

CONTRACT# MA-012-12011805
BETWEEN THE COUNTY OF ORANGE
AND
GRAFFITI PROTECTIVE COATINGS, INC.
FOR
GRAFFITI REMOVAL SERVICES

THIS Contract #MA-012-12011805 for graffiti removal services for OC Parks, hereinafter referred to as “Contract” is made and entered into as of the date fully executed by and between the County of Orange, OC Community Resources, OC Parks, a political subdivision of the State of California, hereinafter referred to as “County”, with a place of business at 13042 Old Myford Road, Irvine, CA 92602-2304 and **Graffiti Protective Coatings, Inc.**, with a place of business at 419 N. Larchmont Blvd., #264, Los Angeles, CA 90004, hereinafter referred to as “Contractor”, with County and Contractor sometimes individually referred to as “Party”, or collectively referred to as “Parties”.

RECITALS

WHEREAS, the Contractor responded to the County’s Invitation for Bid (“IFB”) offering performance of the complete Scope of Work as requested in Attachment A, and Contractor has represented that its proposed goods and services shall meet or exceed the County’s requirements and specifications as set forth herein; and,

WHEREAS, the County Board of Supervisors has authorized the Purchasing Agent or his designee to enter into this Contract for graffiti removal services for OC Parks;

NOW, THEREFORE, the Parties mutually agree as follows

I. CONTRACT SPECIFIC TERMS AND CONDITIONS:

- 1. Scope of Contract:** This Contract, including Attachments and Exhibits, specifies the contractual terms and conditions by which the Contractor will provide Graffiti Removal Services under a fixed-price Contract, as set forth in the Scope of Work attached hereto and incorporated by this reference as Attachment A to this Contract.
- 2. Term of Contract:** This is a one-year term Contract commencing upon execution of all necessary signatures or approval by the Orange County Board of Supervisors, whichever occurs later and continuing for one calendar year from that date, unless otherwise terminated by County. This Contract may be renewed for four additional one-year terms on an annual basis based upon mutual consent of the parties. County does not have to provide a reason if it elects not to renew. Contract renewals may require the approval of the Board of Supervisors.
- 3. Usage:** No guarantee is given by the County to the Contractor regarding usage of this Contract. Usage figures, if provided, are approximate, based upon the last usage. The Contractor agrees to supply services and/or commodities requested, as needed by the County of Orange, at prices listed in the Contract, regardless of quantity requested.
- 4. Usage Reports:** Upon County request, Contractor shall submit usage reports to the County of Orange, which shall include, at minimum, summarized quantities, item descriptions. The usage report shall be in a format specified by the County.
- 5. Payment:** Contractor shall submit invoices in duplicate to OCCR/Accounts Payable, 1300 S. Grand Ave, Bldg B, Santa Ana, CA 92705-4407. Invoice shall be submitted on standard company letterhead form and shall state (1) Invoice Number, (2) A Brief Description of Item, (3) Unit Prices/Extended Price, (4) Tax & Delivery, (5)

Total Amount Requested, (6) Contractor's Federal Tax ID Number, and (7) PO or Agreement Number.

- 6. Cooperative Agreement (Other Entities Only):** Other tax-supported entities in the state of California who have not contracted for their own requirements may desire to participate in this Contract. The Contractor will be requested to service these entities and will be given the opportunity to accept or reject the additional requirements. If the Contractor elects to supply the other entities, orders will be placed directly by the entity, and each entity will make payment directly to the Contractor.

These entities will hold harmless the County of Orange from all claims, demands, actions or causes of actions of every kind resulting directly or indirectly, arising out of, or in any way connected with the use of this Contract. The cooperative entities are responsible for obtaining all certificates of insurance and bonds required. The Contractor is responsible for providing each cooperative entity a copy of the Contract upon request by the cooperative entity. The County of Orange makes no guarantee of usage by other users of this Contract.

- 7. Contractor Work Hours and Safety Standards:** The Contractor shall ensure compliance with all safety and hourly requirements for employees in accordance with federal, state and County safety regulations and laws.
- 8. Contractor Personnel – Uniforms/badges/Identification:** The Contractor warrants that all persons employed to provide service under this Contract have satisfactory past work records indicating their ability to accept the kind of responsibility anticipated under this Contract.

All Contractor's employees shall be required to wear uniforms, badges or other means of identification which are to be furnished by the Contractor and must be worn at all times while working on County property. The assigned buyer must be notified in writing, within seven days of notification of award of Contract, of the uniform and/or badges and/or other identification to be worn by employees prior to beginning work and notified in writing seven days prior to any changes in this procedure.

- 9. Conditions Affecting Work:** Contractor shall be responsible for taking all steps reasonably necessary to ascertain the nature and location of the work to be performed under this Contract and to know the general conditions which can affect the work or the cost thereof. Any failure by the Contractor to do so will not relieve Contractor from responsibility for successfully performing the work without additional cost to the County. The County assumes no responsibility for any understanding or representations concerning the nature, location(s) or general conditions made by any of its officers or agents prior to the execution of this Contract, unless such understanding or representations by the County are expressly stated in the Contract.
- 10. Material Safety Data Sheets:** The Contractor is required to provide a completed Material Safety Data Sheet (MSDS) for each hazardous substance provided to the County under the Contractor's Contract with the County. This includes hazardous substances that are not directly included in the Contract, but are included in the goods or services provided by the Contractor to the County. The provision of the MSDSs must be in accordance with the requirements of California Labor Code Sections 6380 through 6399, General Industry Safety Order Section 5194, and Title 8, California Code of Regulations. The MSDSs for each substance must be sent to the place of shipment or provision of goods/services and must also be sent to:

County of Orange
CEO/Risk Management
Attn: Safety and Loss Prevention Program
PO Box 327
Santa Ana, CA 92702

- 11. Flagman - Hazardous Conditions:** Whenever the Contractor's operations create a condition hazardous to traffic or to the public, the Contractor shall provide flagmen and furnish, erect and maintain control devices as are necessary to prevent accidents or damage or injury to the public at Contractor's expense and without cost

to the County. The Contractor shall comply with County directives regarding potential hazards.

Emergency lights and traffic cones must also be readily available at all times and must be used in any hazardous condition. Emergency traffic cones must be placed in front of and behind vehicles to warn oncoming traffic.

Signs, lights, flags, and other warning and safety devices shall conform to the requirements set forth in Chapter 5 of the current traffic manual, Traffic Control for Construction and Maintenance Work Zones, published by the state of California Department of Transportation.

- 12. Contractor's Project Manager and Key Personnel:** Contractor shall appoint a project manager to direct the Contractor's efforts in fulfilling Contractor's obligations under this Contract. This project manager shall be subject to approval by the County and shall not be changed without the written consent of the County's project manager, which consent shall not be unreasonably withheld.

The Contractor's project manager and key personnel shall be assigned to this project for the duration of this Contract and shall diligently pursue all work and services to meet the project time lines. Key personnel are those individuals who report directly to the Contractor's project manager.

- 13. County's Project Manager:** The County shall appoint a project manager to act as liaison between the County and the Contractor during the term of this Contract. The County's project manager shall coordinate the activities of the County staff assigned to work with the Contractor.

The County's project manager shall have the right to require the removal and replacement of the Contractor's project manager and key personnel. The County's project manager shall notify the Contractor in writing of such action. The Contractor shall accomplish the removal within 14 calendar days after written notice by the County's project manager. The County's project manager shall review and approve the appointment of the replacement for the Contractor's project manager and key personnel. Said approval shall not be unreasonably withheld.

- 14. No Waiver by County:** The failure of the County in any one or more instances to insist upon strict performance of any of the terms of this Contract or to exercise any option contained herein shall not be construed as a waiver or relinquishment to any extent of the right to assert or rely upon any such terms or option on any future occasion
- 15. Conflict of Interest:** Contractor shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with the best interest of the County.
- 16. Conflict Resolution:** In the event of conflict or question involving the provisions of the terms and conditions as set forth in those pages and the provisions as set forth in Attachment A, interpretation and clarification as necessary shall be determined by the County's Purchasing Agent or his designee.
- 17. Default (Contractor):** If Contractor is in default of any of its obligations hereunder and Contractor has not commenced cure with County ten days and cured such default within 30 days after receipt of written notice of default form, County shall immediately be entitled, or otherwise under law, to either commence resolution in accordance with this paragraph or to terminate this Contract by giving notice to take effect immediately and begin negotiation with a third-party Contractor to provide services.

The right of either party to terminate this Contract hereunder shall not be affected in any way by its waiver of or failure to take action with respect to any previous default.

Nothing in this section shall affect in any way County's right to terminate the Contract pursuant to Section K herein.

- 18. Qualifications of (Bidders):** The County may make such reasonable investigations as deemed proper and

necessary to determine the ability of the (Bidder) to perform the services/furnish the goods and the (Bidder) shall furnish to the County all such information and data for this purpose as may be requested. The County reserves the right to inspect (Bidder's) physical facilities prior to award to satisfy questions regarding the (Bidder's) capabilities. The County further reserves the right to reject any (bid/proposal) if the evidence submitted by, or investigations of, such (Bidder) fails to satisfy the County that such (Bidder) is properly qualified to carry out the obligations of the Contract and to provide the services and/or furnish the goods contemplated therein.

- 19. Contingency of Funds:** Contractor acknowledges that funding or portions of funding for this Contract may be contingent upon state budget approval; receipt of funds from, and/or obligation of funds by, the state of California to County; and inclusion of sufficient funding for services hereunder in the budget approved by County's Board of Supervisors for each fiscal year covered by this Contract. If such approval, funding or appropriations are not forthcoming, or are otherwise limited, County may immediately terminate or modify this Contract without penalty.
- 20. Fiscal Appropriations:** This Contract is subject to and contingent upon applicable budgetary appropriations being made by the County of Orange Board of Supervisors for each year during the term of this Contract. If such appropriations are not forthcoming, the Contract will be terminated without penalty. Contractor acknowledges that funding or portions of funding for this Contract may also be contingent upon the receipt of funds from, and/or appropriation of funds by, the state of California to County. If such funding and/or appropriations are not forthcoming, or are otherwise limited, County may immediately terminate or modify this Contract without penalty.
- 21. Breach of Contract:** The failure of the Contractor to comply with any of the provisions, covenants or conditions of this Contract shall be a material breach of this Contract. In such event the County may, and in addition to any other remedies available at law, in equity, or otherwise specified in this Contract:
- a. Afford the Contractor written notice of the breach and ten calendar days or such shorter time that may be specified in this Contract within which to cure the breach;
 - b. Discontinue payment to the Contractor for and during the period in which the Contractor is in breach; and
 - c. Offset against any monies billed by the Contractor but yet unpaid by the County those monies disallowed pursuant to the above.
- 22. Contract Disputes:** The Parties shall deal in good faith and attempt to resolve potential disputes informally. If the dispute concerning a question of fact arising under the terms of this Contract is not disposed of in a reasonable period of time by the Contractor's project manager and the County's project manager, such matter shall be brought to the attention of the County Purchasing Agent by way of the following process:
1. The Contractor shall submit to the agency/department assigned buyer a written demand for a final decision regarding the disposition of any dispute between the parties arising under, related to, or involving this Contract, unless the County, on its own initiative, has already rendered such a final decision.
 2. The Contractor's written demand shall be fully supported by factual information, and, if such demand involves a cost adjustment to the Contract, the Contractor shall include with the demand a written statement signed by a senior official indicating that the demand is made in good faith, that the supporting data are accurate and complete, and that the amount requested accurately reflects the Contract adjustment for which the Contractor believes the County is liable.
 3. Pending the final resolution of any dispute arising under, related to, or involving this Contract, the

Contractor agrees to diligently proceed with the performance of this Contract, including the delivery of goods and/or provision of services. The Contractor's failure to diligently proceed shall be considered a material breach of this Contract. Any final decision of the County shall be expressly identified as such, shall be in writing, and shall be signed by the County Purchasing Agent or his designee. If the County fails to render a decision within 90 days after receipt of the Contractor's demand, it shall be deemed a final decision adverse to the Contractor's contentions. The County's final decision shall be conclusive and binding regarding the dispute unless the Contractor commences action in a court of competent jurisdiction to contest such decision within 90 days following the date of the County's final decision or one year following the accrual of the cause of action, whichever is later.

23. Stop Work: The County may, at any time, by written stop work order to the Contractor, require the Contractor to stop all or any part of the work called for by this Contract for a period of 90 days after the stop work order is delivered to the Contractor and for any further period to which the parties may agree. The stop work order shall be specifically identified as such and shall indicate it is issued under this clause. Upon receipt of the stop work order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the stop work order during the period of work stoppage. Within a period of 90 days after a stop work order is delivered to the Contractor or within any extension of that period to which the parties shall have agreed, the County shall either:

1. Cancel the stop work order; or
2. Terminate work covered by the stop work order as provided for in the termination for default or the termination for convenience clause of this Contract. County is not required to provide thirty-day (30) days notice of the termination of the Contract to Contractor if a stop work has been issued.

24. Orderly Termination: Upon termination or other expiration of this Contract, each Party shall promptly return to the other Party all papers, materials, and other properties of the other held by each for purposes of execution of the Contract. In addition, each Party will assist the other Party in orderly termination of this Contract and the transfer of all aspects, tangible and intangible, as may be necessary for the orderly, non-disruptive business continuation of each Party.

25. Contractor's Records: Contractor shall keep true and accurate accounts, records, books and data which shall correctly reflect the business transacted by the Contractor in accordance with generally accepted accounting principles. These records shall be stored in Orange County for a period of three years after final payment is received from the County. Storage of records in another county will require written approval from the County of Orange assigned buyer.

26. Audits/Inspections: Contractor agrees to permit the County's Auditor-Controller or the Auditor-Controller's authorized representative (including auditors from a private auditing firm hired by the County) access during normal working hours to all books, accounts, records, reports, files, financial records, supporting documentation, including payroll and accounts payable/receivable records, and other papers or property of Contractor for the purpose of auditing or inspecting any aspect of performance under this Contract. The inspection and/or audit will be confined to those matters connected with the performance of the Contract including, but not limited to, the costs of administering the Contract. The County will provide reasonable notice of such an audit or inspection and agrees to comply with Contractor's policies with respect to the protection of sensitive or confidential information.

The County reserves the right to audit and verify the Contractor's records before final payment is made.

Contractor agrees to maintain such records for possible audit for a minimum of three years after final payment, unless a longer period of records retention is stipulated under this Contract or by law. Contractor agrees to allow interviews of any employees or others who might reasonably have information related to such records.

Further, Contractor agrees to include a similar right to the County to audit records and interview staff of any subContractor related to performance of this Contract.

Should the Contractor cease to exist as a legal entity, the Contractor's records pertaining to this Contract shall be forwarded to the surviving entity in a merger or acquisition or, in the event of liquidation, to the County's project manager.

- 27. Notice of County Ordinance:** On April 4, 2011, the County of Orange Board of Supervisors approved Ordinance No. 11-012, PROHIBITION OF REGISTERED SEX OFFENDERS FROM ENTERING COUNTY PARKS. Contractors providing goods or services to Orange County Community Resources - OC Parks shall comply with the provisions of aforementioned County Ordinance No. 11-012 more fully specified herein. Contractors employing any person(s) working on OC Parks premises in violation of the Ordinance shall be deemed to be in material breach of the Contract.

The Board of Supervisors of the County of Orange, California ordains as follows:

SECTION 1. Division 18, Article 1 is hereby added to Title 3 of the Codified Ordinances of the County of Orange, to read as follows:

ARTICLE 1. PROHIBITION OF REGISTERED SEX OFFENDERS FROM ENTERING COUNTY PARKS

Sec. 3-18-1. Purpose and intent.

It is the purpose and intent of this ordinance to protect children from registered sex offenders by restricting sex offenders' access to locations where children regularly gather. It is intended to reduce the risk of harm to children by impacting the ability of sex offenders to be in contact with children. It is further the intent of this ordinance to provide additional restrictions beyond those provided for in state law by restricting sex offenders from certain limited locations, and by allowing for criminal penalties for violations of this ordinance. It is not the intent of this ordinance to allow conduct otherwise prohibited by state law, or to contradict state law. Orange County Parks are recognized by the County of Orange Board of Supervisors as locations where children regularly gather.

Sec. 3-18-2. Definitions.

Orange County Park. For purposes of this ordinance, an Orange County Park is defined as any county-owned, leased, operated or maintained land before or after the effective date of this ordinance by the County of Orange held as a harbor, beach, park or recreation area, including but not limited to, Arroyo Trabuco Park, Carbon Canyon Regional Park, Clark Regional Park, Craig Regional Park, Featherly Regional Park, Irvine Regional Park, Laguna Niguel Regional Park, Mason Regional Park, Mile Square Regional Park, , Orange County Zoo, Peters Canyon Regional Park, Santiago Regional Park, Harriett M. Wieder Regional Park, Yorba Park, Aliso and Wood Canyons Wilderness Park, Caspers Wilderness Park, Laguna Coast Wilderness Park, Thomas F. Riley Wilderness Park, Talbert Nature Preserve, Aliso Beach Park, Capistrano Beach Park, Newport Harbor, Salt Creek Beach Park, Sunset Beach Park, Dana Point Harbor, and Sunset Harbor.

Sec. Sec. 3-18-3. Prohibitions.

Any person required to register pursuant to California Penal Code sections 290, *et seq.* who enters into or upon any Orange County Park where children regularly gather without written permission from the Orange County Sheriff or Sheriff's designee is guilty of a misdemeanor. Each entry into any such area, regardless of the time period between entries, shall constitute a separate offense under this ordinance.

Sec. 3-18-4. Penalties for violation.

Punishment for a violation of this section shall be as follows:

- (1) Upon a first conviction, by imprisonment in a county jail for a period of not more than six months, or by a fine not exceeding five hundred dollars (\$500), or by both imprisonment and a fine.
- (2) Upon a second conviction, by imprisonment in a county jail for a period of not less than ten (10) days and

not more than six months, or by both imprisonment and a fine not exceeding five hundred dollars (\$500). Upon a second conviction, however, the person shall not be released on probation, parole, or any other basis until he or she has served not less than ten (10) days.

(3) Upon a third or subsequent conviction, by imprisonment in a county jail for a period of not less than ninety (90) days and not more than six months, or by both imprisonment and a fine not exceeding five hundred dollars (\$500). Upon a third or subsequent conviction, however, the person shall not be released on probation, parole, or any other basis until he or she has served not less than ninety (90) days.

Sec. 3-18-5. Other prosecution authorized.

Nothing in this ordinance shall preclude or prohibit prosecution under any other provision of law.

Sec. 3-18-6. Severability.

If any section, paragraph, sentence, clause, phrase or portion of this ordinance is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed severable and such holding shall not affect the validity of the remaining portions hereof. The Board of Supervisors hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the ordinance be enforced.

- 28. Notices:** Any and all notices, requests demands and other communications contemplated, called for, permitted, or required to be given hereunder shall be in writing, except through the course of the parties' project managers' routine exchange of information and cooperation during the terms of the work and services. Any written communications shall be deemed to have been duly given upon actual in-person delivery, if delivery is by direct hand, or upon delivery on the actual day of receipt or no greater than four calendar days after being mailed by US certified or registered mail, return receipt requested, postage prepaid, whichever occurs first. The date of mailing shall count as the first day. All communications shall be addressed to the appropriate party at the address stated herein or such other address as the parties hereto may designate by written notice from time to time in the manner aforesaid.

County: OC Community Resources/Purchasing & Contract Services
13042 Old Myford Road
Irvine, CA 62602-2304
Attn: Andrew Wu
Phone: (949) 585-6433
Email: Andrew.wu@occr.ocgov.com

Vendor: Name: Graffiti Protective Coatings, Inc.
Address 419 N. Larchmont Blvd., #264
Los Angeles, CA 90004

Attn: Barry Steinhart
Phone: (213) 591-1153
Email gpcla@msn.com

- 29. Expenditure Limit:** The Contractor shall notify the County of Orange assigned buyer in writing when the expenditures against the Contract reach 75 percent of the dollar limit on the Contract. The County will not be responsible for any expenditure overruns and will not pay for work exceeding the dollar limit on the Contract unless a change order to cover those costs has been issued.

II. COUNTY GENERAL TERMS AND CONDITIONS:

- A. Governing Law and Venue:** This Agreement (hereinafter "Contract") has been negotiated and executed in the state of California and shall be governed by and construed under the laws of the state of California. In the event

of any legal action to enforce or interpret this Contract, the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California, and the parties hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure Section 394. Furthermore, the parties specifically agree to waive any and all rights to request that an action be transferred for trial to another county.

- B. Entire Contract:** This Contract, including Attachment A, B & C, incorporated herein by this reference as if fully set forth, when accepted by the bidder (hereinafter "Contractor") either in writing or by the shipment of any article or other commencement of performance hereunder, contains the entire Contract between the parties with respect to the matters herein, and there are no restrictions, promises, warranties or undertakings other than those set forth herein or referred to herein. No exceptions, alternatives, substitutes or revisions are valid or binding on County of Orange (hereinafter "County") unless authorized by County in writing. Electronic acceptance of any additional terms, conditions or supplemental Contracts by any County employee or agent, including but not limited to installers of software, shall not be valid or binding on County unless accepted in writing by County's Purchasing Agent or his designee, hereinafter "Purchasing Agent."
- C. Amendments:** No alteration or variation of the terms of this Contract shall be valid unless made in writing and signed by the parties; no oral understanding or agreement not incorporated herein shall be binding on either of the parties; and no exceptions, alternatives, substitutes or revisions are valid or binding on County unless authorized by County in writing.
- D. Taxes:** Unless otherwise provided herein or by law, price quoted does not include California state sales or use tax.
- E. Delivery:** Time of delivery of goods is of the essence in this Contract. County reserves the right to refuse any goods and to cancel all or any part of the goods not conforming to applicable specifications, drawings, samples or descriptions. Acceptance of any part of the order shall not bind County to accept future shipments nor deprive it of the right to return goods already accepted at Contractor's expense. Overshipments and undershipments shall be only as agreed to in writing by County. Delivery shall not be deemed to be complete until goods have actually been received and accepted in writing by County.
- F. Acceptance/Payment:** Unless otherwise agreed to in writing by the County, 1) acceptance shall not be deemed complete unless in writing and until all the goods have actually been received, inspected, and tested to the satisfaction of County, and 2) payment shall be made in arrears after satisfactory acceptance.
- G. Warranty:** Contractor expressly warrants that the goods covered by this Contract are 1) free of liens or encumbrances, 2) merchantable and good for the ordinary purposes for which they are used, and 3) fit for the particular purpose for which they are intended. Acceptance of this order shall constitute an agreement upon Contractor's part to indemnify, defend and hold County and its indemnitees as identified in paragraph "HH" below, and as more fully described in paragraph "HH", harmless from liability, loss, damage and expense, including reasonable counsel fees, incurred or sustained by County by reason of the failure of the goods to conform to such warranties, faulty work performance, negligent or unlawful acts, and non-compliance with any applicable state or federal codes, ordinances, orders, or statutes, including the Occupational Safety and Health Act (OSHA) and the California Industrial Safety Act. Such remedies shall be in addition to any other remedies provided by law.
- H. Patent/Copyright Materials/Proprietary Infringement:** Unless otherwise expressly provided in this Contract, Contractor shall be solely responsible for clearing the right to use any patented or copyrighted materials in the performance of this Contract. Contractor warrants that any software as modified through services provided hereunder will not infringe upon or violate any patent, property right, or trade secret right of any third party. Contractor agrees that, in accordance with the more specific requirement contained in paragraph "HH" below, it shall indemnify, defend and hold COUNTY AND COUNTY INDEMNITIEES harmless from any and all such claims and be responsible for payment of all costs, damages, penalties and expenses related to or arising from such claim(s), including, but not limited to, attorneys fees, costs and expenses.
- I. Assignment or Sub-Contracting:** The terms, covenants, and conditions contained herein shall apply to and bind the heirs, successors, executors, administrators and assigns of the parties. Furthermore, neither the performance of

this Contract nor any portion thereof may be assigned or sub-Contracted by Contractor without the express written consent of County. Any attempt by Contractor to assign or sub-Contract the performance or any portion thereof of this Contract without the express written consent of County shall be invalid and shall constitute a breach of this Contract.

- J. Non-Discrimination:** In the performance of this Contract, Contractor agrees that it will comply with the requirements of Section 1735 of the California Labor Code and not engage nor permit any sub-Contractors to engage in discrimination in employment of persons because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, or sex of such persons. Contractor acknowledges that a violation of this provision shall subject Contractor to all the penalties imposed for a violation of Section 1720 et seq. of the California Labor Code.
- K. Termination:** Notwithstanding any other provision of this Contract, County may at any time and without cause terminate in whole or in part, upon not less than (30) thirty days written notice to Contractor. Such termination shall be effected by delivery to Contractor a Notice of Termination specifying effective date of termination, whether Contract shall be terminated in whole or in part and if applicable the portion of work to be terminated. Contractor shall immediately stop work in accordance with Notice of Termination and comply with any other direction as may be specified in Notice of Termination or provided subsequently by County. County shall pay Contractor for work completed and accepted by County prior to effective date of termination and such payment shall be Contractor's sole remedy.

In addition to any other remedies or rights it may have by law, County has the right to terminate this Contract without penalty immediately with cause, unless otherwise specified. Cause shall be defined as any breach of Contract, any misrepresentation or fraud on the part of Contractor. Exercise by County of its right to terminate Contract shall relieve County of all further obligation.

Under no circumstances will Contractor be entitled to anticipatory or unearned profits, consequential damages or any other damages of any sort as a result of a termination in whole or in part under this provision. Contractor shall insert in all subContracts that subContractors shall stop work on the date of and if applicable the portion of work to be terminated in a Notice of Termination, and shall require sub-consultant's to insert the same condition in any lower tier subContracts.

- L. Consent to Breach Not Waiver:** No term or provision of this Contract shall be deemed waived and no breach excused, unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented. Any consent by any party to, or waiver of, a breach by the other, whether express or implied, shall not constitute consent to, waiver of, or excuse for any other different or subsequent breach.
- M. Remedies Not Exclusive:** The remedies for breach set forth in this Contract are cumulative as to one another and as to any other provided by law, rather than exclusive; and the expression of certain remedies in this Contract does not preclude resort by either party to any other remedies provided by law.
- N. Independent Contractor:** Contractor shall be considered an independent Contractor and neither Contractor, its employees, nor anyone working under Contractor shall be considered an agent or an employee of County. Neither Contractor, its employees nor anyone working under Contractor shall qualify for workers' compensation or other fringe benefits of any kind through County.
- O. Performance:** Contractor shall perform all work under this Contract, taking necessary steps and precautions to perform the work to County's satisfaction. Contractor shall be responsible for the professional quality, technical assurance, timely completion and coordination of all documentation and other goods furnished by the Contractor under this Contract. Contractor shall perform all work diligently, carefully, and in a good and workman-like manner; shall furnish all labor, supervision, machinery, equipment, materials, and supplies necessary therefore; shall at its sole expense obtain and maintain all permits and licenses required by public authorities, including those

of County required in its governmental capacity, in connection with performance of the work; and, if permitted to subContract, shall be fully responsible for all work performed by subContractors.

P. Insurance Provisions: Prior to the provision of services under this Contract, the Contractor agrees to purchase all required insurance at Contractor’s expense and to deposit with the County Certificates of Insurance, including all endorsements required herein, necessary to satisfy the County that the insurance provisions of this Contract have been complied with and to keep such insurance coverage and the certificates therefore on deposit with the County during the entire term of this Contract. In addition, all subContractors performing work on behalf of Contractor pursuant to this Contract shall obtain insurance subject to the same terms and conditions as set forth herein for Contractor.

All self-insured retentions (SIRs) and deductibles shall be clearly stated on the Certificate of Insurance. If no SIRs or deductibles apply, indicate this on the Certificate of Insurance with a 0 by the appropriate line of coverage. Any self-insured retention (SIR) or deductible in excess of \$25,000 (\$5,000 for automobile liability), shall specifically be approved by the County Executive Office (CEO)/Office of Risk Management.

If the Contractor fails to maintain insurance acceptable to the County for the full term of this Contract, the County may terminate this Contract.

Qualified Insurer

Minimum insurance company ratings as determined by the most current edition of the **Best's Key Rating Guide/Property-Casualty/United States or ambest.com** shall be A- (Secure A.M. Best's Rating) and VIII (Financial Size Category).

The policy or policies of insurance must be issued by an insurer licensed to do business in the state of California (California Admitted Carrier). If the carrier is a non-admitted carrier in the state of California, CEO/Office of Risk Management retains the right to approve or reject carrier after a review of the company's performance and financial ratings. If the non-admitted carrier meets or exceeds the minimum A.M. Best rating of A-/VIII, the agency can accept the insurance.

The policy or policies of insurance maintained by the Contractor shall provide the minimum limits and coverage as set forth below:

<u>Coverage</u>	<u>Minimum Limits</u>
Commercial General Liability	\$1,000,000 per occurrence \$2,000,000 aggregate
Automobile Liability including coverage for owned, non-owned and hired vehicles	\$1,000,000 limit per occurrence
Workers' Compensation	Statutory
Employers' Liability Insurance	\$1,000,000 per occurrence

Required Coverage Forms

The Commercial General Liability coverage shall be written on Insurance Services Office (ISO) form CG 00 01, or a substitute form providing liability coverage at least as broad.

The Business Auto Liability coverage shall be written on ISO form CA 00 01, CA 00 05, CA 00 12, CA 00 20, or a substitute form providing liability coverage as broad.

Required Endorsements

The Commercial General Liability policy shall contain the following endorsements, which shall accompany the Certificate of insurance:

- 1) An Additional Insured endorsement using ISO form CG 2010 or CG 2033 or a form at least as broad naming the County of Orange, its elected and appointed officials, officers, employees, agents as Additional Insureds.
- 2) A primary non-contributing endorsement evidencing that the Contractor's insurance is primary and any insurance or self-insurance maintained by the County of Orange shall be excess and non-contributing.

All insurance policies required by this Contract shall waive all rights of subrogation against the County of Orange and members of the Board of Supervisors, its elected and appointed officials, officers, agents and employees when acting within the scope of their appointment or employment.

The Workers' Compensation policy shall contain a waiver of subrogation endorsement waiving all rights of subrogation against the County of Orange, and members of the Board of Supervisors, its elected and appointed officials, officers, agents and employees.

All insurance policies required by this Contract shall give the County of Orange 30 days notice in the event of cancellation and 10 days for non-payment of premium. This shall be evidenced by policy provisions or an endorsement separate from the Certificate of Insurance.

The Commercial General Liability policy shall contain a severability of interests clause, also known as a "separation of insureds" clause (standard in the ISO CG 001 policy).

Insurance certificates should be forwarded to the agency/department address listed on the solicitation.

If the Contractor fails to provide the insurance certificates and endorsements within seven days of notification by CEO/Purchasing or the agency/department purchasing division, award may be made to the next qualified vendor.

County expressly retains the right to require Contractor to increase or decrease insurance of any of the above insurance types throughout the term of this Contract. Any increase or decrease in insurance will be as deemed by County of Orange Risk Manager as appropriate to adequately protect County.

County shall notify Contractor in writing of changes in the insurance requirements. If Contractor does not deposit copies of acceptable certificates of insurance and endorsements with County incorporating such changes within thirty days of receipt of such notice, this Contract may be in breach without further notice to Contractor, and County shall be entitled to all legal remedies.

The procuring of such required policy or policies of insurance shall not be construed to limit Contractor's liability hereunder nor to fulfill the indemnification provisions and requirements of this Contract, nor act in any way to reduce the policy coverage and limits available from the insurer.

- Q. Bills and Liens:** Contractor shall pay promptly all indebtedness for labor, materials and equipment used in performance of the work. Contractor shall not permit any lien or charge to attach to the work or the premises, but if any does so attach, Contractor shall promptly procure its release and, in accordance with the requirements of paragraph "HH" above, indemnify, defend, and hold County harmless and be responsible for payment of all costs, damages, penalties and expenses related to or arising from or related thereto.

- R. Changes:** Contractor shall make no changes in the work or perform any additional work without the County's specific written approval.
- S. Change of Ownership:** Contractor agrees that if there is a change or transfer in ownership of Contractor's business prior to completion of this Contract, the new owners shall be required under terms of sale or other transfer to assume Contractor's duties and obligations contained in this Contract and complete them to the satisfaction of County.
- T. Force Majeure:** Contractor shall not be assessed with liquidated damages or unsatisfactory performance penalties during any delay beyond the time named for the performance of this Contract caused by any act of God, war, civil disorder, employment strike or other cause beyond its reasonable control, provided Contractor gives written notice of the cause of the delay to County within 36 hours of the start of the delay and Contractor avails himself of any available remedies.
- U. Confidentiality:** Contractor agrees to maintain the confidentiality of all County and County-related records and information pursuant to all statutory laws relating to privacy and confidentiality that currently exist or exist at any time during the term of this Contract. All such records and information shall be considered confidential and kept confidential by Contractor and Contractor's staff, agents and employees.
- V. Compliance with Laws:** Contractor represents and warrants that the services to be provided under this Contract shall fully comply, at Contractor's expense, with all standards, laws, statutes, restrictions, ordinances, requirements, and regulations (collectively "laws"), including, but not limited to those issued by County in its governmental capacity and all other laws applicable to the services at the time services are provided to and accepted by County. Contractor acknowledges that County is relying on Contractor to ensure such compliance, and pursuant to the requirements of paragraph "HH" above, Contractor agrees that it shall defend, indemnify and hold County and COUNTY INDEMNITEES harmless from all liability, damages, costs and expenses arising from or related to a violation of such laws.
- W. Freight (F.O.B. Destination):** Contractor assumes full responsibility for all transportation scheduling, packaging, handling, insurance, and other services associated with delivery of all products deemed necessary under this Contract.
- X. Pricing:** The Contract bid price shall include full compensation for providing all required goods, in accordance with required specifications, or services, as specified herein or when applicable, in the Specifications/Bid Sheet attached to this Contract, and no additional compensation will be allowed therefore, unless otherwise provided for in this Contract.
- Y. Waiver of Jury Trial:** Each party acknowledges that it is aware of and has had the opportunity to seek advice of counsel of its choice with respect to its rights to trial by jury, and each party, for itself and its successors, creditors, and assigns, does hereby expressly and knowingly waive and release all such rights to trial by jury in any action, proceeding or counterclaim brought by any party hereto against the other (and/or against its officers, directors, employees, agents, or subsidiary or affiliated entities) on or with regard to any matters whatsoever arising out of or in any way connected with this Contract and/or any other claim of injury or damage.
- Z. Terms and Conditions:** Contractor acknowledges that it has read and agrees to all terms and conditions included in this Contract.
- AA. Headings:** The various headings and numbers herein, the grouping of provisions of this Contract into separate clauses and paragraphs, and the organization hereof are for the purpose of convenience only and shall not limit or otherwise affect the meaning hereof.
- BB. Severability:** If any term, covenant, condition or provision of this Contract is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force

and effect and shall in no way be affected, impaired or invalidated thereby.

- CC. Calendar Days:** Any reference to the word “day” or “days” herein mean calendar day or calendar days, respectively, unless otherwise expressly provided.
- DD. Attorney Fees:** In any action or proceeding to enforce or interpret any provisions of this Contract, or where any provisions hereof is validly asserted as a defense, each party shall bear its own attorney’s fees, costs and expenses.
- EE. Interpretation:** This Contract has been negotiated at arm’s length and between persons sophisticated and knowledgeable in the matters dealt with in this Contract. In addition, each party has been represented by experienced and knowledgeable independent legal counsel of their own choosing or has knowingly declined to seek such counsel despite being encouraged and given the opportunity to do so. Each party further acknowledges that they have not been influenced to any extent whatsoever in executing this Contract by any other party hereto or by any person representing them, or both. Accordingly, any rule or law (including California Civil Code Section 1654) or legal decision that would require interpretation of any ambiguities in this Contract against the party that has drafted it is not applicable and is waived. The provisions of this Contract shall be interpreted in a reasonable manner to effect the purpose of the parties and this Contract.
- FF. Authority:** The parties to this Contract represent and warrant that this Contract has been duly authorized and executed and constitutes the legally binding obligation of their respective organization or entity, enforceable in accordance with its terms.
- GG. Employee Eligibility Verification:** The Contractor warrants that it fully complies with all Federal and State statutes and regulations regarding the employment of aliens and others and that all its employees performing work under this Contract meet the citizenship or alien status requirement set forth in Federal statutes and regulations. The Contractor shall obtain, from all employees performing work hereunder, all verification and other documentation of employment eligibility status required by Federal or State statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986, 8 U.S.C. §1324 et seq., as they currently exist and as they may be hereafter amended. The Contractor shall retain all such documentation for all covered employees for the period prescribed by the law. The Contractor shall indemnify, defend with counsel approved in writing by County, and hold harmless, the County, its agents, officers, and employees from employer sanctions and any other liability which may be assessed against the Contractor or the County or both in connection with any alleged violation of any Federal or State statutes or regulations pertaining to the eligibility for employment of any persons performing work under this Contract.
- HH. Indemnification Provisions:** Contractor agrees to indemnify, defend with counsel approved in writing by County, and hold County, its elected and appointed officials, officers, employees, agents and those special districts and agencies which County’s Board of Supervisors acts as the governing Board (“County Indemnitees”) harmless from any claims, demands or liability of any kind or nature, including but not limited to personal injury or property damage, arising from or related to the services, products or other performance provided by Contractor pursuant to this Contract. If judgment is entered against Contractor and County by a court of competent jurisdiction because of the concurrent active negligence of County or County Indemnitees, Contractor and County agree that liability will be apportioned as determined by the court. Neither party shall request a jury apportionment.

SIGNATURE PAGE

IN WITNESS WHEREOF, the Parties hereto have executed this Contract the day and year first above written.

Contractor:

CARLA LENTHOFF
Print Name

President
Title

4-19-12
Date

Signature

STEVEN LENTHOFF
Print Name

SEC
Title

4-19-12
Date

Signature

* Pursuant to California Corporations Code Section 313, If the Contracting party is a corporation, **(2) two signatures are required:** one (1) signature by the Chairman of the Board, the President or any Vice President; and one (1) signature by the Secretary, any Assistant Secretary, the Chief Financial Officer of any Assistant Treasurer. *In the alternative, a single corporate signature is acceptable when accompanied by a corporate resolution demonstrating the legal authority of the signatory to bind the corporation.*

County of Orange, a political subdivision of the state of California

Andrew Wu
Print Name

Procurement Contract Specialist
Title

Signature

4/22/12
Date

SIGNED AND CERTIFIED THAT A COPY OF THIS AGREEMENT HAS BEEN DELIVERED TO THE CHAIR OF THE BOARD per G.C. SEC 25103, RESO 79-1535 ATTEST:

APPROVED AS TO FORM:
COUNTY COUNSEL

Date: 4/23/12

By: Michael A. Hawk

ATTACHMENT A**SCOPE OF WORK FOR GRAFFITI REMOVAL SERVICES**

I. SCOPE OF WORK: Contractor shall provide all labor, supervision, tools, equipment, parts, and materials required to provide annual graffiti removal services at the OC Community Resources, OC Parks' locations specified herein:

A. Regional Trails Summary: Aliso Creek Bikeway, Aliso Creek Trail, Aliso Serrano Trail, Anaheim Hills Trail, Arroyo Trabuco Trail, Badlands Trail, Bay View Bikeway, Bell View Trail, Colinas Bluff Trail, Cowan Heights Trail, Christantos Trail, Edison Trail, El Cajon Trail, Esperanza/Fairlynn Trail, Esplanade Trail, Four Corners, Hicks Trail, Irvine Coast Trail, Live Oak Canyon Trail, Muddy Canyon Trail, Nellie Gail Trail, Niguel Trail, Oso Creek Trail, PCH Trail, Peters Canyon Bikeway, Peters Canyon/Tustin Branch Trail, Prima Deshecha Trail, Salt Creek Bikeway, Salt Creek Trail, San Diego Creek Bikeway, San Juan Creek Trail, San Juan Creek Bikeway, Santa Ana River Bikeway, Santa Ana River Trail, Santiago Creek Trail, Seaview Trail, Serrano Creek Trail, Skyline Trail, Talega Trail, Tijeras Trail, Travertine Trail, Tustin Branch Trail, Wagon Wheel Trail,

B. Community Parks: Bent Tree, Holderman, Woodgate, Badlands, Seaview

Graffiti Removal Services: The work to be performed shall consist of furnishing all labor, equipment, and materials necessary to completely remove all graffiti, by means of spectrophotometer color matching (portable computer color matching), soda or sandblasting, pressure washing, or chemical removal. Work shall include, but not limited to the following:

1. Brick, cinder block, concrete walls, asphalt, concrete, and walkways
2. Painted surfaces exterior of buildings
3. Regulatory and Warning signs
4. Trees
5. Graffiti on regulatory and warning signs shall be removed with an approved graffiti remover that will completely remove the graffiti and stickers without damaging the appearance of the sign. In the event the graffiti remover used by the Contractor is inadequate, the Contractor will be required to purchase a different type of remover.

II. LICENSES: Contractor shall possess a current State of California C61 or C33 License – Painting and Decorating Contractor or C61/D38 – Limited Specialty/Sand and Water Blasting license issued by the California State Contractor's License Board prior to bid submission.

III. SPECIAL REQUIREMENTS: Must have at least 3 years of continuous experience in full time graffiti abatement services (preference for Parks organizations) Must have physical office in Orange County in order to meet County's 1 hour emergency request requirement, must meet staffing, equipment, and software requirements.

1. Staff Requirements: Must list staff member(s) that will be assigned to physically perform the work for this project.
2. Response time requirements: All standard service requests to be completed within 24 hours. All emergency requests must be responded to within 1 hour.

3. **Standard Requirements:** All previously painted surfaces shall be color matched so that the touch up is not recognizable. All unpainted surfaces shall be cleaned in a manner that leaves no trace of the past vandalism and causes no damage to the underlying surface.
 4. **Software Requirements:** A) Contractor shall receive work orders via a web based work order system. B) Provide residents a free County branded smartphone app on the Android and iPhone platform. Requests are to be electronically submitted to work order system and assigned a work order number in real time. Upon job completion, a Thank You note with before and after photos to be transmitted electronically to the residents email address. Responding email must have a feedback link to an electronic survey that allows residents to rate services and response time. C) App must be available on the App Store and Android marketplace at the cost of the Contractor. D) Provide County Project Manager a mobile device for providing work orders in the field. Mobile device must allow Project Manager to create, view, and map open work orders. E) Photographs of work performed (before and after) to be sent in real-time with work order number, address, zone, method, surface, time cleaned, square footage, and price to web based system. F) System must allow for multiple photos per work order number. G) Web based system must be able to show: All work order status, Maps of zones as provided by the County, Response time to work orders, Costs by zones, Square footage cleaned by zones, Custom graphs, Custom reports, Maps in Google Earth, H) Work order system shall allow direct link through URL from the County's website with County branded page so public can use site to report graffiti and upload photos, and requests are electronically submitted to work order system and assigned a work order number. All data collected in the work order system for this project is the property of the Orange County Parks. J) Software such as Tracking and Automated Graffiti Reporting System (TAGRS) or approved equal is acceptable for this application.
- A. **Communication:** All Supervisors must be able to effectively communicate in English both verbally and in writing.
 - B. **Cooperation and Collateral Work:** Contractor shall endeavor to coordinate all construction with the normal operations of the park and trail. In those instances where landscape watering or other operations would interfere with Contractor's work, Contractor shall submit to County's Project Manager a written request stating days, times and operations which should be suspended or conducted at a different time of the day. No additional compensation or adjustment of the allotted working days shall be granted for compliance with these requirements.
 - C. **Debris Removal:** All trash and debris will be removed from work area by the end of each working day. At other times during the progress of work, when required, Contractor will remove all surplus materials, rubbish, and debris resulting from the work. Work area will be left in a neat, clean and acceptable condition as approved by County's Project Manager. No stockpile of debris will be allowed at the site. Contractor will pick up and dispose of materials at a site outside of County right-of-way approved for disposal of such materials. Any debris dropped on the public street during entrance or exit of the site will be removed immediately by Contractor.
 - D. **Dust Control:** Contractor shall use all reasonable methods to minimize dust emissions during the performance of this Contract. No separate payment will be made for any work performed or material used to control dust resulting from Contractor's performance of the work, or by public traffic, either inside or outside County right-of-way.
 - E. **Parking Control:** It has been anticipated that parked cars may be a problem during the course of the work to be performed. Therefore, Contractor is required to post, maintain, and subsequently remove, temporary "Tow Away No Parking" signs along parking areas where work is to be performed with no less than 24 hours prior to the start of said work. Contractor will furnish signs per sample provided by County. Contractor will fill in day and date for scheduled work. Contractor will be responsible for replacing any signs which are damaged or

removed in order to maintain notice to the public. Contractor will be responsible for the removal of all temporary “Tow Away No Parking” signs upon completion of the work in posted area.

- F. **Protection and Restoration of Existing Facilities:** Contractor will protect all furnishing and improvements from damage by its operations. All damage will be repaired or replaced, at the option of County, at Contractor’s expense within three (3) days after notification of such damage by County’s Project manager. Repairs and/or replacements will be equal to original in all aspects.
- G. **Safety:** Contractor agrees to perform all work outlined in this Contract in such a manner as to meet all accepted standards for safe practices during operations and to maintain safe conditions or premises and ways at all times, including safely stored equipment, machines and materials. This includes compliance with local County, State or other legal intents and terms of the applicable OSHA and CLA/OSHA Safety orders at all times so as to protect all persons, including Contractor’s employees and Agency against injury or damage to their property.
- H. **Sound Control:** Contractor will comply with all County and local sound control and noise level rules, regulations, and ordinance, which apply to any work performed pursuant to the Contract, and will make every effort to control any undue noise resulting from its operation.
- I. **Traffic Control and Detours:** When entering or leaving roadways carrying public traffic, Contractor’s equipment, whether empty or loaded, shall in all cases yield to public traffic. No excavation within five feet of the traveled way shall remain open longer than is necessary to perform the work, and in no case shall remain unfenced or unplated overnight or on weekends.

Contractor shall provide and maintain all signs, barricades, pedestals, flashers, delineators, and other necessary facilities for the protection of the public within the limits of the construction area and all its approaches, including advanced signing and barricades. Contractor shall also post proper signs to notify the public regarding the conditions of the roadway, all in accordance with the provisions of the Vehicle Code, and the “Manual of Traffic Controls for Construction and Maintenance Work Zones,” as published by the State of California, Business, Transportation and Housing Agency, Department of Transportation, latest version.

Access to private properties, when reasonable possible, shall be maintained at all times during construction. Prior to restricting normal access to the park or private properties, Contractor shall provide 24 hours advance notification. In no case shall access to private property be restricted longer than 24 hours unless otherwise approved by County’s Project Manager.

Portable delineators shall be spaced as necessary for proper delineation of the travel way. The maximum spacing between delineators should be approximately equal in feet to the speed limit, except that the maximum spacing shall not exceed 50 feet.

If the traffic cones or portable delineators are damaged, displaced or are not in an upright position, from any cause, said cones or portable delineators shall immediately be replaced or restored to their original location in an upright position, by Contractor.

Contractor shall furnish such flagman as are necessary to give adequate warning to traffic or to the public of any dangerous conditions. Flagmen, which on duty and assigned to give warning to the public of any dangerous conditions, shall perform their duties and shall be provided with the necessary equipment in accordance with the current “instructions to Flagmen” of the Department of Transportation. The equipment shall be furnished and kept clean and in good repair by Contractor, at Contractor’s expense.

Spillage resulting from hauling operations along or across any publicly-traveled way shall be removed immediately by Contractor, at Contractor's expense.

Should Contractor furnish insufficient warning and protective measures as provided above, County's project Manager may direct that the necessary warning and protective measures be furnished and installed by the Contractor, at Contractors' expense. However, County's Project Manager shall not be responsible for detecting the inadequacies of Contractor's warnings and protective measures. Public safety through the furnishing of proper warnings and protective devices shall be the sole responsibility of Contractor.

- J. **Utility:** Contractor's attention is directed to the utility notification service provided by Underground Service Alert (USA). USA member utilities will provide Contractor with the locations of their substructures in the construction area when the Contractor gives at least two working days notice to USA by calling (800) 422-4133. Contractor shall call USA prior to any work (such as filing, resurfacing, paving) over substructures to allow owners to locate and/or obtain accurate "ties" on their manholes, valve covers, meter boxes, etc.

Prior to the commencement of work, Contractor shall verify the location and depth of all utilities, including service laterals and service connections, which have been identified by the respective utility owners and which may affect or be affected by Contractor's operations.

Full compensation for conforming to the requirements of this section including the furnishing of all labor, tools, materials, equipment, and incidentals necessary to do the work shall be considered as included in the Contract Lump Sum price bid, and no additional compensation for this work item will be allowed.

- K. **Working Hours:** Contractor will conduct all operations between 7 a.m. and 4 p.m. during the normal work week, Monday through Friday. Any operations on arterial or collector streets surrounding the park facility will be performed between 9 a.m. and 3 p.m. If Contractor desires to work hours or days other than as provided, it may file a request subject to approval stating intended operations, hours and dates, with a reason for schedule change to the County's Project Manager.
- L. **Equipment and Tools:** All equipment and tools utilized for Graffiti Removal shall be specifically designed for graffiti removal and properly maintained to adequately remove all residual paint in a clean manner. **No equipment shall be stored at site.**

ATTACHMENT B
PAYMENT AND COMPENSATION

1. **Compensation:** This is a fixed price agreement not to exceed \$140,000.00 for the term of the Contract between County and Contractor.

The Contractor agrees to accept the specified compensation as set forth in this Contract as full remuneration for performing all services and furnishing all staffing and materials required, for any reasonably unforeseen difficulties which may arise or be encountered in the execution of the services until acceptance, for risks connected with the services, and for performance by the Contractor of all its duties and obligations hereunder. The fixed price shall include the fee and all expenses related to the performance of work and services required to meet the tasks and deliverables in the Scope of Work (SOW), set forth more fully in Attachment A of this Contract.

2. **Payment Terms:** Invoices are to be submitted in arrears to the user agency/department to the ship-to address, unless otherwise directed in this Contract. Vendor shall reference Contract number on invoice. Payment will be net 30 days after receipt of an invoice in a format acceptable to the County of Orange and verified and approved by the OC Parks staff and subject to routine processing requirements. The responsibility for providing an acceptable invoice rests with the Contractor.

Billing shall cover services and/or goods not previously invoiced. The Contractor shall reimburse the County of Orange for any monies paid to the Contractor for goods or services not provided or when goods or services do not meet the Contract requirements.

Payments made by the County shall not preclude the right of the County from thereafter disputing any items or services involved or billed under this Contract and shall not be construed as acceptance of any part of the goods or services.

3. **Invoicing Instructions:** Payment to the Contractor will be made for work actually completed in accordance with the Attachment A.

Invoices shall be submitted in duplicate on standard Company letterhead forms and shall state:

- (1) Invoice number
- (2) Invoice period (dates)
- (3) Brief Description of Item/Service,
- (4) Total Amount Requested,
- (5) Contractor's Federal Tax ID Number, and
- (6) Contract number (MA and DO Number)
- (7) Name of facility

Invoices shall be mailed to the Orange County Community Resources, Accounts Payable, 1300 S. Grand, Building B, Second Floor, Santa Ana, CA 92705-4407

Payment will be made subject to approval by the Agency/Department and normal processing requirements, usually four to six weeks.

The responsibility for providing acceptable invoice(s) to the County for payment rests with the Contractor. Incomplete or incorrect invoices are not acceptable and will be returned to the Contractor for correction.

EXHIBIT A

OC Community Resources
 Vendor: Graffiti Protective Coatings, Inc

MA-012-12011805
 Attachment C – Price Bid Sheet

**ATTACHMENT C – PRICE BID SHEET
 GRAFFITI REMOVAL SERVICES**

Line Item	Surface Type	Cost Per Sq. Ft.	Minimum Ftg. Per Location (If Applicable)	Minimum Charge Per Location (If Applicable)
1	Painted	\$.08	150	\$12.00
2	Non-porous	\$.08	150	\$12.00
3	Porous (non-painted)	\$.08	150	\$12.00
4	Soda or Sandblasting	\$.08	150	\$12.00
5	Pressure Washing	\$.08	150	\$12.00
6	Chemical Removal	\$.08	150	\$12.00
7	On-Call	\$.08	150	\$12.00

Hours in the excess of 8 hours are overtime rates.

Overtime Rate: \$ 35.00

Response time and notification 1 days lead time required to set up job.

Is a company representative available for pre job consultation? Yes No

Is company radio dispatched? Yes No

24 hours a day phone number: (323) 464-4472 and (213) 591-1153

Hours of Operation: 24/7

Contractor shall furnish at its expense all tools, vehicles, materials supplies, incidentals and labor. Equipment shall include, but not limited to (portable) color matching equipment, paint, paint sprayers, and guns. Full compensation for conforming to these requirements shall be considered as included in the various items of work involved and no additional compensation will be allowed therefor.

FOR THIS BID TO BE VALID, THIS PAGE MUST BE SIGNED:

Graffiti Protective Coatings, Inc.
 COMPANY NAME (PLEASE PRINT)

ON FILE
 AUTHORIZED SIGNATURE

ON FILE
 AUTHORIZED SIGNATURE