRACTOR or any subcontractor.
- D. Labor Code § 1777.5 requires CONTRACTOR or subcontractor employing tradesmen in any apprenticeship occupation to apply to the joint apprenticeship committee nearest the site of the public works project and which administers the apprenticeship program in that trade for a certificate of approval. The certificate must also fix the ratio of apprentices to journeymen that will be used in the performance of the contract. The ratio of apprentices to journeymen in such cases will not be less than one to five except:
  - i. When employment in the area of coverage by the joint apprenticeship committee has exceeded an average of 15 percent in the 90 days before the request for certificate, or
  - ii. When the number of apprentices in training in the area exceeds a ratio of one to five, or
  - iii. When the trade can show that it is replacing at least 1/30 of its membership through apprenticeship training on an annual basis state-wide or locally, or
  - iv. When CONTRACTOR provides evidence that CONTRACTOR employs registered apprentices on all of his contracts on an annual average of not less than one apprentice to eight journeymen.

- v. CONTRACTOR is required to make contributions to funds established for the administration of apprenticeship programs if CONTRACTOR employs registered apprentices or journeymen in any apprenticeable trade on such contracts and if other contractors on the public works site are making such contributions.
  - vi. CONTRACTOR and any subcontractor must comply with Labor Code §§ 1777.5 and 1777.6 in the employment of apprentices.
  - vii. Information relative to apprenticeship standards, wage schedules and other requirements may be obtained from the Director of Industrial Relations, ex-officio the Administrator of Apprenticeship, San Francisco, California, or from the Division of Apprenticeship Standards and its branch offices.
- E. CONTRACTOR and its subcontractors must keep an accurate certified payroll records showing the name, occupation, and the actual per diem wages paid to each worker employed in connection with this Agreement. The record will be kept open at all reasonable hours to the inspection of the body awarding the contract and to the Division of Labor Law Enforcement. If requested by CITY, CONTRACTOR must provide copies of the records at its cost.

## **5. PAYMENTS.**

- A. CITY will pay CONTRACTOR as provided in Exhibit A.
- B. CITY's city manager may make payments up to \$10,000 for special items of work not included in the project scope of work and services as set forth in the Task Order. Payments for special work will only be made after CITY issues a written notice to proceed for the specific special tasks. A written scope of work, an agreed upon additional fee, a schedule for starting and completing the special tasks, and an agreed upon extension of the time for performance, if needed to complete the special work, will be required before CITY issues a notice to proceed for special work. All special work will be subject to all other terms and provisions of this Agreement.

## **6. FAMILIARITY WITH WORK.**

- A. By executing this Agreement, CONTRACTOR represents that CONTRACTOR has

- i. Thoroughly investigated and considered the scope of services to be performed;
  - ii. Carefully considered how the services should be performed; and
  - iii. Understands the facilities, difficulties, and restrictions attending performance of the services under this Agreement.
- B. If services involve work upon any site, CONTRACTOR warrants that CONTRACTOR has or will investigate the site and is or will be fully acquainted with the conditions there existing, before commencing the services hereunder. Should CONTRACTOR discover any latent or unknown conditions that may materially affect the performance of the services, CONTRACTOR will immediately inform CITY of such fact and will not proceed except at CONTRACTOR's own risk until written instructions are received from CITY.

**7. INSURANCE.**

- A. Before commencing performance under this Agreement, and at all other times this Agreement is effective, CONTRACTOR will procure and maintain the following types of insurance with coverage limits complying, at a minimum, with the limits set forth below:

<u>Type of Insurance</u>	<u>Limits (combined single)</u>
Commercial general liability:	\$2,000,000
Business automobile liability	\$1,000,000
Workers compensation	Statutory requirement.

- B. Commercial general liability insurance will meet or exceed the requirements of ISO-CGL Form No. CG 00 01 11 85 or 88. The amount of insurance set forth above will be a combined single limit per occurrence for bodily injury, personal injury, and property damage for the policy coverage. Liability policies will be endorsed to name City, its officials, and employees as "additional insureds" under said insurance coverage and to state that such insurance will be deemed "primary" such that any other insurance that may be carried by City will be excess thereto. Such insurance will be on an "occurrence," not a "claims made," basis and will not be cancelable or subject to reduction except upon thirty (30) days prior written notice to City.
- C. Automobile coverage will be written on ISO Business Auto Coverage Form CA 00 01 06 92, including symbol 1 (Any Auto).

- D. CONTRACTOR will furnish to City duly authenticated Certificates of Insurance evidencing maintenance of the insurance required under this Agreement, endorsements as required herein, and such other evidence of insurance or copies of policies as may be reasonably required by City from time to time. Insurance must be placed with insurers with a current A.M. Best Company Rating equivalent to at least a Rating of "A:VII." Certificate(s) must reflect that the insurer will provide thirty (30) day notice of any cancellation of coverage. CONTRACTOR will require its insurer to modify such certificates to delete any exculpatory wording stating that failure of the insurer to mail written notice of cancellation imposes no obligation, and to delete the word "endeavor" with regard to any notice provisions.
- E. Should CONTRACTOR, for any reason, fail to obtain and maintain the insurance required by this Agreement, City may obtain such coverage at CONTRACTOR's expense and deduct the cost of such insurance from payments due to CONTRACTOR under this Agreement or terminate.
- F. Self-Insured Retention/Deductibles. All policies required by this Agreement must allow CITY, as additional insured, to satisfy the self-insured retention ("SIR") and deductible of the policy in lieu of CONTRACTOR (as the named insured) should CONTRACTOR fail to pay the SIR or deductible requirements. The amount of the SIR or deductible is subject to the approval of the City Attorney and the Finance Director. CONTRACTOR understands and agrees that satisfaction of this requirement is an express condition precedent to the effectiveness of this Agreement. Failure by CONTRACTOR as primary insured to pay its SIR or deductible constitutes a material breach of this Agreement. Should CITY pay the SIR or deductible on CITY's behalf upon the CONTRACTOR'S failure or refusal to do so in order to secure defense and indemnification as an additional insured under the policy, CITY may include such amounts as damages in any action against CONTRACTOR for breach of this Agreement in addition to any other damages incurred by CITY due to the breach.

**8. TIME FOR PERFORMANCE.** CONTRACTOR will not perform any work under this Agreement until:

- A. CONTRACTOR furnishes proof of insurance as required under Section 7 of this Agreement; and
- B. CITY gives CONTRACTOR a written Notice to Proceed.

- C. Should CONTRACTOR begin work in advance of receiving written authorization to proceed, any such professional services are at CONTRACTOR's own risk.

**9. TERMINATION.**

- A. Except as otherwise provided, CITY may terminate this Agreement at any time with or without cause. Notice of termination will be in writing.
- B. CONTRACTOR may terminate this Agreement upon providing written notice to CITY at least thirty (30) days before the effective termination date.
- C. Should the Agreement be terminated pursuant to this Section, CITY may procure on its own terms services similar to those terminated.
- D. By executing this document, CONTRACTOR waives any and all claims for damages that might otherwise arise from CITY's termination under this Section.

**10. INDEMNIFICATION.**

- A. **CONTRACTOR indemnifies and holds CITY harmless from and against any claim, action, damages, costs (including, without limitation, attorney's fees), injuries, or liability, arising out of this Agreement, or its performance. Should CITY be named in any suit, or should any claim be brought against it by suit or otherwise, whether the same be groundless or not, arising out of this Agreement, or its performance, CONTRACTOR will defend CITY (at CITY's request and with counsel satisfactory to CITY) and will indemnify CITY for any judgment rendered against it or any sums paid out in settlement or otherwise.**
- B. For purposes of this section "CITY" includes CITY's officers, officials, employees, agents, representatives, and certified volunteers.
- C. It is expressly understood and agreed that the foregoing provisions will survive termination of this Agreement.

**11. INDEPENDENT CONTRACTOR.** CITY and CONTRACTOR agree that CONTRACTOR will act as an independent contractor and will have control of all work and the manner in which is it performed. CONTRACTOR will be free to contract for similar service to be performed for other employers while under contract with CITY. CONTRACTOR is not an agent or employee of CITY and is not entitled to participate in any pension plan, insurance, bonus or similar benefits CITY provides for its employees. Any provision in this Agreement that may appear to give CITY the right to direct CONTRACTOR as to the details of doing the work or to exercise a measure of control over the work means that CONTRACTOR will follow the direction of the CITY as to end results of the work only.

**12. NOTICES.**

- A. All notices given or required to be given pursuant to this Agreement will be in writing and may be given by personal delivery or by mail. Such noticing does not include day-to-day communications between CITY's and CONTRACTOR's project managers. Notice sent by mail will be addressed as follows:

To CITY:                      City of Bellflower  
   Attention: Kristen Smith, Recreation Manager  
   16600 Civic Center Drive  
   Bellflower, CA 90706  
   (562) 804-1424, Ext. 2267  
   [ksmith@bellflower.org](mailto:ksmith@bellflower.org)

To CONTRACTOR: Johnsen Commercial Services  
   dba THE JARVIS COMPANY  
   PO Box 850  
   Grass Valley, CA 95945  
   (877) 530-2224  
   [thejarvisco@yahoo.com](mailto:thejarvisco@yahoo.com)

- B. When addressed in accordance with this paragraph, notices will be deemed given upon deposit in the United States mail, postage prepaid. In all other instances, notices will be deemed given at the time of actual delivery.
- C. Changes may be made in the names or addresses of persons to whom notices are to be given by giving notice in the manner prescribed in this paragraph.

**13. TAXPAYER IDENTIFICATION NUMBER.** CONTRACTOR will provide CITY with a Taxpayer Identification Number.

14. **WAIVER.** A waiver by CITY of any breach of any term, covenant, or condition contained in this Agreement will not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, or condition contained in this Agreement, whether of the same or different character.

15. **CONSTRUCTION.** The language of each part of this Agreement will be construed simply and according to its fair meaning, and this Agreement will never be construed either for or against either party.

16. **SEVERABLE.** If any portion of this Agreement is declared by a court of competent jurisdiction to be invalid or unenforceable, then such portion will be deemed modified to the extent necessary in the opinion of the court to render such portion enforceable and, as so modified, such portion and the balance of this Agreement will continue in full force and effect.

17. **WAIVER.** Waiver of any provision of this Agreement will not be deemed to constitute a waiver of any other provision, nor will such waiver constitute a continuing waiver.

18. **INTERPRETATION.** This Agreement was drafted in, and will be construed in accordance with the laws of the State of California, and exclusive venue for any action involving this agreement will be in Los Angeles County.

19. **AUTHORITY/MODIFICATION.** This Agreement may be subject to and conditioned upon approval and ratification by the Bellflower City Council. This Agreement is not binding upon CITY until executed by the City Manager. The Parties represent and warrant that all necessary action has been taken by the Parties to authorize the undersigned to execute this Agreement and to engage in the actions described herein. This Agreement may be modified by written agreement. CITY's city manager may execute any such amendment on behalf of CITY.

20. **ACCEPTANCE OF ELECTRONIC SIGNATURES.** The Parties agree that this Agreement, agreements ancillary to this Agreement, and related documents to be entered into in connection with this Agreement will be considered signed when the signature of a party is delivered by electronic transmission. Such electronic signature will be treated in all respects as having the same effect as an original signature.

21. **EFFECT OF CONFLICT.** In the event of any conflict, inconsistency, or incongruity between any provision of this Agreement, its attachments, the purchase order, or notice to proceed, the provisions of this Agreement will govern and control.

**22. CAPTIONS.** The captions of the paragraphs of this Agreement are for convenience of reference only and will not affect the interpretation of this Agreement.

**23. FORCE MAJEURE.** Should performance of this Agreement be prevented due to fire, flood, explosion, war, terrorist act, embargo, government action, civil or military authority, the natural elements, or other similar causes beyond the Parties' control, then the Agreement will immediately terminate without obligation of either party to the other.

**24. ENTIRE AGREEMENT.** This Agreement and its one attachment constitutes the sole agreement between CONTRACTOR and CITY respecting the services identified in Exhibit A. To the extent that there are additional terms and conditions contained in Exhibit "A" that are not in conflict with this Agreement, those terms are incorporated as if fully set forth above. There are no other understandings, terms or other agreements expressed or implied, oral or written.

**IN WITNESS WHEREOF,** the parties hereto have executed this Agreement the day and year first hereinabove written.

**CITY OF BELLFLOWER**

**JOHNSEN COMMERCIAL SERVICES  
dba THE JARVIS COMPANY**

\_\_\_\_\_  
**Jeffrey L. Stewart, City Manager**

\_\_\_\_\_  
**Tara A. Johnsen, Operations Manager**

**ATTEST:**

\_\_\_\_\_  
**Mayra Ochiqui, City Clerk**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
**Karl H. Berger, City Attorney**

**Taxpayer ID No.**

**THE JARVIS COMPANY**

  


**ARTICLE I TERM OF CONTRACT**

The term of this Contract schedule, with respect to each item of installation listed here in, Total items – 1 Friendship Park Tree w/lights & ornaments, 27-various pole decorations, 1-6' Wreath, 2-8' Wreaths, 1-3'Wreath with 6' Garland; is for a term of 3 months. Commencing November 2016.

**ARTICLE II STATEMENT OF WORK**

Installer shall install and remove decorations for customer. Location of installation: City of Bellflower. Installation shall be started not earlier than November 1, 2016 and must be completed no later than November 20, 2016. Removal shall be started no earlier than December 31, 2016 and completed no later than January 14, 2017. Installer shall not be liable for delays of installation or removal of decorations caused by weather or acts of God.

**ARTICLE III PAYMENTS**

Customer shall pay to installer for the performance of this contract a price of \$13,089.86 shall constitute total compensation to Installer. Installer is under no obligation for performance of this Contract unless executed Contract is returned and payment is made by the payment due date.

**PAYMENT SHALL BE AS FOLLOWS:**

**50% \$6,544.93 due upon receipt of Contract return date, prior to installation**  
**50% \$6,544.93 due upon receipt or within 30 days of invoice after installation.**

**ARTICLE IV WARRANTY**

Installer warrants all work shall be performed in a work-manlike manner. Except for the warranty of performance in a work-manlike manner, Installer makes no other warranties, expressed or implied. In any event, Installer shall not be responsible for loss of decorations cause by any reason whatsoever, including but not limited to: theft, fire, vandalism, civil unrest, or act of God.

**ARTICLE V PRODUCT DISPOSAL**

Upon cancellation of contract, Customer will be responsible for disposal of their product. Customer shall notify Installer 48 hours before picking up their product or pay Installer to dispose of product.



[REDACTED]

**ARTICLE VII SITE PREPARATION AND PLOT PLAN**

The location for the Installation of the decorations shall be furnished by customer and must first be approved by Installer or its representative as to feasibility for installation. Customer will be responsible for securing any permission, permits, and licenses necessary for proper installation of decorations from owners, lessees, lessors, city, state and other governmental authority. Customers will be responsible for all necessary fees. Installer is given permission to install decoration hardware items including but not limited to faceplates, cables, anchor points within a reasonable time prior to actual installation dates. All hardware items will be left in place between seasons.

**ARTICLE VIII ELECTRICAL SOURCE AND CURRENT**

Customer shall furnish adequate electrical power and suitable electrical connections as are customarily used in the electrical trade or required by Underwriter's Laboratory within a reasonable area, not to exceed 8 feet of the decoration installation site, for distance greater than 8 feet Customer will be charged for extension cords. To be billed with second installment. Customer warrants that the electrical connection supplied shall be suitable for the intended purpose. Customer shall be responsible for payment for electric current consumed by decorations.

**ARTICLE IX SUBCONTRACTORS AND ASSIGNMENTS**

Installers have the option to assign all or part of its rights and obligations under the terms of this Contract. Any such assignment shall not relieve Customer of its duty of performance under any of the terms or conditions of this Contract.

[REDACTED]

[REDACTED]

**ARTICLE XII SERVICE CALLS**

There will be no charge for Service Calls, after decorations are installed, for an installation related problem. Problems not related to installation including but not limited installation Installer will charge Customer an additional \$80.00 per hour including travel time. If adequate power or proper electrical connections are not

available at installation site at the time of installation and Customer wishes Installer to return to the installation site to connect the electrical at a later date there will be an additional charge of \$80.00 per hour including travel time.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

DATE: Sept. 9, 2016

DATE: \_\_\_\_\_

**Johnsen Commercial Services**  
**dba THE JARVIS COMPANY**  
**PO Box 850**  
**Grass Valley, CA 95945**  
thejarvisco@yahoo.com

**Referencing: Maintenance, Re-lamping, Power Storage and Power Supply**

**ACCOUNT NAME:** City of Bellflower

The City of Bellflower will:

Provide all of the maintenance for all of the decorations, up to and including; non functioning bulbs, worn out or broken sockets, and any out of service or defective wiring. The Jarvis Co. is not responsible for any maintenance to the decorations. If it is deemed necessary for the Jarvis Co. to do any maintenance to fulfill any contractual obligations for the decorations, it will be Billed/Invoiced for the rate of \$85.00 per man hour.

Storage of all of the decorations will be done by the City Of Bellflower. By having the city store all of their decorations the installer will need to have one (1) of three (3) options available to be able to perform all of the contracted work in a timely fashion.

(Option 1) If the City makes available access to the storage facility to the installer at the installer's convenience there will be no additional charges for man-hours.

(Option 2) If the City does not provide access for the installer but will provide someone to give the installer access to the storage facility at the times that are convenient to the installer just prior to the installation and just after the removal of the decorations. (Typically outside of normal business hours) I.E. 3:00 A.M. or on any weekends or holidays. There will be no additional charges for man-hours. If the installer has to wait for a person to arrive more than 15 minutes a charge of \$85.00 per man-hour will be assessed.

(Option 3) If the City wants to have the Installer to pick up or bring back the decorations back to the storage facility during normal business hours The City will be Billed/ Invoiced for all of the driving time to and from the Jarvis Company yard and for all of the time for the loading and unloading of all of the decorations. This will include all of the man-hours for no less than 3 employees at a rate of \$85.00 per hour for each employee. This will include both the time to get the decorations for installation, and time to place them back in storage for removal.

Customer is to provide electrical outlets within 8 feet of lighting.

Customer is to be charged for any additional extension cords, special adapters, or timers if needed or requested.

If no common Electrical system provided, installer will use any outlets available for power, the notifications for any tenants will be the sole responsibility of the City of Bellflower. If air conditioning units are used the customer must notify tenant that the decorations are powered on their unit and to leave breakers on.

**Customer understands there shall be no obligation on part of The Jarvis Company to perform any of the above work until receipt of this agreement by the payment due date.**

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

Date: \_\_\_\_\_