



AGENDA REPORT

Meeting Date: June 17, 2014
Item Number: E-11
To: Honorable Mayor & City Council
From: Chad Lynn, Director of Parking Operations 
Terry Wagner, Facilities Maintenance Manager
Subject: APPROVAL OF AN AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND CALIFORNIA WATERS, LLC FOR FOUNTAIN MAINTENANCE SERVICES
Attachments: 1. Agreement

RECOMMENDATION

Staff recommends that the City Council move to approve an agreement between the City of Beverly Hills and California Waters, LLC for Fountain Maintenance Services in the annual total not-to-exceed amount of \$37,554.

INTRODUCTION

The City of Beverly Hills operates nineteen water fountains at various locations. Fountains range in size from small pools to large wall fountains and receive monthly maintenance. In April, the City invited Vendors to submit proposals for fountain cleaning services with a deadline of April 14, 2014.

DISCUSSION

Proposals were received from four (4) contractors and reviewed for compliance with the requirements of the RFP and responsiveness of the submission by Terry Wagner, Facilities Maintenance Manager. As cost is only one factor in the selection of a contractor for high quality fountain cleaning and maintenance services, the bid specification was designed to consider other important factors as well. The following criteria were considered in evaluating which proposal would best meet the needs of the City:

- Proposed Bid Price
- Responsiveness to the Scope of Work

- Experience
- Stability and Financial resources
- Quality and cost of supplies and materials

The bids were as follows:

California Waters, LLC	Monthly Cost: \$37,554
R & R Fountain Pond	Monthly Cost: \$43,254
Great American Cleaning	Monthly Cost: \$54,414
Crystal Clean Pool Care	Monthly Cost: \$71,154

After evaluation of proposals received and based on their prior years' high quality service to the City, California Waters, LLC was found to be the best choice to provide the City with a high service level, meet City needs and respond to emergency situations in a timely manner.

FISCAL IMPACT

The proposed agreement provides for consideration in the amount of \$37,554.00 per year totaling \$112,662.00 for three years. Included in this amount is a yearly contingency of \$3,414.00 for possible additional services outside the scope of work.



George Chavez

Approved By

Attachment 1

AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND
CALIFORNIA WATERS, LLC FOR FOUNTAIN MAINTENANCE
SERVICES

NAME OF VENDOR: CALIFORNIA WATERS,LLC

RESPONSIBLE PRINCIPAL OF VENDOR: Jeffrey Barman, Secretary

VENDOR'S ADDRESS: 2909 W. Warner Avenue
Santa Ana CA 92704
Attention: Jeffrey Barman, Secretary

CITY'S ADDRESS: City of Beverly Hills
455 N. Rexford Drive
Beverly Hills, CA 90210
Attention: Terry Wagner, Facilities Maintenance
Manager

COMMENCEMENT DATE: July 1, 2014

TERMINATION DATE: June 30, 2017

CONSIDERATION: Not to exceed \$37,554.00 per year for a maximum of
\$112,662.00 over a three year period

AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND CALIFORNIA WATERS, LLC FOR FOUNTAIN MAINTENANCE SERVICES

THIS AGREEMENT is made by and between the City of Beverly Hills (hereinafter called "CITY"), and California Waters, LLC (hereinafter called "VENDOR").

RECITALS

A. CITY desires to have certain services provided as set forth in Exhibit A (the "Scope of Work"), attached hereto and incorporated herein.

B. VENDOR represents that it is qualified and able to perform the Scope of Work.

NOW, THEREFORE, the parties agree as follows:

Section 1. VENDOR's Scope of Work. VENDOR shall perform the Scope of Work described in Exhibit A 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. CITY shall have the right to order, in writing, changes in the Scope of Work. Any changes in the Scope of Work by VENDOR must be made in writing and approved by both parties. The cost of any change in the Scope of Work must be agreed to by both parties in writing.

Section 2. Time of Performance.

VENDOR shall commence its services under this Agreement upon receipt of a written notice to proceed from CITY. VENDOR shall complete the performance of services by the Termination Date set forth above and/or in conformance with the project timeline established by the City Manager or his designee.

Section 3. Compensation.

(a) Compensation

CITY agrees to compensate VENDOR for the services and/or goods provided under this Agreement, and VENDOR agrees to accept in full satisfaction for such services, a sum not to exceed the Consideration set forth above and more particularly described in Exhibit B, attached hereto and incorporated herein.

(b) Expenses

The amount set forth in paragraph (a) shall include reimbursement for all actual and necessary expenditures reasonably incurred in the performance of this Agreement (including, but not limited to, all labor, materials, delivery, tax, assembly, and installation, as applicable). There shall be no claims for additional compensation for reimbursable expenses.

(c) Additional Services. CITY may from time to time require VENDOR to perform additional services not included in the Scope of Services. Such requests for additional services shall be made by CITY in writing and agreed upon by both parties in writing.

Section 4. Method of Payment. Unless otherwise provided for herein, VENDOR shall submit to CITY a detailed invoice, on a monthly basis or less frequently, for the services performed pursuant to this Agreement. Each invoice shall itemize the services rendered during the billing period and the amount due. Within 30 days of receipt of each invoice, CITY shall pay all undisputed amounts included on the invoice. CITY shall pay VENDOR said Consideration in accordance with the schedule of payment set forth in Exhibit B.

Section 5. Independent Contractor. VENDOR is and shall at all times remain, as to CITY, a wholly independent contractor. Neither CITY nor any of its agents shall have control over the conduct of VENDOR or any of VENDOR's employees, except as herein set forth. VENDOR shall not, at any time, or in any manner, represent that it or any of its agents or employees are in any manner agents or employees of CITY.

Section 6. Assignment. This Agreement shall not be assigned in whole or in part, by VENDOR without the prior written approval of CITY. Any attempt by VENDOR to so assign this Agreement or any rights, duties or obligations arising hereunder shall be void and of no effect.

Section 7. Responsible Principal(s)

(a) VENDOR's Responsible Principal set forth above shall be principally responsible for VENDOR's obligations under this Agreement and shall serve as principal liaison between CITY and VENDOR. Designation of another Responsible Principal by VENDOR shall not be made without prior written consent of CITY.

(b) CITY's Responsible Principal shall be the City Manager or his designee set forth above who shall administer the terms of the Agreement on behalf of CITY.

Section 8. Personnel. VENDOR represents that it has, or shall secure at its own expense, all personnel required to perform VENDOR's Scope of Work under this Agreement. All personnel engaged in the work shall be qualified to perform such Scope of Work.

Section 9. Permits and Licenses. VENDOR shall obtain and maintain during the Agreement term all necessary licenses, permits and certificates required by law for the provision of services under this Agreement, including a business license.

Section 10. Interests of VENDOR. VENDOR affirms that it presently has no interest and shall not have any interest, direct or indirect, which would conflict in any manner with the performance of the Scope of Work contemplated by this Agreement. No person having any such interest shall be employed by or be associated with VENDOR.

Section 11. Insurance.

(a) VENDOR shall at all times during the term of this Agreement carry, maintain, and keep in full force and effect, insurance as follows:

(1) A policy or policies of Comprehensive General Liability Insurance, with minimum limits of Two Million Dollars (\$2,000,000) for each occurrence, combined single limit, against any personal injury, death, loss or damage resulting from the wrongful or negligent acts by VENDOR.

(2) A policy or policies of Comprehensive Vehicle Liability Insurance covering personal injury and property damage, with minimum limits of One Million Dollars (\$1,000,000) per occurrence combined single limit, covering any vehicle utilized by VENDOR in performing the Scope of Work required by this Agreement.

(3) Workers' compensation insurance as required by the State of California.

(b) VENDOR shall require each of its sub-vendors to maintain insurance coverage which meets all of the requirements of this Agreement.

(c) The policy or policies required by this Agreement shall be issued by an insurer admitted in the State of California and with a rating of at least a B+;VII in the latest edition of Best's Insurance Guide.

(d) VENDOR agrees that if it does not keep the aforesaid insurance in full force and effect CITY may either immediately terminate this Agreement or, if insurance is available at a reasonable cost, CITY may take out the necessary insurance and pay, at VENDOR's expense, the premium thereon.

(e) At all times during the term of this Agreement, VENDOR shall maintain on file with the City Clerk a certificate or certificates of insurance on the form set forth in Exhibit C, attached hereto and incorporated herein, showing that the aforesaid policies are in effect in the required amounts. VENDOR shall, prior to commencement of work under this Agreement, file with the City Clerk such certificate or certificates. The general and auto liability insurance shall contain an endorsement naming the CITY as an additional insured. All of the policies required under this Agreement shall contain an endorsement providing that the policies cannot be canceled or reduced except on thirty (30) days prior written notice to CITY, and specifically stating that the coverage contained in the policies affords insurance pursuant to the terms and conditions as set forth in this Agreement.

(f) The insurance provided by VENDOR shall be primary to any coverage available to CITY. The policies of insurance required by this Agreement shall include provisions for waiver of subrogation.

(g) Any deductibles or self-insured retentions must be declared to and approved by CITY. At the option of CITY, VENDOR shall either reduce or eliminate the deductibles or self-insured retentions with respect to CITY, or VENDOR shall procure a bond guaranteeing payment of losses and expenses.

Section 12. Indemnification. VENDOR agrees to indemnify, hold harmless and defend CITY, City Council and each member thereof, and every officer, employee and agent of CITY, from any claim, liability or financial loss (including, without limitation, attorney's fees and costs) arising from any intentional, reckless, negligent, or otherwise wrongful acts, errors or omissions of VENDOR or any person employed by VENDOR in the performance of this Agreement.

Section 13. Termination.

(a) CITY shall have the right to terminate this Agreement for any reason or for no reason upon five calendar days' written notice to VENDOR. VENDOR agrees to cease all work under this Agreement on or before the effective date of such notice.

(b) In the event of termination or cancellation of this Agreement by CITY, due to no fault or failure of performance by VENDOR, VENDOR shall be paid based on the percentage of work satisfactorily performed at the time of termination. In no event shall VENDOR be entitled to receive more than the amount that would be paid to VENDOR for the full performance of the services required by this Agreement. VENDOR shall have no other claim against CITY by reason of such termination, including any claim for compensation.

Section 14. CITY's Responsibility. CITY shall provide VENDOR with all pertinent data, documents, and other requested information as is available for the proper performance of VENDOR's Scope of Work.

Section 15. Information and Documents. All data, information, documents and drawings prepared for CITY and required to be furnished to CITY in connection with this Agreement shall become the property of CITY, and CITY may use all or any portion of the work submitted by VENDOR and compensated by CITY pursuant to this Agreement as CITY deems appropriate.

Section 16. Records and Inspections. VENDOR shall maintain full and accurate records with respect to all matters covered under this Agreement for a period of 2 years. CITY shall have access, without charge, during normal business hours to such records, and the right to examine and audit the same and to make copies and transcripts therefrom, and to inspect all program data, documents, proceedings and activities.

Section 17. Changes in the Scope of Work. The CITY shall have the right to order, in writing, changes in the scope of work or the services to be performed. Any changes in the scope of work requested by VENDOR must be made in writing and approved by both parties.

Section 18. Notice. Any notices, bills, invoices, etc. required by this Agreement shall be deemed received on (a) the day of delivery if delivered by hand during the receiving party's regular business hours or by facsimile before or during the receiving party's regular business hours; or (b) on the second business day following deposit in the United States mail, postage prepaid to the addresses set forth above, or to such other addresses as the parties may, from time to time, designate in writing pursuant to this section.

Section 19. Attorney's Fees. In the event that either party commences any legal action or proceeding to enforce or interpret the provisions of this Agreement, the prevailing party in such action shall be entitled to reasonable attorney's fees, costs and necessary disbursements, in addition to such other relief as may be sought and awarded.

Section 20. Entire Agreement. This Agreement represents the entire integrated agreement between CITY and VENDOR, and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by a written instrument signed by both CITY and VENDOR.

Section 21. Exhibits; Precedence. All documents referenced as exhibits in this Agreement are hereby incorporated in this Agreement. In the event of any material discrepancy between the express provisions of this Agreement and the provisions of any document incorporated herein by reference, the provisions of this Agreement shall prevail.

Section 22. Governing Law. The interpretation and implementation of this Agreement shall be governed by the domestic law of the State of California.

Section 23. CITY Not Obligated to Third Parties. CITY shall not be obligated or liable under this Agreement to any party other than VENDOR.

Section 24. Severability. Invalidation of any provision contained herein or the application thereof to any person or entity by judgment or court order shall in no way affect any of the other covenants, conditions, restrictions, or provisions hereof, or the application thereof to any other person or entity, and the same shall remain in full force and effect.

EXECUTED the ____ day of _____ 20____, at Beverly Hills, California.

CITY OF BEVERLY HILLS
A Municipal Corporation

LILI BOSSE
Mayor of the City of Beverly Hills,
California

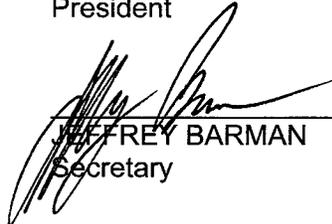
ATTEST:

_____(SEAL)
BYRON POPE
City Clerk

VENDOR: California Waters, LLC



MARK PITMAN
President



JEFFREY BARMAN
Secretary

APPROVED AS TO FORM:



LAURENCE S. WIENER
City Attorney

APPROVED AS TO CONTENT:

JEFFREY C. KOLIN
City Manager



GEORGE CHAVEZ
Director of Public Works Services



KARL KIRKMAN
Risk Manager

EXHIBIT A
SCOPE OF WORK

VENDOR shall provide the following fountain cleaning services at the locations set forth below to the full satisfaction of CITY:

Maintenance Schedule

Monthly Service:	2 service visits per week at locations listed in this Exhibit
Full Service Day:	Monday and Thursday
No Service Day:	Major Holidays and Storming Weather

Cleaning Maintenance

- Perform vacuuming of the basins once per week or as needed.
- Remove all floating and submerged litter and debris from basins.
- Brush and clean at the waterline.
- Brush and clean off residual on the walls and the basin floor.
- Clean out all sprayer jet nozzles free of debris and adjust the valves and nozzles as needed.
- Retrieve all coins from the fountain and deliver to representative as directed.

Equipment

- Check all pressure gauges to determine if systems are operating properly.
- Backwash all sand filters each visit to maintain proper flow rates for filters.
- Inspect the pumps, filters and exposed plumbing for any visible leaks.
- Ensure all electrical devices are operating.
- Check all light fixtures and maintain proper positioning.
- Verify that the operating water level in the basins is correct and add water manually if necessary.

Water Treatment Maintenance

- Test the water for sanitizer and pH levels and adjust to maintain proper chemical balancing.
- All standard chemicals (sanitizer, muriatic acid, clarifiers, defoamer, algaecides, bromine) to be included in monthly cost.
- Monitor ozone systems for optimum system output
- Maintain the water fountain at a high quality level that meets or exceeds the County of Los Angeles Health Department of Health Services dictates.

Equipment Evaluation

- VENDOR shall promptly notify CITY Facilities Maintenance Manager (Terry Wagner) of any equipment malfunction or safety compromise noted by VENDOR.
- VENDOR shall provide a written estimate for any necessary extra repair work outside this Scope of Services, and VENDOR will only perform such work upon receipt of CITY's written approval.

LOCATION	ADDRESS	MONTHLY COST
Beverly/Canon Parking 2 Story Wall Fountain With Small Pool	438 N. Beverly Drive	\$120.00
Beverly/Canon Parking Second Floor Large Wall Fountain	439 N. Beverly Drive	\$120.00
Coldwater Park 50' Stream	1100 Coldwater Canyon	\$240.00
Coldwater Reservoir Fountain With Stream	1101 Coldwater Canyon	\$120.00
Coldwater Reservoir Stream	1101 Coldwater	\$120.00
Greystone Park Reflection Pond	905 Loma Vista Drive	\$120.00
Greystone Park Courtyard Fountain Large		\$240.00
Greystone Park Gargoyle Fountain		\$120.00
Greystone Park Large Formal Garden Fountain		\$120.00
Greystone Park Small Decorative Fountain		\$130.00
Arnaz Park	151 N. Arnaz Drive	\$120.00
Maltz Park Medium Size Fountain With Small Pool	9800 Sunset Blvd.	\$120.00
Wilshire Blvd/Santa Monica Blvd Fountain Very Large Fountain With Large Pool		\$265.00
Doheny & Santa Monica Blvd Fountain Large Fountain With Pool		\$265.00
Beverly Gardens Gargoyle Style Fountain	Alpine & Santa Monica Blvd.	\$120.00
Beverly Hills Sign Fountain Small Reflection Pond	Canon & Santa Monica Blvd.	\$120.00
Reeves Park Fountain Small Wall Fountain With Small Water Pool	125 Reeves Drive	\$120.00
City Hall Fountains (2)	450 N. Crescent Drive	\$265.00
	TOTAL MONTHLY COST	\$2,845.00

Not to exceed \$3,414.00 contingency per year as defined in Exhibit B

Total not to exceed \$37,554.00 per year

Total not to exceed \$112,662.00 for three years

EXHIBIT B

SCHEDULE OF PAYMENT AND RATES

CITY shall compensate VENDOR in an amount not to exceed \$34,140.00 per year based on the costs set forth in Exhibit A. A contingency in an amount not to exceed \$3,414.00 for additional services outside the Scope of Work set forth in Exhibit A. Total Not to Exceed for Three Years: \$112,662.00

VENDOR shall submit an itemized statement to CITY for its services performed for the prior month, which shall include documentation setting forth in detail a description of the services rendered. CITY shall pay VENDOR the undisputed amount of such billing within thirty (30) days of receipt of same.

EXHIBIT C

CERTIFICATE OF INSURANCE

This is to certify that the following endorsement is part of the policy(ies) described below :

NAMED INSURED

COMPANIES AFFORDING COVERAGE

ADDRESS

- A.
- B.
- C.

COMPANY (A.B.C.)	COVERAGE	POLICY NUMBER	EXPIRATION DATE	B.I.	LIMITS P.D.	AGGREGATE
	<input type="checkbox"/> AUTOMOBILE LIABILITY <input type="checkbox"/> GENERAL LIABILITY <input type="checkbox"/> PRODUCTS/COMPLETED OPERATIONS <input type="checkbox"/> BLANKET CONT ACTUAL <input type="checkbox"/> VENDOR'S PROTECT VE <input type="checkbox"/> PERSONAL INJURY <input type="checkbox"/> XCESS LIABILITY <input type="checkbox"/> WORKER'S COMPENSATION					

It is hereby understood and agreed that the City of Beverly Hills, its City Council and each member thereof and every officer and employee of the City shall be named as joint and several assureds with respect to claims arising out of the following project or agreement:

It is further agreed that the following indemnity agreement between the City of Beverly Hills and the named insured is covered under the policy: VENDOR agrees to indemnify, hold harmless and defend City, its City Council and each member thereof and every officer and employee of City from any and all liability or financial loss resulting from any suits, claims, losses or actions brought against and from all costs and expenses of litigation brought against City, its City Council and each member thereof and any officer or employee of City which results directly or indirectly from the wrongful or negligent actions of VENDOR's officers, employees, agents or others employed by VENDOR while engaged by VENDOR in the (performance of this agreement) construction of this project.

It is further agreed that the inclusion of more than one assured shall not operate to increase the limit of the company's liability and that insurer waives any right of contribution with insurance which may be available to the City of Beverly Hills.

In the event of cancellation or material change in the above coverage, the company will give 30 days' written notice of cancellation or material change to the certificate holder.

Except to certify that the policy(ies) described above have the above endorsement attached, this certificate or verification of insurance is not an insurance policy and does not amend, extend or alter the coverage afforded by the policies listed herein. Notwithstanding any requirement, term, or condition of any contract or other document with respect to which this certificate or verification of insurance may be issued or may pertain, the insurance afforded by the policies described herein is subject to all the terms, exclusions and conditions of such policies.

DATE : _____ BY : _____
 _____ Authorized Insurance Representative
 TITLE : _____
 AGENCY : _____ Address : _____
