

## **GRAFFITI ABATEMENT AGREEMENT**

**THIS AGREEMENT** is made this \_\_\_\_\_ day of \_\_\_\_\_, 2020, by the **CITY OF GARDEN GROVE**, a municipal corporation, ("CITY") and **Graffiti Protective Coatings, Inc.**, herein after referred to as "CONTRACTOR".

### **RECITALS**

The following recitals are a substantive part of this Agreement:

1. This Agreement is entered into pursuant to Garden Grove COUNCIL AUTHORIZATION, DATED \_\_\_\_\_.
2. CITY desires to utilize the services of CONTRACTOR to Provide all equipment, labor and supplies to perform graffiti abatement services for the City of Garden Grove per RFP S-1275.
3. CONTRACTOR is qualified by virtue of experience, training, education and expertise to accomplish services.

### **AGREEMENT**

THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **Term and Termination.** The initial term of the Agreement shall be from the December 1, 2020 through November 30, 2021, with options for CITY to extend the term of the Agreement for up to four (4) additional years, for a total of five (5) years. Option years shall be exercised one (1) year at a time, at the sole option of the CITY. This agreement may be terminated by the CITY without cause. In such event, the CITY will compensate CONTRACTOR for work performed to date in accordance with Proposal Pricing form (Attachment B). Contractor is required to present evidence to support performed work completion.
2. **Services to be Provided.** The services to be performed by CONTRACTOR shall consist of tasks as set forth in the Scope of Work. The Scope of Work is attached as Attachment "A", and is incorporated herein by reference. The Scope of Work and this Agreement do not guarantee any specific amount of work.
3. **Compensation.** CONTRACTOR shall be compensated as follows:
  - 3.1 **AMOUNT.** Total Compensation under this agreement shall not exceed (NTE) amount of Dollars (\$240,240.00), per year, per Option 1, payable in arrears and in accordance with Proposal Pricing Form/Best and Final Offer, Attachment "B". All work shall be in accordance with RFP No. S-1275.

- 3.2 Payment For work under this Agreement, payment shall be made per invoice for work completed. Within 45 day of delivery of goods or completion of performance of services, CONTRACTOR must promptly render an invoice to CITY or payment may be significantly delayed. For extra work not a part of this Agreement, a written authorization by CITY will be required, and payment shall be based on schedule included in PROPOSAL PRICING FORM, Attachment "B". For extra work not a part of this Agreement, a written authorization by CITY will be required, and payment shall be based on schedule included in PROPOSAL PRICING FORM/BEST AND FINAL OFFER, Attachment "B. All work shall be in accordance with RFP. No. S-1275.
- 3.3 Records of Expenses. CONTRACTOR shall keep complete and accurate records of all costs and expenses incidental to services covered by this Agreement. These records will be made available at reasonable times to CITY.
- 3.4 Termination. CITY shall have the right to terminate this agreement, without cause, by giving thirty (30) days written notice of termination. If the Agreement is terminated by CITY, then the provisions of paragraph 3 would apply to that portion of the work completed.

#### 4. **Insurance Requirements.**

- 4.1 COMMENCEMENT OF WORK. CONTRACTOR shall not commence work under this Agreement until all certificates and endorsements have been received and approved by the CITY. All insurance required by this Agreement shall contain a Statement of Obligation on the part of the carrier to notify the CITY of any material change, cancellation, or termination at least thirty (30) days in advance and provide a Waiver of Subrogation in favor of the City.
- 4.2 WORKERS COMPENSATION INSURANCE For the duration of this Agreement, CONTRACTOR and all subcontractors shall maintain Workers Compensation Insurance in the amount and type required by law provide Employers Liability in an amount not less than \$1,000,000.
- 4.3 INSURANCE AMOUNTS. CONTRACTOR shall maintain the following insurance for the duration of this Agreement:
- (a) Commercial general liability in an amount of \$1,000,000.00 per occurrence (**claims made and modified occurrence policies are not acceptable**); Insurance companies must be acceptable to CITY and have a Best's Guide Rating of A-Class VII or better, as approved by the CITY.

- (b) Automobile liability in an amount of \$1,000,000.00 combined single limit (**claims made and modified occurrence policies are not acceptable**); Insurance companies must be acceptable to CITY and have a Best's Guide Rating of A-, Class VII or better, as approved by the CITY.

An **On-Going and Completed Operations Additional Insured Endorsements** for the policy under section 4.3 (a) shall designate CITY, it's officers, officials, employees, agents, and volunteers as additional insureds for liability arising out of work or operations performed by or on behalf of the CONTRACTOR. CONTRACTOR shall provide to CITY proof of insurance and endorsement forms that conform to CITY's requirements, as approved by the CITY.

An Additional Insured Endorsement for the policy under section 4.3 (b) shall designate CITY, it's officers, officials, employees, agents, and volunteers as additional insureds for automobiles, owned, leased, hired, or borrowed by the CONTRACTOR. CONTRACTOR shall provide to CITY proof of insurance and endorsement forms that conform to CITY's requirements, as approved by the CITY.

For any claims related to this Agreement, CONTRACTOR's insurance coverage shall be primary and non-contributory as respects CITY, its officers, officials, employees, agents, and volunteers. Any insurance or self-insurance maintained by the CITY, its officers, officials, employees, agents, and volunteers shall be excess of the CONTRACTOR insurance and shall not contribute with it.

*If CONTRACTOR maintains higher insurance limits than the minimums shown above, CONTRACTOR shall provide coverage for the higher insurance limits otherwise maintained by the CONTRACTOR.*

5. **Non-Liability of Officials and Employees of the CITY.** No official or employee of CITY shall be personally liable to CONTRACTOR in the event of any default or breach by CITY, or for any amount which may become due to CONTRACTOR.
6. **Non-Discrimination.** CONTRACTOR covenants there shall be no discrimination against any person or group due to race, color, creed, religion, sex, marital status, age, handicap, national origin, or ancestry, in any activity pursuant to this Agreement.
7. **Independent Contractor.** It is agreed to that CONTRACTOR shall act and be an independent contractor and not an agent or employee of the CITY, and shall obtain no rights to any benefits which accrue to CITY'S employees.

8. **Compliance with Law.** CONTRACTOR shall comply with all applicable laws, ordinances, codes, and regulations of the federal, state, and local government. CONTRACTOR shall comply with, and shall be responsible for causing all contractors and subcontractors performing any of the work pursuant to this Agreement to comply with, all applicable federal and state labor standards, including, to the extent applicable, the prevailing wage requirements promulgated by the Director of Industrial Relations of the State of California Department of Labor. The City makes no warranty or representation concerning whether any of the work performed pursuant to this Agreement constitutes public works subject to the prevailing wage requirements.
9. **Notices.** All notices shall be personally delivered or mailed to the below listed address, or to such other addresses as may be designated by written notice. These addresses shall be used for delivery of service of process.
- a. (CONTRACTOR)  
Graffiti Protective Coatings, Inc.  
Attention: Carla Lenhoff, President  
419 N. Larchmont Blvd. #264  
Los Angeles, CA 90004
- b. (Address of CITY) (with a copy to):  
City of Garden Grove Garden Grove City Attorney  
11222 Acacia Parkway 11222 Acacia Parkway  
Garden Grove, CA 92840 Garden Grove, CA 92840
10. **CONTRACTOR'S PROPOSAL.** This Agreement shall include CONTRACTOR'S proposal or bid which shall be incorporated herein by reference. In the event of any inconsistency between the terms of the proposal and this Agreement, this Agreement shall govern.
11. **Licenses, Permits, and Fees.** At its sole expense, CONTRACTOR shall obtain a Garden Grove Business License, all permits, and licenses as may be required by this Agreement.
12. **Familiarity with Work.** By executing this Agreement, CONTRACTOR warrants that: (1) it has investigated the work to be performed; (2) it has investigated the site of the work and is aware of all conditions there; and (3) it understands the facilities, difficulties, and restrictions of the work under this Agreement. Should Contractor discover any latent or unknown conditions materially differing from those inherent in the work or as represented by CITY, it shall immediately inform CITY of this and shall not proceed, except at CONTRACTOR'S risk, until written instructions are received from CITY.
13. **Time of Essence.** Time is of the essence in the performance of this Agreement.

14. **Limitations Upon Subcontracting and Assignment.** The experience, knowledge, capability, and reputation of CONTRACTOR, its principals and employees were a substantial inducement for CITY to enter into this Agreement. CONTRACTOR shall not contract with any other entity to perform the services required without written approval of the CITY. This Agreement may not be assigned voluntarily or by operation of law, without the prior written approval of CITY. If CONTRACTOR is permitted to subcontract any part of this Agreement, CONTRACTOR shall be responsible to CITY for the acts and omissions of its subcontractor as it is for persons directly employed. Nothing contained in this Agreement shall create any contractual relationship between any subcontractor and CITY. All persons engaged in the work will be considered employees of CONTRACTOR. CITY will deal directly with and will make all payments to CONTRACTOR.
15. **Authority to Execute.** The persons executing this Agreement on behalf of the parties warrant that they are duly authorized to execute this Agreement and that by executing this Agreement, the parties are formally bound.
16. **Prevailing Wages.** The CITY has been advised that the Prevailing Wages Law applies to the work. CONTRACTOR and its subcontractors must be registered with the California Department of Industrial Relations pursuant to Labor Code Section 1725.5. This Agreement shall not be effective until CONTRACTOR provides proof of registration to the CITY. CONTRACTOR shall be responsible for CONTRACTOR's compliance in all respects with the Prevailing Wage Law, including the payment of the prevailing wage rates to all the laborers involved, and with California Labor Code Section 1770 et seq., including the keeping of all records required by the provisions of Labor Code Section 1776 and the implementing administrative regulations. CONTRACTOR shall submit payroll records to the Labor Commissioner pursuant to Labor Code section 1771.4(a)(3) and shall comply with the job site notices posting requirements established by the Labor Commissioner pursuant to Title 8, California Code of Regulations Section 16461(e) or other regulation promulgated pursuant to Labor Code Section 1771.4(a)(2). Pursuant to Labor Code Section 1771.4, this Project is subject to compliance monitoring and enforcement by the California Department of Industrial Relations. The CITY shall be a third party beneficiary of the forgoing covenant with rights to enforce the same as against the CONTRACTOR.
17. **Indemnification.** To the fullest extent permitted by law, CONTRACTOR shall defend, and hold harmless CITY and its elective or appointive boards, officers, agents, and employees from any and all claims, liabilities, expenses, or damages of any nature, including attorneys' fees, for injury or death of any person, or damages of any nature, including interference with use of property, arising out of, or in any way connected with the negligence, recklessness and/or intentional wrongful conduct of CONTRACTOR, CONTRACTOR's agents, officers, employees, subcontractors, or independent contractors hired by CONTRACTOR in the performance of the Agreement. The only exception to CONTRACTOR's responsibility to protect, defend, and hold harmless CITY, is

due to the sole negligence, recklessness and/or wrongful conduct of CITY, or any of its elective or appointive boards, officers, agents, or employees.

This hold harmless agreement shall apply to all liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by CONTRACTOR.

18. **Appropriations.** This Agreement is subject to and contingent upon funds being appropriated therefor by the Garden Grove City Council for each fiscal year covered by the term of this Agreement. If such appropriations are not made, this Agreement shall automatically terminate without penalty to the CITY.

\\ \\ \\

(Agreement Signature Block on Next Page)

**IN WITNESS THEREOF**, these parties have executed this Agreement on the day and year shown below.

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

**"CITY"  
CITY OF GARDEN GROVE**

**By:** \_\_\_\_\_  
**City Manager**

**ATTESTED:**

\_\_\_\_\_  
**City Clerk**

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

**"CONTRACTOR"  
Graffiti Protective Coatings, Inc.**

**By:** \_\_\_\_\_

**Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

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

**Tax ID No.** \_\_\_\_\_

**Contractor's License:** \_\_\_\_\_

**Expiration Date:** \_\_\_\_\_

If CONTRACTOR is a corporation, a Corporate Resolution and/or Corporate Seal is required. If a partnership, Statement of Partnership must be submitted to CITY.

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Garden Grove City Attorney

\_\_\_\_\_  
Date

**ATTACHMENT "A"**  
**SCOPE OF WORK**  
**RFP No. S-1275**

**Provide all equipment, labor and supplies to perform graffiti abatement services for the City of Garden Grove**

The services shall consist of providing professional graffiti removal services throughout the City of Garden Grove; leaving no trace of past vandalism. For each service call from the community, the Contractor shall complete the requested graffiti removal services within twenty-four to forty-eight (24 to 48) hours. In the event that the graffiti cannot be removed with the time frame, the Contractor shall notify the Project Manager.

In addition to below, the CONTRACTOR shall remove or paint over all types of graffiti in compliance with all Federal, State, and local laws. Contractor shall provide all labor, materials, and equipment necessary to perform graffiti removal services according to accepted industry standards.

**1.01 WORKING HOURS**

Working hours shall be between 7:00 a.m. to 4:00 p.m. The CONTRACTOR shall respond to all graffiti telephone hotline requests received by 1:00 p.m.

**1.02 METHODS OF REMOVAL**

Methods of removal include painting over (matching existing painted surface), chemical remover, water-blasting, or other eradication procedures approved by the City. CONTRACTOR shall determine the most effective method of removal for each location.

For walls or other surfaces facing the public right of way, CONTRACTOR shall use one of the four standard colors identified by the City. For City-owned facilities, City will provide the paint color code for each building.

Grffiti shall be painted over and to one (1) foot horizontally beyond the graffiti. If there are fence posts and the posts are ten (10) feet or less between centers, the entire segment of the wall between the fence posts shall be painted. Generally, walls are six (6) feet in height and will be painted from ground level to the top of the wall. On walls over 6 feet in height, graffiti shall be painted over and the wall painted up to a height of six (6) feet or to cover all the graffiti, whichever is higher. If the wall has a capstone, the wall shall be painted to the bottom of the capstone. If the capstone has been graffitied, the capstone shall be painted over with a color that matches the existing color.

If the wall has been previously painted, and the graffiti to be abated is on the previously painted surface and the color is known, Contractor may paint out just the area with the graffiti.



### 1.03 MATERIAL, EQUIPMENT AND SUPPLIES

The CONTRACTOR shall provide, at his own expense, all equipment necessary to safely perform graffiti removal. This includes, if necessary, breathing apparatus and traffic control devices.

Additionally, CONTRACTOR is responsible for providing all paint used. CONTRACTOR is also responsible for providing all graffiti removal chemicals.

CONTRACTOR shall have access to a vehicle or trailer mounted pressure-washer and water recovery system at least 3 days per week for the removal of graffiti from sidewalks, unpainted walls, or other areas as directed.

### 1.04 AUTHORIZATION FOR WORK

Authorization to remove graffiti on private property shall be checked by the CONTRACTOR on a list provided by the City, or if no release is already on file, CONTRACTOR must obtain a release from each property owner or tenant, or authorized agent. The CONTRACTOR shall provide the "Consent to Enter and Release of Liability" form, to obtain this authorization prior to performing the work. Copies of all properly executed forms shall be submitted quarterly to the City.

### 1.05 EXECUTION OF WORK

Upon receipt of the executed "Consent to Enter and Release of Liability" form, the CONTRACTOR shall remove the subject graffiti. The work shall be performed in a prompt, thorough, lawful and workman like manner. CONTRACTOR is required to have and maintain a California State Contractors License Classification of C-33, Painting and Decorating. CONTRACTOR shall submit proof of license to CITY before execution of contract.

Work shall be completed in accordance with established industry guidelines, PCA industry standards, and also as directed by the Public Works Director or his designee.

### 1.06 COMPLETION. VERIFICATION AND APPROVAL OF WORK

The CONTRACTOR shall submit to the City a list of locations with pictures where graffiti has been removed. The list shall indicate the address of each work site, the number of square feet involved at each site and the cost estimate per work site. Refer to Attachment A for further details. City shall have access, at no cost, to any database owned or maintained by contractor.

### 1.07 PROTECTION AND RESTORATION OF EXISTING IMPROVEMENTS

The CONTRACTOR shall be responsible for the protection of all improvements adjacent to the work, such as sprinkler systems, drain pipes, lawns, plantings, brick work, masonry work, fences, walls, sidewalks, street paving. etc., located on either public or private property. If any improvements are removed or damaged, other than those designed for removal, then such improvements shall be replaced in kind at the CONTRACTOR'S expense.

#### 1.08 AREAS COVERED BY THIS CONTRACT

CONTRACTOR will be responsible for removing graffiti in the areas identified below, but not limited to:

Walls adjoining arterial, collector, and residential roads  
Sidewalks  
Street signs  
Utility boxes  
Traffic Signal Equipment  
City Parks (and equipment in the parks such as play and/or exercise equipment, and picnic tables)  
Exterior of City-owned buildings  
Asphalt

Contractor shall not remove graffiti from the following, unless directed by the City (list is not all inclusive and more items may be added):

Private property, including on homes  
Commercial property and parking lots

#### 1.09 WORK BY CITY FORCES DUE TO NONCONFORMANCE OF CONTRACT

Should the CONTRACTOR fail to correct deficiencies or public nuisances that have been created because of his operation, then these will be considered to be an emergency nature and cause for the City to move in on the project to take corrective action. Such action will be done on a force account basis for any City related costs, including but not limited to time and materials.

#### 1.10 COLOR COAT OF ALL WALLS FACING ARTERIAL/COLLECTOR STREETS

The City, may, at its choosing, instruct CONTRACTOR to color coat (paint one color) portions of walls facing arterial and collector streets. CONTRACTOR would be responsible for providing all paint, supplies, and materials related to the project.

#### 1.11 IDENTIFICATION OF VEHICLES

All vehicles used as part of this agreement by CONTRACTOR shall have signage identifying them as "Under Contract to City of Garden Grove".

#### 1.12 ENVIRONMENTAL COMPLIANCE

CONTRACTOR is also responsible to be environmentally friendly and NPDES compliant. CONTRACTOR is to implement Best Management Practices (BMPs), clean up all paint spills and keep all water used in waterblasting out of the storm drain system. CONTRACTOR'S staff assigned to Garden Grove will also complete the City's Annual Storm Water Pollution Prevention training. All paint and paint containers shall be disposed of properly.

#### 1.13 CUSTOMER SERVICE

CONTRACTOR shall employ and use the highest customer service methods possible when interacting with residents while in the process of obtaining property release forms or removing graffiti from their property.

#### 1.14 PAINT COLORS

Except as otherwise directed, CONTRACTOR shall use 4 standard colors of paint as approved by City.

Color matching shall only take place on City-owned facilities. Color codes for buildings will be provided to contractor.

#### 1.15 ANTI-GRAFFITI COATING

CONTRACTOR may be asked to apply an anti-graffiti coating to various murals that have been painted on traffic signal or utility boxes or similar. Cost to be included in monthly service fee.

#### 1.16 HOLIDAYS

No graffiti abatement shall take place on the following holidays:

- New Year's Day
- Martin Luther King, Jr. Birthday
- Presidents Day
- Memorial Day
- Independence Day (July 4)
- Labor Day
- Veterans Day
- Thanksgiving Day
- Christmas Day

#### 1.17 USE OF CONTRACT

CONTRACTOR agrees to extend pricing to other cities or government organizations who wish to utilize this contract.

#### 1.18 PREVAILING WAGE AND DIR REQUIREMENTS

1. No contractor or subcontractor may be listed on a bid proposal for a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)].
2. No contractor or subcontractor may be awarded a contract for public work on a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5.
3. This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations. Please provide Department of Industrial Relations Registration Numbers for the General Contractor **and** all Sub-Contractors listed in your proposal.
4. Prevailing wages are required for this project as defined by Labor Code, section 1771. Per Labor Code, Section 1773.2, copies of the prevailing rate of per diem wages are on file with the City and will be made available to any interested party upon written request.

**RFP S-1275  
ATTACHMENT "B"  
(PROPOSAL PRICING FORM)  
BEST AND FINAL OFFER**

**Provide all equipment, labor and supplies to perform graffiti abatement services for the City of Garden Grove**

**THIS SECTION MUST BE COMPLETED AS OUTLINED BELOW AND RETURNED WITH THE PROPOSAL. PLEASE DO NOT CHANGE THE FORMAT**

The City provides the below numbers as estimated quantities only. Actual numbers could be much higher or lower than the quantities provided.

The undersigned, having carefully examined the Scope of Work for: Contractual Weekend and Holiday Graffiti Removal, Hereby Propose to furnish all labor, materials, equipment and transportation and do all the work required to complete work in accordance with the specifications and scope of work for the sum price of:

**Estimated volume per month: 1,000 locations; 40,000 square feet**

Note: THIS FORM MUST BE SUBMITTED WITH PROPOSAL

All specifications are to be inclusive within the pricing below:

**RESPONSE**

**Option 1:**

1 Graffiti Abatement Vehicle 6 days per week: \$4,620.00 per week  
Monday-Saturday, excluding holidays in Attachment A, Scope of Work, Section 1.16, HOLIDAYS

Total per Year: \$240,240.00

**Option 2:**

1 Graffiti Abatement Vehicle 5 days per week: \$3,820.00 per week  
Monday-Friday, excluding holidays in Attachment A, Scope of Work, Section 1.16, HOLIDAYS

Total per Year: \$198,640.00

**Extra:**

1 Graffiti Abatement Vehicle for additional work: \$764.00 per weekday  
(8 hr work day)

Emergency Removal Afterhours/Weekend: \$800.00 per weekend day  
\$105.00 per hour

**All Proposers are required to submit pricing for both Options 1 AND 2 above.** Those proposals that do not include both pricing options will be deemed as non-responsive.

Choice of option and award will depend on availability of funds within city budget.

\* GPC DOES NOT CHARGE FOR HOLIDAYS OR RAIN DAYS WHEN THERE IS NO WORK PERFORMED THAT DAY.

