CONTRACT SERVICES AGREEMENT

By and Between

CITY OF BELL

and

GRAFFITI PROTECTIVE COATINGS, INC.
AGreement for Contract Services
Between the City of Bell and
Graffiti Protective Coatings, Inc.

This Agreement for Contract Services (herein “Agreement”) is made and entered into this 25th day of October, 2016 by and between the City of Bell, a municipal corporation and charter city (“City”) and Graffiti Protective Coatings, Inc., a California corporation (“Contractor”). City and Contractor may be referred to, individually or collectively, as “Party” or “Parties.”

Recitals

A. City has sought, by issuance of an Invitation for Bids, the performance of the services defined and described particularly in Article 1 of this Agreement.

B. Contractor, following submission of a bid for the performance of the services defined and described particularly in Article 1 of this Agreement, was selected by the City to perform those services.

C. Pursuant to the City of Bell’s Municipal Code, City has authority to enter into and execute this Agreement.

D. The Parties desire to formalize the selection of Contractor for performance of those services defined and described particularly in Article 1 of this Agreement and desire that the terms of that performance be as particularly defined and described herein.

Operative Provisions

Now, Therefore, in consideration of the mutual promises and covenants made by the Parties and contained herein and other consideration, the value and adequacy of which are hereby acknowledged, the parties agree as follows:

Article 1. Services of Contractor

1.1 Scope of Services.

In compliance with all terms and conditions of this Agreement, the Contractor shall provide those services specified in the “Scope of Services” attached hereto as Exhibit “A” and incorporated herein by this reference, which may be referred to herein as the “services” or “work” hereunder. As a material inducement to the City entering into this Agreement, Contractor represents and warrants that it has the qualifications, experience, and facilities necessary to properly perform the services required under this Agreement in a thorough, competent, and professional manner, and is experienced in performing the work and services contemplated herein. Contractor shall at all times faithfully, competently and to the best of its ability, experience and talent, perform all services described herein. Contractor covenants that it shall follow the highest professional standards in performing the work and services required hereunder and that all materials will be both of good quality as well as fit for the purpose intended. For purposes of this Agreement, the phrase “highest professional standards” shall mean those
standards of practice recognized by one or more first-class firms performing similar work under similar circumstances.

1.2 Contractor’s Proposal.

The Scope of Service shall include the Contractor’s scope of work or bid which shall be incorporated herein by this reference as though fully set forth herein. In the event of any inconsistency between the terms of such proposal and this Agreement, the terms of this Agreement shall govern.

1.3 Compliance with Law.

Contractor shall keep itself informed concerning, and shall render all services hereunder in accordance with, all ordinances, resolutions, statutes, rules, and regulations of the City and any Federal, State or local governmental entity having jurisdiction in effect at the time service is rendered.

1.4 Licenses, Permits, Fees and Assessments.

Contractor shall obtain at its sole cost and expense such licenses, permits and approvals as may be required by law for the performance of the services required by this Agreement. Contractor shall have the sole obligation to pay for any fees, assessments and taxes, plus applicable penalties and interest, which may be imposed by law and arise from or are necessary for the Contractor’s performance of the services required by this Agreement, and shall indemnify, defend and hold harmless City, its officers, employees or agents of City, against any such fees, assessments, taxes, penalties or interest levied, assessed or imposed against City hereunder.

1.5 Familiarity with Work.

By executing this Agreement, Contractor warrants that Contractor (i) has thoroughly investigated and considered the scope of services to be performed, (ii) has carefully considered how the services should be performed, and (iii) fully understands the facilities, difficulties and restrictions attending performance of the services under this Agreement. If the 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, prior to commencement of services hereunder. Should the Contractor discover any latent or unknown conditions, which will materially affect the performance of the services hereunder, Contractor shall immediately inform the City of such fact and shall not proceed except at Contractor’s risk until written instructions are received from the Contract Officer.

1.6 Care of Work.

The Contractor shall adopt reasonable methods during the life of the Agreement to furnish continuous protection to the work, and the equipment, materials, papers, documents, plans, studies and/or other components thereof to prevent losses or damages, and shall be responsible for all such damages, to persons or property, until acceptance of the work by City, except such losses or damages as may be caused by City’s own negligence.
1.7 Further Responsibilities of Parties.

Both parties agree to use reasonable care and diligence to perform their respective obligations under this Agreement. Both parties agree to act in good faith to execute all instruments, prepare all documents and take all actions as may be reasonably necessary to carry out the purposes of this Agreement. Unless hereafter specified, neither party shall be responsible for the service of the other.

1.8 Additional Services.

City shall have the right at any time during the performance of the services, without invalidating this Agreement, to order extra work beyond that specified in the Scope of Services or make changes by altering, adding to or deducting from said work. No such extra work may be undertaken unless a written order is first given by the Contract Officer to the Contractor, incorporating therein any adjustment in (i) the Contract Sum for the actual costs of the extra work, and/or (ii) the time to perform this Agreement, which said adjustments are subject to the written approval of the Contractor. Any increase in compensation of up to ten percent (10%) of the Contract Sum or $25,000, whichever is less; or, in the time to perform of up to one hundred eighty (180) days, may be approved by the Contract Officer. Any greater increases, taken either separately or cumulatively, must be approved by the City Council. It is expressly understood by Contractor that the provisions of this Section shall not apply to services specifically set forth in the Scope of Services. Contractor hereby acknowledges that it accepts the risk that the services to be provided pursuant to the Scope of Services may be more costly or time consuming than Contractor anticipates and that Contractor shall not be entitled to additional compensation therefor. City may in its sole and absolute discretion have similar work done by other contractors. No claims for an increase in the Contract Sum or time for performance shall be valid unless the procedures established in this Section are followed.

1.9 Special Requirements.

Additional terms and conditions of this Agreement, if any, which are made a part hereof are set forth in the “Special Requirements” attached hereto as Exhibit “B” and incorporated herein by this reference. In the event of a conflict between the provisions of Exhibit “B” and any other provisions of this Agreement, the provisions of Exhibit “B” shall govern.

ARTICLE 2. COMPENSATION AND METHOD OF PAYMENT.

2.1 Contract Sum.

Subject to any limitations set forth in this Agreement, City agrees to pay Contractor the amounts specified in the “Schedule of Compensation” attached hereto as Exhibit “C” and incorporated herein by this reference. The total compensation, including reimbursement for actual expenses, shall not exceed One Hundred Eighty Thousand Dollars ($180,000) (the “Contract Sum”), unless additional compensation is approved pursuant to Section 1.8.

2.2 Method of Compensation.

The method of compensation may include: (i) a lump sum payment upon completion; (ii) payment in accordance with specified tasks or the percentage of completion of the services, less contract retention; (iii) payment for time and materials based upon the Contractor’s rates as
specified in the Schedule of Compensation, provided that (a) time estimates are provided for the
performance of sub tasks, (b) contract retention is maintained, and (c) the Contract Sum is not
exceeded; or (iv) such other methods as may be specified in the Schedule of Compensation.

2.3 **Reimbursable Expenses.**

Compensation may include reimbursement for actual and necessary expenditures for
reproduction costs, telephone expenses, and travel expenses approved by the Contract Officer in
advance, or actual subcontractor expenses of an approved subcontractor pursuant to Section 4.5,
and only if specified in the Schedule of Compensation. The Contract Sum shall include the
attendance of Contractor at all project meetings reasonably deemed necessary by the City.
Coordination of the performance of the work with City is a critical component of the services. If
Contractor is required to attend additional meetings to facilitate such coordination, Contractor
shall not be entitled to any additional compensation for attending said meetings.

2.4 **Invoices.**

Each month Contractor shall furnish to City an original invoice for all work performed
and expenses incurred during the preceding month in a form approved by City’s Director of
Finance. By submitting an invoice for payment under this Agreement, Contractor is certifying
compliance with all provisions of the Agreement. The invoice shall detail charges for all
necessary and actual expenses by the following categories: labor (by sub-category), travel,
materials, equipment, supplies, and sub-contractor contracts. Sub-contractor charges shall also be
detailed by such categories. Contractor shall not invoice City for any duplicate services
performed by more than one person.

City shall independently review each invoice submitted by the Contractor to determine
whether the work performed and expenses incurred are in compliance with the provisions of this
Agreement. Except as to any charges for work performed or expenses incurred by Contractor
which are disputed by City, or as provided in Section 7.3, City will use its best efforts to cause
Contractor to be paid within forty-five (45) days of receipt of Contractor’s correct and undisputed
invoice; however, Contractor acknowledges and agrees that due to City warrant run procedures,
the City cannot guarantee that payment will occur within this time period. In the event any
charges or expenses are disputed by City, the original invoice shall be returned by City to
Contractor for correction and resubmission. Review and payment by City for any invoice
provided by the Contractor shall not constitute a waiver of any rights or remedies provided herein
or any applicable law.

2.5 **Waiver.**

Payment to Contractor for work performed pursuant to this Agreement shall not be
deemed to waive any defects in work performed by Contractor.

**ARTICLE 3. PERFORMANCE SCHEDULE**

3.1 **Time of Essence.**

Time is of the essence in the performance of this Agreement.
3.2 **Schedule of Performance.**

Contractor shall commence the services pursuant to this Agreement upon receipt of a written notice to proceed and shall perform all services within the time period(s) established in the “Schedule of Performance” attached hereto as Exhibit “D” and incorporated herein by this reference. When requested by the Contractor, extensions to the time period(s) specified in the Schedule of Performance may be approved in writing by the Contract Officer but not exceeding one hundred eighty (180) days cumulatively.

3.3 **Force Majeure.**

The time period(s) specified in the Schedule of Performance for performance of the services rendered pursuant to this Agreement shall be extended because of any delays due to unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including, but not restricted to, acts of God or of the public enemy, unusually severe weather, fires, earthquakes, floods, epidemics, quarantine restrictions, riots, strikes, freight embargoes, wars, litigation, and/or acts of any governmental agency, including the City, if the Contractor shall within ten (10) days of the commencement of such delay notify the Contract Officer in writing of the causes of the delay. The Contract Officer shall ascertain the facts and the extent of delay, and extend the time for performing the services for the period of the enforced delay when and if in the judgment of the Contract Officer such delay is justified. The Contract Officer’s determination shall be final and conclusive upon the parties to this Agreement. In no event shall Contractor be entitled to recover damages against the City for any delay in the performance of this Agreement, however caused, Contractor’s sole remedy being extension of the Agreement pursuant to this Section.

3.4 **Term.**

Unless earlier terminated in accordance with Article 7 of this Agreement, this Agreement shall continue in full force and effect until completion of the services but not exceeding one (1) years from the date hereof, and with the possibility of two one-year extensions at the City’s sole discretion, except as otherwise provided in the Schedule of Performance (Exhibit “D”).

**ARTICLE 4. COORDINATION OF WORK**

4.1 **Representatives and Personnel of Contractor.**

The following principals of Contractor (“Principals”) are hereby designated as being the principals and representatives of Contractor authorized to act in its behalf with respect to the work specified herein and make all decisions in connection therewith:

<table>
<thead>
<tr>
<th>Name</th>
<th>Title</th>
</tr>
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<tbody>
<tr>
<td>Carla Lenhoff</td>
<td>President</td>
</tr>
<tr>
<td>Julio Bonilla</td>
<td>Project Manager</td>
</tr>
<tr>
<td>Pedro Chavez</td>
<td>Field Tech 1</td>
</tr>
</tbody>
</table>

(Name) (Title)
It is expressly understood that the experience, knowledge, capability and reputation of the foregoing principals were a substantial inducement for City to enter into this Agreement. Therefore, the foregoing principals shall be responsible during the term of this Agreement for directing all activities of Contractor and devoting sufficient time to personally supervise the services hereunder. All personnel of Contractor, and any authorized agents, shall at all times be under the exclusive direction and control of the Principals. For purposes of this Agreement, the foregoing Principals may not be replaced nor may their responsibilities be substantially reduced by Contractor without the express written approval of City. Additionally, Contractor shall utilize only competent personnel to perform services pursuant to this Agreement. Contractor shall make every reasonable effort to maintain the stability and continuity of Contractor’s staff and subcontractors, if any, assigned to perform the services required under this Agreement. Contractor shall notify City of any changes in Contractor’s staff and subcontractors, if any, assigned to perform the services required under this Agreement, prior to and during any such performance.

4.2 Status of Contractor.

Contractor shall have no authority to bind City in any manner, or to incur any obligation, debt or liability of any kind on behalf of or against City, whether by contract or otherwise, unless such authority is expressly conferred under this Agreement or is otherwise expressly conferred in writing by City. Contractor shall not at any time or in any manner represent that Contractor or any of Contractor’s officers, employees, or agents are in any manner officials, officers, employees or agents of City. Neither Contractor, nor any of Contractor’s officers, employees or agents, shall obtain any rights to retirement, health care or any other benefits which may otherwise accrue to City’s employees. Contractor expressly waives any claim Contractor may have to any such rights.

4.3 Contract Officer.

The Contract Officer shall be Derek Hull, Community Development Director, or such person as may be designated by the City Manager. It shall be the Contractor’s responsibility to assure that the Contract Officer is kept informed of the progress of the performance of the services and the Contractor shall refer any decisions which must be made by City to the Contract Officer. Unless otherwise specified herein, any approval of City required hereunder shall mean the approval of the Contract Officer. The Contract Officer shall have authority, if specified in writing by the City Manager, to sign all documents on behalf of the City required hereunder to carry out the terms of this Agreement.

4.4 Independent Contractor.

Neither the City nor any of its employees shall have any control over the manner, mode or means by which Contractor, its agents or employees, perform the services required herein, except as otherwise set forth herein. City shall have no voice in the selection, discharge, supervision or control of Contractor’s employees, servants, representatives or agents, or in fixing their number, compensation or hours of service. Contractor shall perform all services required herein as an independent contractor of City and shall remain at all times as to City a wholly independent contractor with only such obligations as are consistent with that role. Contractor shall not at any time or in any manner represent that it or any of its agents or employees are agents or employees of City. City shall not in any way or for any purpose become or be deemed to be a partner of
Contractor in its business or otherwise or a joint venturer or a member of any joint enterprise with Contractor.

4.5 **Prohibition Against Subcontracting or Assignment.**

The experience, knowledge, capability and reputation of Contractor, its principals and employees were a substantial inducement for the City to enter into this Agreement. Therefore, Contractor shall not contract with any other entity to perform in whole or in part the services required hereunder without the express written approval of the City. In addition, neither this Agreement nor any interest herein may be transferred, assigned, conveyed, hypothecated or encumbered voluntarily or by operation of law, whether for the benefit of creditors or otherwise, without the prior written approval of City. Transfers restricted hereunder shall include the transfer to any person or group of persons acting in concert of more than twenty five percent (25%) of the present ownership and/or control of Contractor, taking all transfers into account on a cumulative basis. In the event of any such unapproved transfer, including any bankruptcy proceeding, this Agreement shall be void. No approved transfer shall release the Contractor or any surety of Contractor of any liability hereunder without the express consent of City.

**ARTICLE 5. INSURANCE, INDEMNIFICATION AND BONDS**

5.1 **Insurance Coverages.**

The Contractor shall procure and maintain, at its sole cost and expense, in a form and content satisfactory to City, during the entire term of this Agreement including any extension thereof, the following policies of insurance which shall cover all elected and appointed officers, employees and agents of City:

(a) **Commercial General Liability Insurance (Occurrence Form CG0001 or equivalent).** A policy of comprehensive general liability insurance written on a per occurrence basis for bodily injury, personal injury and property damage. The policy of insurance shall be in an amount not less than $1,000,000.00 per occurrence or if a general aggregate limit is used, then the general aggregate limit shall be twice the occurrence limit.

(b) **Worker's Compensation Insurance.** A policy of worker's compensation insurance in such amount as will fully comply with the laws of the State of California and which shall indemnify, insure and provide legal defense for the Contractor against any loss, claim or damage arising from any injuries or occupational diseases occurring to any worker employed by or any persons retained by the Contractor in the course of carrying out the work or services contemplated in this Agreement.

(c) **Automotive Insurance (Form CA 0001 (Ed 1/87) including “any auto” and endorsement CA 0025 or equivalent).** A policy of comprehensive automobile liability insurance written on a per occurrence for bodily injury and property damage in an amount not less than $1,000,000. Said policy shall include coverage for owned, non-owned, leased, hired cars and any automobile.

(d) **Professional Liability.** Professional liability insurance appropriate to the Contractor's profession. This coverage may be written on a “claims made” basis, and must include coverage for contractual liability. The professional liability insurance required by this Agreement must be endorsed to be applicable to claims based upon, arising out of or related to
services performed under this Agreement. The insurance must be maintained for at least 5 consecutive years following the completion of Contractor’s services or the termination of this Agreement. During this additional 5-year period, Contractor shall annually and upon request of the City submit written evidence of this continuous coverage.

(e) **Subcontractors.** Contractor shall include all subcontractors as insureds under its policies or shall furnish separate certificates and certified endorsements for each subcontractor. All coverages for subcontractors shall include all of the requirements stated herein.

(f) **Additional Insurance.** Policies of such other insurance, as may be required in the Special Requirements in Exhibit “B”.

5.2 **General Insurance Requirements.**

All of the above policies of insurance shall be primary insurance and shall name the City, its elected and appointed officers, employees and agents as additional insureds and any insurance maintained by City or its officers, employees or agents may apply in excess of, and not contribute with Contractor’s insurance. The insurer is deemed hereof to waive all rights of subrogation and contribution it may have against the City, its officers, employees and agents and their respective insurers. Moreover, the insurance policy must specify that where the primary insured does not satisfy the self-insured retention, any additional insured may satisfy the self-insured retention.

All of said policies of insurance shall provide that said insurance may not be amended or cancelled by the insurer or any party hereto without providing thirty (30) days prior written notice by certified mail return receipt requested to the City. In the event any of said policies of insurance are cancelled, the Contractor shall, prior to the cancellation date, submit new evidence of insurance in conformance with Section 5.1 to the Contract Officer.

No work or services under this Agreement shall commence until the Contractor has provided the City with Certificates of Insurance, additional insured endorsement forms or appropriate insurance binders evidencing the above insurance coverages and said Certificates of Insurance or binders are approved by the City. City reserves the right to inspect complete, certified copies of and endorsements to all required insurance policies at any time. Any failure to comply with the reporting or other provisions of the policies including breaches or warranties shall not affect coverage provided to City.

All certificates shall name the City as additional insured (providing the appropriate endorsement) and shall conform to the following “cancellation” notice:

**CANCELLATION:**

**SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY SHALL MAIL THIRTY (30)-DAY ADVANCE WRITTEN NOTICE TO CERTIFICATE HOLDER NAMED HEREIN.**

[to be initialed] Contractor Initials
City, its respective elected and appointed officers, directors, officials, employees, agents and volunteers are to be covered as additional insureds as respects: liability arising out of activities Contractor performs; products and completed operations of Contractor; premises owned, occupied or used by Contractor; or any automobiles owned, leased, hired or borrowed by Contractor. The coverage shall contain no special limitations on the scope of protection afforded to City, and their respective elected and appointed officers, officials, employees or volunteers. 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.

Any deductibles or self-insured retentions must be declared to and approved by City. At the option of City, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City or its respective elected or appointed officers, officials, employees and volunteers or the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration, defense expenses and claims. The Contractor agrees that the requirement to provide insurance shall not be construed as limiting in any way the extent to which the Contractor may be held responsible for the payment of damages to any persons or property resulting from the Contractor’s activities or the activities of any person or persons for which the Contractor is otherwise responsible nor shall it limit the Contractor’s indemnification liabilities as provided in Section 5.3.

In the event the Contractor subcontracts any portion of the work in compliance with Section 4.5 of this Agreement, the contract between the Contractor and such subcontractor shall require the subcontractor to maintain the same policies of insurance that the Contractor is required to maintain pursuant to Section 5.1, and such certificates and endorsements shall be provided to City.

5.3 Indemnification.

To the full extent permitted by law, Contractor agrees to indemnify, defend and hold harmless the City, its officers, employees and agents (“Indemnified Parties”) against, and will hold and save them and each of them harmless from, any and all actions, either judicial, administrative, arbitration or regulatory claims, damages to persons or property, losses, costs, penalties, obligations, errors, omissions or liabilities whether actual or threatened (herein “claims or liabilities”) that may be asserted or claimed by any person, firm or entity arising out of or in connection with the negligent performance of the work, operations or activities provided herein of Contractor, its officers, employees, agents, subcontractors, invitees, or any individual or entity for which Contractor is legally liable (“Indemnitors”), or arising from Contractor’s or indemnitors’ reckless or willful misconduct, or arising from Contractor’s or indemnitors’ negligent performance of or failure to perform any term, provision, covenant or condition of this Agreement, and in connection therewith:

(a) Contractor will defend any action or actions filed in connection with any of said claims or liabilities and will pay all costs and expenses, including legal costs and attorneys’ fees incurred in connection therewith;

(b) Contractor will promptly pay any judgment rendered against the City, its officers, agents or employees for any such claims or liabilities arising out of or in connection with the negligent performance of or failure to perform such work, operations or activities of
Contractor hereunder; and Contractor agrees to save and hold the City, its officers, agents, and employees harmless therefrom;

(c) In the event the City, its officers, agents or employees is made a party to any action or proceeding filed or prosecuted against Contractor for such damages or other claims arising out of or in connection with the negligent performance of or failure to perform the work, operation or activities of Contractor hereunder, Contractor agrees to pay to the City, its officers, agents or employees, any and all costs and expenses incurred by the City, its officers, agents or employees in such action or proceeding, including but not limited to, legal costs and attorneys' fees.

Contractor shall incorporate similar indemnity agreements with its subcontractors and if it fails to do so Contractor shall be fully responsible to indemnify City hereunder therefore, and failure of City to monitor compliance with these provisions shall not be a waiver hereof. This indemnification includes claims or liabilities arising from any negligent or wrongful act, error or omission, or reckless or willful misconduct of Contractor in the performance of professional services hereunder. The provisions of this Section do not apply to claims or liabilities occurring as a result of City's sole negligence or willful acts or omissions, but, to the fullest extent permitted by law, shall apply to claims and liabilities resulting in part from City's negligence, except that design professionals' indemnity hereunder shall be limited to claims and liabilities arising out of the negligence, recklessness or willful misconduct of the design professional. The indemnity obligation shall be binding on successors and assigns of Contractor and shall survive termination of this Agreement.

5.4 Sufficiency of Insurer or Surety.

Insurance required by this Agreement shall be satisfactory only if issued by companies qualified to do business in California, rated "A" or better in the most recent edition of Best Rating Guide, The Key Rating Guide or in the Federal Register, and only if they are of a financial category Class VII or better, unless such requirements are waived by the Risk Manager of the City ("Risk Manager") due to unique circumstances. If this Agreement continues for more than 3 years duration, or in the event the Risk Manager determines that the work or services to be performed under this Agreement creates an increased or decreased risk of loss to the City, the Contractor agrees that the minimum limits of the insurance policies may be changed accordingly upon receipt of written notice from the Risk Manager.

ARTICLE 6. RECORDS, REPORTS, AND RELEASE OF INFORMATION

6.1 Records.

Contractor shall keep, and require subcontractors to keep, such ledgers, books of accounts, invoices, vouchers, canceled checks, reports, studies or other documents relating to the disbursements charged to City and services performed hereunder (the "books and records"), as shall be necessary to perform the services required by this Agreement and enable the Contract Officer to evaluate the performance of such services. Any and all such documents shall be maintained in accordance with generally accepted accounting principles and shall be complete and detailed. The Contract Officer shall have full and free access to such books and records at all times during normal business hours of City, including the right to inspect, copy, audit and make records and transcripts from such records. Such records shall be maintained for a period of three
(3) years following completion of the services hereunder, and the City shall have access to such records in the event any audit is required. In the event of dissolution of Contractor’s business, custody of the books and records may be given to City, and access shall be provided by Contractor’s successor in interest. Notwithstanding the above, the Contractor shall fully cooperate with the City in providing access to the books and records if a public records request is made and disclosure is required by law including but not limited to the California Public Records Act.

6.2 Reports.

Contractor shall periodically prepare and submit to the Contract Officer such reports concerning the performance of the services required by this Agreement as the Contract Officer shall require. Contractor hereby acknowledges that the City is greatly concerned about the cost of work and services to be performed pursuant to this Agreement. For this reason, Contractor agrees that if Contractor becomes aware of any facts, circumstances, techniques, or events that may or will materially increase or decrease the cost of the work or services contemplated herein or, if Contractor is providing design services, the cost of the project being designed, Contractor shall promptly notify the Contract Officer of said fact, circumstance, technique or event and the estimated increased or decreased cost related thereto and, if Contractor is providing design services, the estimated increased or decreased cost estimate for the project being designed.

6.3 Ownership of Documents.

All drawings, specifications, maps, designs, photographs, studies, surveys, data, notes, computer files, reports, records, documents and other materials (the “documents and materials”) prepared by Contractor, its employees, subcontractors and agents in the performance of this Agreement shall be the property of City and shall be delivered to City upon request of the Contract Officer or upon the termination of this Agreement, and Contractor shall have no claim for further employment or additional compensation as a result of the exercise by City of its full rights of ownership use, reuse, or assignment of the documents and materials hereunder. Any use, reuse or assignment of such completed documents for other projects and/or use of uncompleted documents without specific written authorization by the Contractor will be at the City’s sole risk and without liability to Contractor, and Contractor’s guarantee and warranties shall not extend to such use, reuse or assignment. Contractor may retain copies of such documents for its own use. Contractor shall have the right to use the concepts embodied therein. All subcontractors shall provide for assignment to City of any documents or materials prepared by them, and in the event Contractor fails to secure such assignment, Contractor shall indemnify City for all damages resulting therefrom. Moreover, Contractor with respect to any documents and materials that may qualify as “works made for hire” as defined in 17 U.S.C. § 101, such documents and materials are hereby deemed “works made for hire” for the City.
6.4 Confidentiality and Release of Information.

(a) All information gained or work product produced by Contractor in performance of this Agreement shall be considered confidential, unless such information is in the public domain or already known to Contractor. Contractor shall not release or disclose any such information or work product to persons or entities other than City without prior written authorization from the Contract Officer.

(b) Contractor, its officers, employees, agents or subcontractors, shall not, without prior written authorization from the Contract Officer or unless requested by the City Attorney, voluntarily provide documents, declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement. Response to a subpoena or court order shall not be considered "voluntary" provided Contractor gives City notice of such court order or subpoena.

(c) If Contractor, or any officer, employee, agent or subcontractor of Contractor, provides any information or work product in violation of this Agreement, then City shall have the right to reimbursement and indemnity from Contractor for any damages, costs and fees, including attorneys fees, caused by or incurred as a result of Contractor’s conduct.

(d) Contractor shall promptly notify City should Contractor, its officers, employees, agents or subcontractors 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. City retains the right, but has no obligation, to represent Contractor 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, this right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

ARTICLE 7. ENFORCEMENT OF AGREEMENT AND TERMINATION

7.1 California Law.

This Agreement shall be interpreted, construed and governed both as to validity and to performance of the parties in accordance with the laws of the State of California. Legal actions concerning any dispute, claim or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of Los Angeles, State of California, or any other appropriate court in such county, and Contractor covenants and agrees to submit to the personal jurisdiction of such court in the event of such action. In the event of litigation in a U.S. District Court, venue shall lie exclusively in the Central District of California, in the County of Los Angeles, State of California.

7.2 Disputes; Default.

In the event that Contractor is in default under the terms of this Agreement, the City shall not have any obligation or duty to continue compensating Contractor for any work performed after the date of default. Instead, the City may give notice to Contractor of the default and the reasons for the default. The notice shall include the timeframe in which Contractor may cure the default. This timeframe is presumptively thirty (30) days, but may be extended, though not
reduced, if circumstances warrant. During the period of time that Contractor is in default, the City shall hold all invoices and shall, when the default is cured, proceed with payment on the invoices. In the alternative, the City may, in its sole discretion, elect to pay some or all of the outstanding invoices during the period of default. If Contractor does not cure the default, the City may take necessary steps to terminate this Agreement under this Article. Any failure on the part of the City to give notice of the Contractor’s default shall not be deemed to result in a waiver of the City’s legal rights or any rights arising out of any provision of this Agreement.

7.3 Retention of Funds.

Contractor hereby authorizes City to deduct from any amount payable to Contractor (whether or not arising out of this Agreement) (i) any amounts the payment of which may be in dispute hereunder or which are necessary to compensate City for any losses, costs, liabilities, or damages suffered by City, and (ii) all amounts for which City may be liable to third parties, by reason of Contractor’s acts or omissions in performing or failing to perform Contractor’s obligation under this Agreement. In the event that any claim is made by a third party, the amount or validity of which is disputed by Contractor, or any indebtedness shall exist which shall appear to be the basis for a claim of lien, City may withhold from any payment due, without liability for interest because of such withholding, an amount sufficient to cover such claim. The failure of City to exercise such right to deduct or to withhold shall not, however, affect the obligations of the Contractor to insure, indemnify, and protect City as elsewhere provided herein.

7.4 Waiver.

Waiver by any party to this Agreement of any term, condition, or covenant of this Agreement shall not constitute a waiver of any other term, condition, or covenant. Waiver by any party of any breach of the provisions of this Agreement shall not constitute a waiver of any other provision or a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by City of any work or services by Contractor shall not constitute a waiver of any of the provisions of this Agreement. No delay or omission in the exercise of any right or remedy by a non-defaulting party on any default shall impair such right or remedy or be construed as a waiver. Any waiver by either party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

7.5 Rights and Remedies are Cumulative.

Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the parties are cumulative and the exercise by either party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.

7.6 Legal Action.

In addition to any other rights or remedies, either party may take legal action, in law or in equity, to cure, correct or remedy any default, to recover damages for any default, to compel specific performance of this Agreement, to obtain declaratory or injunctive relief, or to obtain any other remedy consistent with the purposes of this Agreement. Notwithstanding any contrary provision herein, Contractor shall file a statutory claim pursuant to Government Code Sections 905 et. seq. and 910 et. seq., in order to pursue a legal action under this Agreement.
7.7 Termination Prior to Expiration of Term.

This Section shall govern any termination of this Contract except as specifically provided in the following Section for termination for cause. The City reserves the right to terminate this Contract at any time, with or without cause, upon thirty (30) days’ written notice to Contractor, except that where termination is due to the fault of the Contractor, the period of notice may be such shorter time as may be determined by the Contract Officer. In addition, the Contractor reserves the right to terminate this Contract at any time, with or without cause, upon sixty (60) days’ written notice to City, except that where termination is due to the fault of the City, the period of notice may be such shorter time as the Contractor may determine. Upon receipt of any notice of termination, Contractor shall immediately cease all services hereunder except such as may be specifically approved by the Contract Officer. Except where the Contractor has initiated termination, the Contractor shall be entitled to compensation for all services rendered prior to the effective date of the notice of termination and for any services authorized by the Contract Officer thereafter in accordance with the Schedule of Compensation or such as may be approved by the Contract Officer, except as provided in Section 7.3. In the event the Contractor has initiated termination, the Contractor shall be entitled to compensation only for the reasonable value of the work product actually produced hereunder. In the event of termination without cause pursuant to this Section, the terminating party need not provide the non-terminating party with the opportunity to cure pursuant to Section 7.2.

7.8 Termination for Default of Contractor.

If termination is due to the failure of the Contractor to fulfill its obligations under this Agreement, City may, after compliance with the provisions of Section 7.2, take over the work and prosecute the same to completion by contract or otherwise, and the Contractor shall be liable to the extent that the total cost for completion of the services required hereunder exceeds the compensation herein stipulated (provided that the City shall use reasonable efforts to mitigate such damages), and City may withhold any payments to the Contractor for the purpose of set-off or partial payment of the amounts owed the City as previously stated.

7.9 Attorneys’ Fees.

If either party to this Agreement is required to initiate or defend or made a party to any action or proceedings in any way connected with this Agreement, the prevailing party in such action or proceeding, in addition to any other relief which may be granted, whether legal or equitable, shall be entitled to reasonable attorney’s fees. Attorney’s fees shall include attorney’s fees on any appeal, and in addition a party entitled to attorney’s fees shall be entitled to all other reasonable costs for investigating such action, taking depositions and discovery and all other necessary costs the court allows which are incurred in such litigation. All such fees shall be deemed to have accrued on commencement of such action and shall be enforceable whether or not such action is prosecuted to judgment.

ARTICLE 8. CITY OFFICERS AND EMPLOYEES: NON-DISCRIMINATION

8.1 Non-liability of City Officers and Employees.

No officer or employee of the City shall be personally liable to the Contractor, or any successor in interest, in the event of any default or breach by the City or for any amount which
may become due to the Contractor or to its successor, or for breach of any obligation of the terms of this Agreement.

8.2 Conflict of Interest.

Contractor covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of City or which would in any way hinder Contractor’s performance of services under this Agreement. Contractor further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent or subcontractor without the express written consent of the Contract Officer. Contractor agrees to at all times avoid conflicts of interest or the appearance of any conflicts of interest with the interests of City in the performance of this Agreement.

No officer or employee of the City shall have any financial interest, direct or indirect, in this Agreement nor shall any such officer or employee participate in any decision relating to the Agreement which affects her/his financial interest or the financial interest of any corporation, partnership or association in which (s)he is, directly or indirectly, interested, in violation of any State statute or regulation. The Contractor warrants that it has not paid or given and will not pay or give any third party any money or other consideration for obtaining this Agreement.

8.3 Covenant Against Discrimination.

Contractor covenants that, by and for itself, its heirs, executors, assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, gender, sexual orientation, marital status, national origin, ancestry or other protected class in the performance of this Agreement. Contractor shall take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to their race, color, creed, religion, sex, gender, sexual orientation, marital status, national origin, ancestry or other protected class.

8.4 Unauthorized Aliens.

Contractor hereby promises and agrees to comply with all of the provisions of the Federal Immigration and Nationality Act, 8 U.S.C.A. §§ 1101, et seq., as amended, and in connection therewith, shall not employ unauthorized aliens as defined therein. Should Contractor so employ such unauthorized aliens for the performance of work and/or services covered by this Agreement, and should any liability or sanctions be imposed against City for such use of unauthorized aliens, Contractor hereby agrees to and shall reimburse City for the cost of all such liabilities or sanctions imposed, together with any and all costs, including attorneys' fees, incurred by City.

ARTICLE 9. MISCELLANEOUS PROVISIONS

9.1 Notices.

Any notice, demand, request, document, consent, approval, or communication either party desires or is required to give to the other party or any other person shall be in writing and either served personally or sent by prepaid, first-class mail, in the case of the City, to the City Manager and to the attention of the Contract Officer (with her/his name and City title), City of Bell, 6330
Pine Avenue, Bell, California 90201 and in the case of the Contractor, to the person at the address designated on the execution page of this Agreement. Either party may change its address by notifying the other party of the change of address in writing. Notice shall be deemed communicated at the time personally delivered or in seventy-two (72) hours from the time of mailing if mailed as provided in this Section.

9.2 Interpretation.

The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply.

9.3 Counterparts.

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

9.4 Integration; Amendment.

This Agreement including the attachments hereto is the entire, complete and exclusive expression of the understanding of the parties. It is understood that there are no oral agreements between the parties hereto affecting this Agreement and this Agreement supersedes and cancels any and all previous negotiations, arrangements, agreements and understandings, if any, between the parties, and none shall be used to interpret this Agreement. No amendment to or modification of this Agreement shall be valid unless made in writing and approved by the Contractor and by the City Council. The parties agree that this requirement for written modifications cannot be waived and that any attempted waiver shall be void.

9.5 Severability.

In the event that any one or more of the phrases, sentences, clauses, paragraphs, or sections contained in this Agreement shall be declared invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining phrases, sentences, clauses, paragraphs, or sections of this Agreement which are hereby declared as severable and shall be interpreted to carry out the intent of the parties hereunder unless the invalid provision is so material that its invalidity deprives either party of the basic benefit of their bargain or renders this Agreement meaningless.

9.6 Corporate Authority.

The persons executing this Agreement on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which said party is bound. This Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the parties.

[SIGNATURES ON FOLLOWING PAGE]
IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date and year first-above written.

CITY:

CITY OF BELL, a municipal corporation

[Signature]
Alicia Romero, Mayor

ATTEST:

[Signature]
Angela Bustamante, Assistant City Clerk

APPROVED AS TO FORM:

ALESHIRE & WYNDER, LLP

[Signature]
David J. Aleshire, City Attorney

CONTRACTOR:

GRAFFITI PROTECTIVE COATINGS, INC., a California corporation

[Signature]
[Name:]
[Title:]
By:

[Signature]
[Name:]
[Title:]
Address: 319 W. L Авнштт, Bldg #264
LA, CA 9004

Two signatures are required if a corporation.

NOTE: CONTRACTOR'S SIGNATURES SHALL BE DULY NOTARIZED, AND APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO CONTRACTOR'S BUSINESS ENTITY.
ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Los Angeles

On February 16, 2017 before me, Itze Silva, Notary Public
(insert name and title of the officer)

personally appeared Carla Lenhoff and Steven Lenhoff,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature __________________________ (Seal)
EXHIBIT "A"

SCOPE OF SERVICES

I. Contractor will perform the following Services:

The Contractor shall remove graffiti from all City-owned, private residential, commercial, and industrial structures, up to forty (40') feet in height. Contractor shall inspect all requests to determine the method to be used for graffiti removal. Methods of removal may include water blasting or other pressurized removal systems, matching existing painted surfaces or other eradication procedures as approved by the City. Contractor shall determine the most effective method(s) for removal of graffiti at each location. The method(s) of removal will vary depending upon the type of graffiti and condition of the surface. Contractor must use care to avoid damaging existing structures (e.g., buildings, windows, doors, walls, etc.). Existing structures damaged by the Contractor shall be repaired at the Contractor's sole expense to the satisfaction of the City.

"Graffiti" means any unauthorized inscription, word, figure, symbol, configuration of letters and/or numbers or design that is marked, written, etched, scratched, drawn, scribed, stained, stuck on, affixed or adhered to by any means whatsoever or painted on any surface of public or private real or personal property, including but not limited to, buildings, walls, windows, signs, structures, places, rocks, landscape materials, or other surfaces and/or the interior or exterior of any other structure, regardless of the nature of the material of which the surface is composed.

A. Graffiti Removal

Contractor will remove graffiti upon request, through the app or at City's request, and will regularly patrol the City to look for and abate new graffiti, in accordance with Exhibit "D," Schedule of Performance.

B. Processes, Materials and Equipment

i. Preparation: Contractor shall properly prepare all stucco, masonry, metal, wood or other exterior surfaces in a manner that will result in an acceptable bonding of the applied paint and deter the visibility of graffiti. Contractor will use new and/or recycled water-based paint, recycled paint being preferable. No lead-based paint will be used.

ii. Application Quality: The materials shall be applied in such a manner as will ensure smooth, even, uniform coats free of dirt, drips, ridges, waves, drops, runs, brush marks, sags, and laps. If any of these existed before, they shall be properly corrected and prepared before painting. When completed, the painting shall be a first class, workman-like appearance. All work areas shall be cleaned of all debris, residue, and excess paint immediately after completion of work.
iii. Application Process: Paint shall be applied under dry, dust-free conditions and shall not be applied when the temperature is below 40 degrees Fahrenheit. All primer and intermediate coats of paint shall be unscarred and completely integral as well as completely dry at the time of the application of each succeeding coat. Contractor shall match the existing surface color when painting over or obscuring graffiti whenever possible. Paint shall be neatly feathered in all areas. If residents/businesses request a specific color, Contractor may provide labor as long as paint has been provided by the resident/business.

iv. Supplies and Equipment: The Contractor shall provide its own vehicle, equipment, supplies and materials necessary to perform the work outlined. Further, the Contractor shall have an aerosol spray unit (minimum 2500 p.s.i.) and standard extension ladder on the Contractor vehicle and such other equipment as may be necessary to perform graffiti removal (e.g., brushes, etc.). The Contractor shall have the ability to remove graffiti from difficult locations. The Contractor must have extension ladders on every vehicle and 24 hours a day, seven days a week, access to a bucket truck with a minimum extension height of forty feet.

v. Manufacturer Directions: Manufacturer's recommendations for mixing, thinning, applying, type of exposure, surface to be covered, and type of surface wear to which the paint will be subjected shall be explicitly followed.

vi. Paint Match: The Contractor shall verify, to the satisfaction of the City, its method for matching paint. All repainted surfaces shall reasonably match wall color to the satisfaction of the Community Development Director or designee.

vii. Definition of Terms

1. Painted Surface: Previously painted surfaces such as stucco, block walls, tilt ups fences, etc.

2. Porous Surface: Natural unpainted surfaces such as block walls, concrete walls, curbs, sidewalks, marble, concrete light standards, etc.

3. Non-Porous Surface: Glass, windows, mirrors, metal, street signs, poles, light standards, baked enamel, mail boxes, traffic control boxes, street signs, etc.

C. Contractor Responsibility
The contractor is to assume the responsibility for all work and tenant and property owner relations.

D. Right of Entry

i. Private Property: Graffiti removal from private property will require a release from the property owner consenting to graffiti removal. The Contractor and/or City must obtain written approval to enter and release of liability prior to starting graffiti removal. Graffiti to be removed from private property must be visible from the public right-of-way.

ii. Public Right-of-Way Property: Authorization shall be given by the Contract Officer for the removal of graffiti on public property.

E. Commercial Signage: Graffiti found on commercial signage shall only be removed with the owner's / occupant's specific, written approval and with the owner's / occupant's understanding that the Contractor is not responsible, under this contract, for replacing any original lettering, pictures, etc., on a commercial sign. With the owner's / occupant's approval, the Contractor shall proceed with diligence to remove the graffiti with as little damage to the commercial sign as possible. Graffiti to be removed from private commercial property must be visible from the public right-of-way.

F. Clean up: All finished surfaces of the building shall be left clean and reasonably dust free. At completion of work, Contractor shall clean all exposed surfaces soiled by the work; repair all damage caused by the work at no extra cost to the property owner or the City of Bell; remove all debris created as a direct result of the work from the job site; and leave the entire installation ready for use.

G. Public Relations and Safety: The Contractor shall at all time conduct services with the utmost of courtesy to the public. All employees of the Contractor shall wear clean clothing in the performance of duties, and equipment shall be clean and maintained in a safe operating manner. All equipment shall be subject to inspection by the Community Development Director or designee. All personnel shall wear appropriate safety gear at all times while removing graffiti in the City of Bell.

H. Air and Water Pollution: The Contractor shall be required to conform to all current regulations of the South Coast Air Quality Management District (AQMD). The Contractor is also required to adhere to the provisions of the Federal Clean Water Act as regulated by the U.S. Environmental Protection Agency (EPA) in Code 40, Code of Federal Regulations (CFR) Parts 122, 123, 124, the Porter-Cologne Act (California Water Act), and the National Pollutant Discharge Elimination System (NPDES) requirements. Suitable Best Management Practices
(BMPs) shall be applied to prevent any chemical, debris or any non-storm water discharges from entering the storm drain system (storm drains and gutters).

I. Technology:

i. Receive work orders via a web based work order system.

ii. Provide residents a free City branded Smartphone app on the Android and iPhone platform.

1. Requests are to be electronically submitted to work order system and assigned a work order number in real time.

2. Upon job completion, a Thank You note with before and after photos is to be transmitted electronically to the resident’s email address.

3. Responding email must have a feedback link to an electronic survey that allows residents to rate services and response time.

4. App shall have flexibility to allow reporting of other Public Services requests.

iii. App must be available on the Apple store and Android marketplace at the cost of the contractor.

iv. Provide Contract Officer a mobile device for providing work orders in the field, which allows the Contract Officer to create, view and map open work orders.

v. Photographs of work performed (before and after) shall be sent in real-time with work order number, address, zone, method, surface, time cleaned, square footage, moniker, total response time, and price to web based system.

vi. System must allow for multiple photos per work order number.

vii. Web based system must be able to show:

1. All work order status

2. Maps of zones as provided by the City

3. Response time to work orders

4. Cost by zones
5. Square footage cleaned by zones
6. Custom graphs
7. Custom reports
8. Maps in google earth

viii. Work order system shall allow direct link through URL from the City's website with City branded page.

1. Public can use site to report graffiti and upload photos
2. Requests are electronically submitted to work order system and assigned to a work order number

ix. All data collected in the work order system for this project is the property of the City

x. Contractor must be able to demonstrate all aspects of the software requirements through a working version of the software prior to award of bid. Include Smartphone app names and contact information for a minimum of 3 Municipal customers of similar size that have used contractor's software for at least 12 months.

J. Anti-Graffiti Campaign

i. Assist the City in establishing an Anti-Graffiti Campaign to discourage graffiti activities throughout the City by conducting outreach at schools, businesses, neighborhood block clubs, non-profit organizations, and religious institutions.

ii. Host three public events (per year) to discuss and discourage graffiti activity and provide alternative solutions to graffiti activities on public and private property.

iii. Provide the City with a written report for Best Practices dealing with Graffiti activities.

K. Weekly Meetings

Contractor shall attend weekly City Public Works Department meetings.

L. Retention Of Financial Records
i. Contractor will maintain financial records and accounts for a period of five (5) years. These records and accounts shall include, but not be limited to, the following:

1. A double-entry General Ledger that supports the costs charged to all related accounts;

2. Records documenting procurement of goods and services;

ii. Lease or Rental Agreements;

iii. Invoices;

iv. Billing Statements;

v. Cancelled Checks;

vi. Timecards signed by employees and supervisors;

vii. Personnel Authorization Records;

viii. Payroll Registers;

ix. Payroll Tax Records;

x. Bank Statements;

xi. Bank reconciliations; and

xii. Documentation to support the allocation of costs.

II. As part of the Services, Contractor will prepare and deliver the following tangible work products to the City:

A. Photographic Documentation: The Contractor shall photographically document all locations prior to removal of graffiti and shall maintain the photographs. Upon removal of graffiti, the Contractor shall take an additional photograph of the same area. Consultant will provide digital photos of the abated sites through a web-based photo system that updates in real time while in the field.

B. Smartphone app for citizens to report graffiti.

C. A Web-based system to create, view, and map open orders, and to maintain reports, records, and photographic evidence.

D. A written report for Best Practices dealing with graffiti activities.
III. In addition to the requirements of Section 6.2, during performance of the Services, Contractor will keep the City appraised of the status of performance by delivering the following status reports:

A. Daily Logs: Daily logs shall be maintained identifying graffiti removal site by census tract and block group. Monthly program reports shall be submitted within five (5) days of the end of the month. Information on total graffiti removal in square feet and number of sites shall be provided. Should accomplishment target not be met for the reporting period, steps to remedy the situation shall be provided along with an implementation schedule.

B. Monthly program reports to be submitted within five (5) days of the end of the month. Information on total graffiti removal in square feet and number of sites shall be provided. Should accomplishment target not be met for the reporting period, steps to remedy the situation shall be provided along with an implementation schedule.

IV. All work product is subject to review and acceptance by the City, and must be revised by the Contractor without additional charge to the City until found satisfactory and accepted by City.

V. Contractor will utilize the following personnel to accomplish the Services:

A. Julio Bonilla, Project Manager

B. Pedro Chavez, Technician
EXHIBIT "B"

SPECIAL REQUIREMENTS
(Superseding Contract Boilerplate)

I. Section 1.3 Licenses, Permits, Fees and Assessments, is amended to read as follows:

1.3 Licenses, Permits, Fees and Assessments.

Contractor shall obtain at its sole cost and expense such licenses, permits, and approvals as may be required by law for the performance of the services required by the Agreement. Specifically, Contractor agrees to obtain a City of Bell Business License in order to provide services. This Business license shall be issued by the City's Business License Department upon approval of the Business License Application and payment of Business License Tax.

II. Section 3.5, Storm Water and Urban Run Off Pollution Prevention, is hereby added as follows:

3.5 Storm Water and Urban Run Off Pollution Prevention.

The City of Bell has a Storm Water and Urban Run-off Pollution Control Ordinance codified in Section 13.08.080 of the Municipal Code, pursuant to the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. Section 1251 et al. Copies of the Storm Water and Urban Run-off Pollution Control Ordinance are available from the City Clerk.

All work performed under this contract shall conform to the above referenced Bell Municipal Code. In addition, the Contract is required to comply with all applicable local, state and federal clean water regulations, laws, provisions, etc. in the performance of their work.

The Contractor shall implement all applicable Best Management Practices. Best Management Practices (BMPs) are techniques used to control storm water runoff, sediment control, and soil stabilization, as well as management decision to prevent or reduce non-point source pollution. The EPA defines BMP as a "technique, measure or structural control that is used for a given set of conditions to manage the quantity and improve the quality of storm water runoff in the most cost-effective manner." The Contractor shall implement all applicable BMPs and ensure that all staff are properly trained and understand the BMPs.

The Contractor shall:

- Transport paint and materials to and from job sites in containers with secure lids and tied down to the transport vehicle;
- Not transfer or load paint near storm drain inlets or watercourses;
- Test and inspect spray equipment prior to starting to paint. Tighten all hoses and connections and not overfill paint container;
• Capture all clean-up water, and dispose of properly;

• Not remove graffiti during a rain event;

• Protect nearby storm drain inlets prior to removing graffiti from walls, signs, sidewalks, or other structures needing graffiti abatement. Clean up afterwards by sweeping or vacuuming thoroughly, and or by using absorbent and properly disposing of the absorbent;

• Direct runoff from sand blasting and high pressure washing (with no cleaning agents) into a landscaped or dirt area. If such an area is not available, filter runoff;

• Through an appropriate filtering device (e.g. filter fabric) to keep sand, particles, and debris out of storm drains;

• Plug nearby storm drains and vacuum/pump wash water to the sanitary sewer if a graffiti abatement method generates wash water containing a cleaning compound (such as high pressure washing with a cleaning compound); and

• Consider using a waterless and non-toxic chemical cleaning method for graffiti removal (e.g. gels or spray compounds).

The Contractor may be asked to:

• Plug nearby storm drain inlets prior to the start of painting where there is significant risk of a spill reaching storm drains. Remove plugs when job is completed.

• Cover nearby storm drain inlets if sand blasting is used to remove paint, prior to starting work.

• Use a sander with a vacuum filter bag.

III. Section 7.10, Liquidated Damages, is added as follows:

7.10 Liquidated Damages.

Since the determination of actual damages for any delay in performance of this Agreement would be extremely difficult or impractical to determine in the event of a breach of this Agreement, the Contractor and its sureties shall be liable for and shall pay to the City liquidated damages for (i) failure to adequately treat graffiti as provided herein, (ii) failure to timely treat graffiti, as specified in the Schedule of Performance (Exhibit "D"), or (iii) any other failure to take any action required hereunder. In assessing liquidated damages, in the event of any violation in the preceding categories, (i) through (iii) above, the initial violation shall result in a verbal warning, a second violation shall result in a written warning specifying that further violations may result in assessment of liquidated damages. The assessment of damages shall be in the judgment of the
Contract Officer. The Contract Officer may assess damages in the amount of $100 for the violation. If repeated violations occur, the Contract Officer may increase the amount to $200 per violation. The City may withhold from any monies payable on account of services performed by the Contractor any accrued liquidated damages. If violations continue despite the assessment of liquidated damages, the Contract Officer may initiate termination of the Agreement.
EXHIBIT “C”

SCHEDULE OF COMPENSATION

I. Contractor shall perform the following tasks at the following rates:

Contractor shall perform the Services for an annual flat fee of $180,000 to be paid in maximum monthly installments of $15,000. The first invoice will be submitted following the first month of Services, and all other invoices will be submitted monthly thereafter.

II. The City will compensate Contractor for the Services performed upon submission of a valid invoice, in accordance with Section 2.4.

III. The total compensation for the Services shall not exceed $180,000 annually, and shall not exceed $15,000 monthly, as provided in Section 2.1 of this Agreement.
EXHIBIT "D"

SCHEDULE OF PERFORMANCE

I. Contractor shall comply with the following schedule of performance:

A. Contractor shall patrol and clean seven days a week, Monday through Sunday, all commercial streets, alleys and walkways, bike path walls, areas surrounding school properties, main neighborhood streets including, but not limited to Bell Ave., Salt Lake Ave., Filmore Ave., River Dr., Randolph Ave., Clarkson St., Southall Ln. / Chanslor Ave., Loma Vista Pl., Woodward Ave., Bear Ave., and Corona Ave.

B. Contractor will isolate areas that are vandalized consistently on Fridays after 1:00 p.m. and re-patrol and clean those specific areas as needed.

C. Contractor will patrol and clean the east river Wall and all residential streets at least once per week.

D. Every Saturday or by preference Sunday, perform a complete sweep of Florence Ave., Salt Lake Ave., Gage Ave., Atlantic Ave., Wilcox Ave., bike path near Florence Ave., Federal Alley, Knoll Tract, and Walker-Crafton walkway.

E. Contractor will also fulfill any additional service requests from the City.

II. Contractor shall deliver the following tangible work products to the City by the following dates.

A. Photographic evidence taken before abatement and after abatement.

B. Smartphone app for citizens to report graffiti by the start of Services.

D. A Web-based system to create, view, and map open orders, and to maintain reports, records, and photographic evidence by the start of Services, or soon thereafter, but no later than 90 days following the start of Services.

E. A written report for Best Practices dealing with graffiti activities at the conclusion of development of the anti-graffiti campaign.

F. Contractor will be available to the City 24 hours a day, 365 days a year, and will provide the following response times:
   (i) Emergencies (removal of vulgar, racial or pornographic images, etc.): less than 60 minutes
   (ii) Routine-clean immediately upon spotting graffiti.
(iii) Citizen or City reported incidents- less than 1 hour from notification during normal working hours, never more than 8 working hours.

III. The Contract Officer may approve extensions for performance of the services in accordance with Section 3.2.