



## AGENDA REPORT

**Meeting Date:** June 21, 2016  
**Item Number:** E-18  
**To:** Honorable Mayor & City Council  
**From:** David Garrard, General Park Maintenance Supervisor  
Stephanie Harris, Management Analyst  
**Subject:** APPROVAL OF AN AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND CORAL REEF, INC. FOR MAINTENANCE OF KOI FISH PONDS AT WILL ROGERS MEMORIAL PARK, GREYSTONE PARK AND BEVERLY GARDENS PARK; AND  
  
APPROVAL TO ISSUE A PURCHASE ORDER IN THE AMOUNT OF \$70,150 FOR THE SERVICES DESCRIBED.  
  
**Attachments:** 1. AGREEMENT

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### **RECOMMENDATION**

Staff recommends that City Council approve the agreement and purchase order with CORAL REEF, INC., for one year of service to provide maintenance of Koi Fish ponds at Will Rogers Memorial Park, Greystone Park and Beverly Gardens Park in an amount not-to-exceed \$70,150.

### **INTRODUCTION**

Park Operations seeks to continue its utilization of their pond maintenance vendor due to the required maintenance of the various koi ponds.

### **DISCUSSION**

The Community Services Department utilizes the services of Coral Reef for their pond maintenance to help maintain the various ponds within the City and ensure they are kept clean and in proper working condition. The Community Services department has used Coral Reef since 2006 with this current contract with for fiscal year 2015-2016 at \$69,500.00. The increase reflects an increase in the labor costs of the vendor as well as

one full year of Lily Pond maintenance. The Park Operations division has been satisfied by the quality and consistency of the work performed by the vendor and would like maintain continuity in the services performed.

The vendor has stated a disinclination to sign a fixed multi-year contract as they cannot predict year over year cost increases, which could negatively impact the quality or quantity of the services provided at a fixed price.

**FISCAL IMPACT**

The cost for services for Coral Reef for fiscal year 2016-2017 has been approved as part of the Community Services Department budget.

  
\_\_\_\_\_  
Nancy Hunt-Coffey  
Approved By

# **Attachment 1**

AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS  
AND CORAL REEF, INC. FOR MAINTENANCE OF KOI FISH  
PONDS AT WILL ROGERS MEMORIAL PARK, GREYSTONE  
PARK AND BEVERLY GARDENS PARK

NAME OF CONTRACTOR: CORAL REEF, INC.

RESPONSIBLE PRINCIPAL OF CONTRACTOR: Beata Goodman, President

CONTRACTOR'S ADDRESS: (Corporate):  
7625 Hayvenhurst Avenue, #19  
Van Nuys, CA 91406

(Payment/Notices):  
23734 Walnut Creek Court  
Valencia, CA 91354

CITY'S ADDRESS: City of Beverly Hills  
455 N. Rexford Drive  
Beverly Hills, CA 90210  
Attention: Nancy Hunt-Coffey, Director of Community  
Services

COMMENCEMENT DATE: July 1, 2016

TERMINATION DATE: June 30, 2017

CONSIDERATION: Total Not-to-Exceed: \$70,150.00 as more particularly  
described in Exhibit A

AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS  
AND CORAL REEF, INC. FOR MAINTENANCE OF KOI FISH  
PONDS AT WILL ROGERS MEMORIAL PARK, GREYSTONE  
PARK AND BEVERLY GARDENS PARK

THIS AGREEMENT is made by and between the City of Beverly Hills (hereinafter called "CITY"), and CORAL REEF, INC. (hereinafter called "CONTRACTOR").

**RECITALS**

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

B. CONTRACTOR represents that it is qualified and able to perform the Scope of Works.

NOW, THEREFORE, the parties agree as follows:

Section 1. CONTRACTOR's Scope of Work. CONTRACTOR 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 CONTRACTOR 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.

CONTRACTOR shall commence its services under this Agreement upon receipt of a written notice to proceed from CITY. CONTRACTOR 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 CONTRACTOR for the services and/or goods provides under this Agreement, and CONTRACTOR 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 A, 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 CONTRACTOR 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, CONTRACTOR 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 CONTRACTOR said Consideration in accordance with the schedule of payment set forth in Exhibit A.

Section 5. Independent Contractor. CONTRACTOR 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 CONTRACTOR or any of CONTRACTOR's employees, except as herein set forth. CONTRACTOR 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 CONTRACTOR without the prior written approval of CITY. Any attempt by CONTRACTOR 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) CONTRACTOR's Responsible Principal set forth above shall be principally responsible for CONTRACTOR's obligations under this Agreement and shall serve as principal liaison between CITY and CONTRACTOR. Designation of another Responsible by CONTRACTOR 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. CONTRACTOR represents that it has, or shall secure at its own expense, all personnel required to perform CONTRACTOR'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. CONTRACTOR 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 CONTRACTOR. CONTRACTOR 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 CONTRACTOR.

Section 11. Insurance.

(a) CONTRACTOR 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 One Million Dollars (\$1,000,000) for each occurrence, combined single limit, against any personal injury, death, loss or damage resulting from the wrongful or negligent acts by CONTRACTOR.

(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 CONTRACTOR in performing the Scope of Work required by this Agreement.

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

(b) CONTRACTOR shall require each of its sub-contractors 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 B4-;VII in the latest edition of Best's Insurance Guide.

(d) CONTRACTOR 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 CONTRACTOR's expense, the premium thereon.

(e) At all times during the term of this Agreement, CONTRACTOR shall maintain on file with the City Clerk a certificate or certificates of insurance on the form set forth in Exhibit B, attached hereto and incorporated herein, showing that the aforesaid policies are in effect in the required amounts. CONTRACTOR shall, prior to commencement of work under this Agreement, file with the City Clerk such certificate or certificates. The general 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 CONTRACTOR 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, CONTRACTOR shall either reduce or eliminate the

deductibles or self-insured retentions with respect to CITY, or CONTRACTOR shall procure a bond guaranteeing payment of losses and expenses.

Section 12. Indemnification. CONTRACTOR 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, attorneys fees and costs) arising from any intentional, reckless, negligent, or otherwise wrongful acts, errors or omissions of CONTRACTOR or any person employed by CONTRACTOR 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 CONTRACTOR. CONTRACTOR 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 CONTRACTOR, CONTRACTOR shall be paid based on the percentage of work satisfactorily performed at the time of termination. In no event shall CONTRACTOR be entitled to receive more than the amount that would be paid to CONTRACTOR for the full performance of the services required by this Agreement. CONTRACTOR 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 CONTRACTOR with all pertinent data, documents, and other requested information as is available for the proper performance of CONTRACTOR'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 CONTRACTOR and compensated by CITY pursuant to this Agreement as CITY deems appropriate.

Section 16. Records and Inspections. CONTRACTOR shall maintain full and accurate records with respect to all matters covered under this Agreement for a period of 5 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. 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 CONTRACTOR 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 CONTRACTOR, 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 CONTRACTOR.

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 CONTRACTOR.

Section 24. 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 \_\_\_\_\_, \_\_\_\_, at Beverly Hills, California.

CITY OF BEVERLY HILLS  
A Municipal Corporation

\_\_\_\_\_  
JOHN A. MIRISCH  
Mayor of the City of Beverly Hills, California

ATTEST:

\_\_\_\_\_  
BYRON POPE  
City Clerk

(SEAL)

CONTRACTOR:



BEATA GOODMAN  
President



LLOYD GOODMAN  
Treasurer/Chief Financial Officer

APPROVED AS TO FORM:



LAURENCE S. WIENER  
City Attorney

APPROVED AS TO CONTENT

  
MAHDI ALUZRI  
City Manager  
NANCY HUNT-COFFEY  
Director of Community Services

KARL KIRKMAN  
Risk Manager

## EXHIBIT A

### SCOPE OF WORK AND COMPENSATION

CONTRACTOR shall perform the following maintenance services for the koi fish pond at Will Rogers Memorial Park, two koi fish ponds at Greystone Park, and the water feature pond at Beverly Gardens Park:

1. For the sum of Two Thousand, Four Hundred, Fifty Eight dollars, Thirty-three cents (\$2,458.33) per month, -or- Twenty Nine Thousand, Five Hundred dollars (\$29,500.00) per year, Coral Reef Inc. will provide pond maintenance to the following locations:
  - A. Greystone Park's Willow Pond – Serviced once (1x) per week
  - B. Greystone Park's Reflection Pond – Serviced once (1x) per week
  - C. Will Rogers Park's Pond – Serviced once (1x) per week
  - D. Beverly Garden's Pond – Serviced once (1x) per week

Service shall include the following:

- Trimming plants
- Removal of leaves & debris
- Inspection of hydraulics
- Testing of water chemistry
- Inspection of fish
- Scrubbing of algae
- Cleaning of fountains
- Koi Food (for Greystone Park)

Service for all (4) ponds will include the following additional supplies:

- Algaecides
  - Water conditioners
2. For an additional sum of Forty Thousand, Six Hundred, Fifty dollars (\$40,650.00) CONTRACTOR shall provide the following vacuuming services, bulb replacement, sand changes, repotting, and addition of aquatic plants.
    - A. Twenty Four (24) additional “vacuuming” services to the Will Rogers pond at Five Hundred dollars (\$500.00) per service, for a total (not to exceed) of Twelve Thousand dollars (\$12,000.00).
    - B. Three (3) Sand Filter changes at a cost of Two Hundred Fifty dollars (\$250.00) each, for a total (not to exceed) of Seven Hundred Fifty dollars (\$750.00).

- C. Twenty Four (24) additional vacuuming services to the Beverly Gardens pond at Five Hundred dollars (\$500.00) per service (not to exceed) Twelve Thousand dollars (\$12,000.00).
- D. Repotting of Lilies at Beverly Gardens (60 lilies total) at a cost of Eighty dollars (\$80.00) each per pot, not to exceed Four Thousand Eight Hundred dollars (\$4,800.00).
- E. Thirty Five (35) new custom planted Lilies (3 to a pot) at a cost of One Hundred Sixty dollars each (\$160.00 ea). Not to exceed Five Thousand, Six Hundred dollars (\$5,600.00) – (20) to Beverly Gardens and (15) to Greystone Reflection Pond
- F. Sixty (60) 3 Gallon Iris Plants at a cost of Fifty dollars each (\$50.00 ea) Not to exceed Three Thousand dollars (\$3,000.00) for Will Rogers Park
- G. Pond Soil & Fertilizer for “Iris” job – One Thousand dollars (\$1,000.00) for Will Rogers Park
- H. Replacement of Ultra Violet Sterilizer Bulb – One Thousand, Five Hundred dollars (\$1,500.00) for Beverly Gardens Park

TOTAL: \$70,150

\* CITY will feed the koi fish daily.

Schedule of Payment

CONTRACTOR 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 CONTRACTOR the amount of such undisputed billing within thirty (30) days of receipt of same.



EXHIBIT B

CERTIFICATE OF INSURANCE

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

NAMED INSURED

COMPANIES AFFORDING COVERAGE

- A.
- B.
- C.

ADDRESS

COMPANY (A. B. C.)	COVERAGE	POLICY NUMBER	EXPIRATION DATE	B.I.	<u>LIMITS</u> P.D.	AGGREGATE
	<input type="checkbox"/> AUTOMOBILE LIABILITY <input type="checkbox"/> GENERAL LIABILITY <input type="checkbox"/> PRODUCTS/COMPLETED OPERATIONS <input type="checkbox"/> BLANKET CONTRACTUAL <input type="checkbox"/> CONSULTANT'S PROTECTIVE <input type="checkbox"/> PERSONAL INJURY <input type="checkbox"/> EXCESS LIABILITY <input type="checkbox"/> WORKERS' COMPENSATION <input type="checkbox"/>					

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: Contractor 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 contractor's officers, employees, agents or others employed by Contractor while engaged by Contractor 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

AGENCY: \_\_\_\_\_  
 \_\_\_\_\_

TITLE: \_\_\_\_\_  
 ADDRESS: \_\_\_\_\_  
 \_\_\_\_\_