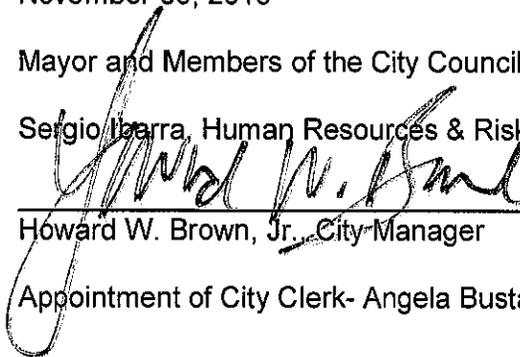


# AGENDA ITEM 1

## City of Bell Agenda Report

DATE: November 09, 2016  
TO: Mayor and Members of the City Council  
FROM: Sergio Ibarra, Human Resources & Risk Manager  
APPROVED:   
BY: Howard W. Brown, Jr., City Manager  
SUBJECT: Appointment of City Clerk- Angela Bustamante

### RECOMMENDATION

It is recommended that the City Council read by title only, waive further reading and adopt the following resolution:

1. RESOLUTION NO. 2016-81:A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BELL, CALIFORNIA, APPOINTING ANGELA BUSTAMANTE AS CITY CLERK
2. Approve the appointment of Angela Bustamante as City Clerk for the City effective October 26, 2016.
3. Approve the City Clerk Job Description

### BACKGROUND

Resolution 2016-81 would appoint Angela Bustamante as the City of Bell who has served as the Acting City Clerk for the City of Bell since July 28, 2014. Ms. Bustamante started her career in the City of Cudahy and has over 7 years of municipal experience in the City Clerk's office. Since joining the City in 2014, Ms. Bustamante has demonstrated a record of implementing best practices in the City Clerk's Office, and open and transparent government policies and practices.

General speaking, the City Clerk is the official record keeper of the City business. The specific duties of the position of the City Clerk are set forth in Section 704 of the City Charter.

Pursuant to City Council direction, the City Manager has discussed with Ms. Bustamante the terms of serving as the City Council appoint City Clerk. Since the City Clerk position is designated as a Management at-will position, she will be entitled to receive the same benefits as provided to the other management employees as set forth in the resolution 2016-59 (Management Benefits resolution). The salary range for the City Clerk position is provided in Resolution 2016-20 (identifying employee classifications, compensation levels and salary ranges for Fiscal Years 2014-2016)

If her appointment is approved by the City Council, Ms. Bustamante's compensation would be initially be at the "C" step for the City Clerk position. The only benefits not otherwise provided to Management employees set forth in Section 3, Section 4 and Section 5 of the attached resolution pertaining to tuition reimbursement, bilingual pay, professional development, and severance upon separation. The enumerated tuition reimbursements in Section 3 would be the same as those provided for the City's most recent Memorandum of Understanding with the Bell Police Officer's Association. The bilingual pay provision in Section 4 would be the same as provided in the Memorandum of Understanding with the Bell City Employee Association. The severance payment afforded upon separation in Section 5 to Ms. Bustamante shall be three (3) months base pay and would be the same as to those positions designated as Administrative Management in Resolution 2016-59.

List of basic contract terms:

- Base compensation of \$69,302.88, beginning on October 26, 2016.
- Tuition reimbursement up to 75% of tuition fees equal or equivalent to those of the California State University System.

Severance:

- Upon City termination without cause: 3 month's salary (appx. \$17,331.72).
- No severance due if termination is for cause, or if termination is initiated by employee.

Other benefits:

Professional development:

- City-paid membership in professional organizations related to official city business such as the City Clerks Association of California (C.C.A.C.)
- Approval of other professional development activities upon availability of budgeted training funds.
- Bilingual Pay of \$175.00 per month (amount equal to what the B.C.E.A. employees receive).

Medical, dental, vision, and life insurance: City Clerk will receive the same group medical, dental, vision, and life insurance plans offered to City management staff.

Retirement: 2.7% @ 55 formula for classic PERS employees, with the employee paying full employee member contribution (currently at 8%) or PERPA 2% @ 62, with the employee paying full employee member contribution (currently 6.75%).

**FISCAL IMPACT**

The position would be paid for from the following funds:

General Fund (001-50-5100– 100%) - \$69,302.88 annual salary  
Including salary and benefits, the annual cost of the position will be approximately \$94,189.86  
Tuition reimbursement at 75% of CSU Rates: \$4,104

**ATTACHMENT**

- RESOLUTION NO. 2016-81:A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BELL, CALIFORNIA, APPOINTING ANGELA BUSTAMANTE AS CITY CLERK
- City Clerk Job Description
- Resolution 2016-59- Section 12-Severance

## Attachment 1

**RESOLUTION NO. 2016-81**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BELL, CALIFORNIA,  
APPOINTING ANGELA BUSTAMANTE AS CITY CLERK**

**WHEREAS**, Section 700 of the City of Bell ("City") Charter provides that "[i]n addition to the City Council and Chief Administrative Officer, the officers and employees of the City shall consist of a City Attorney, a City Clerk, a City Treasurer, [and] such other officers, assistant, deputies, and employees as the City Council may provide by resolution[;]" and

**WHEREAS**, Section 701 of the City Charter provides that the position of the City Clerk of the City "shall be appointed by and may be removed by the affirmative votes of at least a majority of all the members of the City Council[;]" and

**WHEREAS**, the duties of the position of City Clerk are set forth in Section 704 of the City Charter; and

**WHEREAS**, California Government Code section 36506 provides that "[b]y resolution or ordinance, the city council shall fix the compensation of all appointive officers and employees[;]" and

**WHEREAS**, pursuant to Resolution 2016-18, adopted by the City Council on April 13, 2016, the position of City Clerk is an unrepresented, at-will position excluded from the classified service of the City and is designated as a "Management" position; and

**WHEREAS**, the compensation of the City Clerk is provided for in Resolution 2016-20 (identifying employee classifications, compensation levels and salary ranges for Fiscal Years 2014-2016), adopted by the City Council on April 13, 2016 and as may be amended from time to time; and

**WHEREAS**, the benefits for the position of City Clerk shall be those provided to "Management" employees as set forth in Resolution 2016-59 (management benefits resolution), adopted by the City Council on August 10, 2016 and as may be amended from time to time; and

**WHEREAS**, Angela Bustamante ("Ms. Bustamante") has served as the Acting City Clerk for the City since July 28, 2014; and

**WHEREAS**, the City Council now desires to appoint Ms. Bustamante to the position of City Clerk; and

**WHEREAS**, Ms. Bustamante desires to accept appointment as City Clerk; and

**WHEREAS**, Ms. Bustamante's compensation for performing the duties of the City Clerk will initially be set at the Step C level for this position, which is \$5,777.24 per month; and

**WHEREAS**, Ms. Bustamante understands that the position of City Clerk is an unrepresented, at-will position, and further understands that she may be removed at any time by the affirmative vote of at least a majority of all members of the City Council pursuant to Section 701 of the City Charter.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BELL DOES HEREBY  
RESOLVE AS FOLLOWS:**

**SECTION 1.** Effective the date of the adoption of this Resolution, Ms. Bustamante is appointed to be the City Clerk of the City of Bell.

01135.0004/318520.2

**SECTION 2.** Ms. Bustamante's compensation shall be as provided for in Resolution 2016-20, adopted by the City Council on April 13, 2016 and as may be amended from time to time. Ms. Bustamante's compensation shall initially be set at the Step C level for the City Clerk position, which is currently \$5,777.24 per month.

- When Ms. Bustamante receives her Certified Municipal Clerk certificate, her compensation will be set at the Step D level for the City Clerk position (currently \$6,064.00 per month, which amount may be amended from time to time).
- When Ms. Bustamante receives a Bachelor of Arts (B.A.) or Bachelor of Science (B.S.) degree from an accredited college or university, her compensation will be set at the Step E level for the City Clerk position (currently \$6,367.20 per month, which amount may be amended from time to time).

**SECTION 3.** Except as provided in this Section 3 and below in Sections 4 and Section 5, Ms. Bustamante's benefits shall be those provided to "Management" employees as set forth in Resolution 2016-59 (management benefits resolution), adopted by the City Council on August 10, 2016 and as may be amended from time to time. Ms. Bustamante shall receive tuition reimbursement and professional development as follows:

- Ms. Bustamante will be reimbursed up to seventy-five percent (75%) of tuition fees equal or equivalent to those of the California State University System. Excess tuition fees shall be paid by Ms. Bustamante.
- Educational programs must be job-related.
- Educational institutions must be an accredited two-year college or four-year college or university.
- Reimbursement shall take place after successful completion of the course and receiving a grade of "C" or better.
- This reimbursement shall not be considered special compensation as defined in Section 571 of the California Code of Regulations.
- City-paid membership in professional organizations related to official city clerk business such as the City Clerks Association of California (C.C.A.C.)
- The City Manager is authorized to approve other city clerk professional development activities upon availability of budgeted training funds.

**SECTION 4.** Bilingual Pay: City shall pay one hundred seventy-five dollars (\$175) per month as bilingual pay to the Ms. Bustamante if she meets the following qualifications and requirements:

- Employee must speak a language such as Spanish, or any other language approved by the City.
- Employee is required to pass a proficiency exam, to be conducted in manner determined by the City.
- Employee shall be reimbursed for bilingual schooling. To qualify for the reimbursement, employee shall obtain written approval from the City Manager before enrolling in any bilingual program. Such reimbursement shall take place if employee passes the required proficiency exam. This reimbursement shall not be considered compensation as defined in CCR Section 571.

- Employee shall make written request for Bilingual Pay to the Human Resources Office. The City shall schedule a test within ninety (90) days of receipt of this request. If the test is not scheduled within ninety (90) days, then bilingual pay shall become effective.

**SECTION 5.** Notwithstanding that the City Clerk position is designated as a Management position, Ms. Bustamante shall be afforded the same rights to a severance payment as that of an Administrative Management position employee set forth in Resolution 2016-59 (Management Benefits Resolution) (i.e. the amount equal to the monthly base salary of the employee in effect multiplied by three(3)). All conditions set forth in Resolution 2016-59 for eligibility for the severance payment shall apply.

**SECTION 6.** The City Council hereby approves amending the Fiscal Year 2016-17 budget by appropriating an amount of \$4200.00 from the General Fund Unrestricted Fund Balance to the City Clerk's Office Training/Education Fund 001-50-00-00-000-7900.

**SECTION 7.** The City Clerk shall certify to the adoption of this Resolution.

**ADOPTED AND APPROVED THIS 9<sup>TH</sup> DAY OF November, 2016.**

\_\_\_\_\_  
Alicia Romero, Mayor

APPROVED AS TO FORM:

\_\_\_\_\_  
David Aleshire, City Attorney

**CERTIFICATE OF ATTESTATION AND ORIGINALITY**

I, Angela Bustamante, City Clerk of the City of Bell, hereby attest to and certify that the foregoing resolution is the original resolution adopted by the Bell City Council at its regular meeting held on the 9<sup>th</sup> day of November, 2016, by the following vote:

AYES:

NOES:

ABSENT:

01135.0004/318520.2

ABSTAIN:

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Angela Bustamante, City Clerk

## Attachment 2

Full Cost for the City Clerk Position:

Annual Salary: \$69,302.88 (Step C- \$5,775.24)

CalPERS: \$8,821.56 (12.729%)

Health Benefits: \$6886.68\*

Vision: \$309.36

Dental: \$1,467.72

Bilingual Pay: \$2,100

FICA Tax: \$4296.77 (6.2%)

MEDI Tax: \$1,004.89 (1.45%)

Total: \$94,189.86

\*(Average Kaiser Plan monthly cost \$573.89)

## **CLASSIFICATION SPECIFICATION**

### **CITY OF BELL**

### **CITY CLERK**

#### **DEFINITION**

Assumes responsibility for performing the duties of the City Clerk; provides highly complex administrative and clerical support to members of the City Council, and maintains all City official records; acts as the City's elections official and filing officer; provides a wide variety of high level office administrative and secretarial support to a department head and related management, professional, and supervisory staff; performs technical support work related to the department to which assigned; creates, implements, and participates in administrative processes, procedures and programs; and performs related work as required.

#### **SUPERVISION RECEIVED AND EXERCISED**

Receives direction from members of the City Council and from higher level City supervisory or management staff.

May exercise functional supervision over assigned clerical staff.

#### **ESSENTIAL DUTIES**

*Duties may include, but are not limited to, the following:*

- Assumes responsibility for the duties of the City Clerk; provides highly complex administrative and clerical support to members of the City Council; prepares, assembles, posts and distributes City Council agendas and supporting documentation.
- Attends all Council meetings, takes minutes and follows through with all Council actions.
- Executes and certifies all City documents; maintains all official City records.
- Posts and updates City Clerk website with agendas, minutes, public notices and resolutions.
- Researches and gathers documents in response to all audits from various agencies.
- Serves as the City's elections official and filing officer; conducts all general and special municipal elections; ensures City compliance with all FPPC regulations.
- Receives public records requests and subpoenas; researches documents to respond to all requests; within established guidelines, responds to requests or submits to higher level management for action.
- Performs administrative assistance and support duties for an assigned department; creates, implements, and participates in various processes, procedures and programs;

provides information and assistance to the public on department operations and services.

- Manages office support functions; may direct the work activities of assigned clerical staff; prioritizes and coordinates work assignments; reviews work for accuracy.
- Attends to a variety of office administrative details, such as ordering and coordinating supply orders, preparing contracts and agreements, arranging for equipment purchases and maintenance, and attending meetings.
- Processes bills and invoices for payment; prepares and transmits a variety of financial expense statements and other fiscal transactions.
- Performs project research and report preparation related to the activities of the department to which assigned; compiles information and data for administrative, statistical and financial reports; checks and tabulates statistical data.
- Prepares and assembles reports, manuals, articles, announcements, and other informational materials.
- Organizes, coordinates, maintains, and updates departmental record systems; enters and updates information with departmental activity, inventory files, and report summaries.
- Coordinates calendars and makes meeting arrangements; arranges for necessary facilities and materials to be available at meetings.
- Coordinates travel arrangements and accommodations for department personnel and submits all related paperwork.
- Assists with special event programs; coordinates reservations and use of equipment and facilities.
- Prepares, processes and tracks purchase requisitions for services and materials.
- May provide administrative support in the preparation of department/division budget.
- Receives and responds to questions and comments from the public in a courteous and timely manner.
- May process and handle confidential and sensitive information.
- Performs special projects as assigned.
- Performs related duties as assigned.

**QUALIFICATIONS GUIDELINES**

*To qualify for this position, an individual must possess a combination of experience, education, and/or training that would likely produce the knowledge and abilities required to perform the work. A desirable combination of qualifications is described as follows:*

**Education:**

Equivalent to a High School Diploma or GED supplemented by college-level coursework in business or public administration.

**Experience:**

Three (3) years of increasingly responsible experience in performing complex administrative clerical or secretarial duties. Previous experience as a City Clerk and ability to speak Spanish are desirable.

**REQUIRED KNOWLEDGE, SKILLS AND ABILITIES**

**Knowledge of:**

- Operations, services and activities of the Office of the City Clerk.
- Municipal government operations and services.
- Rules and regulations governing the conduct of City Council meetings including the Brown Act.
- Principles and practices of public agency record keeping.
- Rules and regulations governing the municipal election process including the elections code and all pertinent FPPC requirements.
- Pertinent City codes, resolutions, ordinances, agreements and policies.
- Modern office administrative and secretarial practices and procedures, including the use of standard office equipment.
- Business letter writing and the standard format for reports and correspondence.
- Principles and practices of data collection and report preparation.
- Computer applications related to the work, including word processing, database, and spreadsheet applications.
- Business arithmetic and basic statistical techniques.
- Principles and practices of complex record keeping..
- Methods and techniques of providing quality customer service to City staff and members of the public.
- English usage, grammar, spelling, vocabulary, and punctuation.

**Ability to:**

- Serve in the official capacity of the City Clerk.
- Compile the agenda and supporting documentation for City Council meetings.

- Ensure compliance with the Brown Act and any other regulations governing the conduct of official municipal meetings
- Prepare and/or maintain all official City records and documents.
- Manage and ensure compliance with rules and regulations governing the municipal election process.
- Provide varied, confidential and responsible secretarial and office administrative work requiring the use of independent judgment, tact and discretion.
- Learn the operations and services of the department or division to which the position is assigned.
- Understand the organization and operation of the City and of outside agencies as necessary to assume assigned responsibilities.
- Develop, interpret, apply, and explain a wide variety of technical policies and procedures, and communicate difficult procedures and regulations to those encountered in the course of work.
- Research, compile and summarize information and data.
- Compose correspondence and reports independently or from brief instructions.
- Organize, maintain, and update office database and records systems.
- Enter and retrieve data from a computer with sufficient speed and accuracy.
- Organize own work, coordinate projects, set priorities, meet critical time deadlines, and follow-up on assignments with a minimum of direction.
- Operate modern office equipment including computer equipment and software programs.
- Use tact, initiative, prudence and independent judgment within general policy and legal guidelines in politically sensitive situations.
- Communicate clearly and effectively, both verbally and in writing.
- Understand and follow oral and/or written policies, procedures, and instructions.
- Establish and maintain effective working relationships with those contacted in the course of work

**LICENSE, CERTIFICATE, AND REGISTRATION REQUIREMENTS:**

Ability to obtain and retain a California Class C driver's license by the time of appointment. Individuals who do not meet this requirement due to a disability will be reviewed on a case-by-case basis.

Requires certification as a Notary Public. Certification as a Municipal Clerk is desirable.

**PHYSICAL AND MENTAL REQUIREMENTS**

Mobility – frequent standing or sitting for extended periods; frequent walking; occasional driving may be required depending upon assignment; occasional pushing/pulling; occasional bending, kneeling, squatting and crawling. Lifting – occasional lifting up to 25 pounds. Vision – constant use of good overall vision for reading/close up work; frequent use of color perception and eye/hand coordination; occasional use of depth perception and peripheral vision. Dexterity – frequent repetitive motion from writing and using a computer keyboard; frequent grasping, holding and reaching. Hearing/Talking - frequent hearing/talking to others on the telephone and in person; occasional hearing of faint sounds. Emotional/Psychological – frequent decision making and concentration; occasional public contact; occasional working alone.

**WORKING CONDITIONS**

Work is typically performed in an indoor office environment, but occasionally requires travel to other locations. May encounter angry or upset citizens. Subject to frequent interruptions and extensive contact with the public. Extension of the workday may be required due to meetings and workload.

(Draft 10/26/2016)

Attachment 3

City shall provide a life insurance policy in the amount of one hundred thousand dollars (\$100,000) for each Elected Official.

**B. RETIREMENT BENEFITS**

The City will pay the employer portion of retirement contribution to the California Public Employees' Retirement System (CalPERS) provided that the Elected Official files an election in writing to become a CalPERS member pursuant to Government Code section 20322. Elected Officials are required to pay their full member contributions of whichever plan under which they are eligible for CalPERS retirement benefits pursuant to the City's contract with CalPERS. Retirement plans include the following:

1. Tier I Miscellaneous -2.7% at 55 Plan (Start date before January 1, 2013, or on or after January 1, 2013 and determined to be a "classic member" by CalPERS)
  - i. Single highest year compensation
  - ii. Military service credit
  
2. Tier II (PEPRA) Miscellaneous- 2% at 62 Plan (Start date on or after January 1, 2013 and determined by CalPERS not to be a "classic member" as defined by CalPERS)
  - i. Highest thirty-six (36) consecutive month's compensation
  - ii. Military service credit.

**C. DEFERRED COMPENSATION**

Pursuant to California Government Code Section 53213, all Elected Officials shall be eligible to participate in the City's Deferred Compensation Plans with no contribution by the City.

**D. DEDUCTIONS**

Deductions (including Social Security and Workers' Compensation) may be made from the salaries of Elected Officials as provided by law or upon their written authorization for City approved deduction programs.

**SECTION 11. INDEMNIFICATION**

Consistent with Section 502(d) of the City Charter, enacted March 3, 2015 and providing that the City shall not indemnify any past or present elected official beyond what is required under State law, defense and indemnification for employees shall be provided only as required by California law. (See, e.g., Gov. Code, §§ 825 *et seq.*, 995 *et seq.*)

**SECTION 12. SEVERANCE**

Administrative Management and Management employees shall be entitled to severance only as provided in this Section 12. Any and all severance rights are conditioned upon and in consideration for execution of a standard agreement of separation, severance, and general release in a form approved by the City Attorney. The severance rights provided for herein shall constitute the sole and only entitlement of an Administrative Management or Management employee with respect to severance pay in the event of the termination, other than for cause.

**A. ADMINISTRATIVE MANAGEMENT EMPLOYEES**

In the event an Administrative Management employee is terminated without cause and does not challenge such termination, including but not limited to by means of appeal or civil or administrative claim, then the City shall pay severance in an amount equal to the monthly base salary of the employee then in effect (excluding the value of any other benefits) multiplied by three (3). The severance payment shall not include the monetary value of benefit during said time, but salary only. Prior to such termination, in order to be eligible for severance as provided in this Section, an Administrative Management employee must have worked for the City a minimum of six (6) months.

Should Employee be terminated for cause, as defined in this section below, the City shall have no obligation to pay the severance provided for above. Additionally, should Employee resign or otherwise initiate termination of his or her employment with the City, then the City shall have no obligation to pay the severance provided for above.

#### B. MANAGEMENT EMPLOYEES

In the event a Management employee is terminated without cause and does not challenge such termination, including but not limited to by means of appeal or civil or administrative claim, then the City shall pay severance in an amount equal to the monthly base salary of the employee then in effect (excluding the value of any other benefits) multiplied by one (1). The severance payment shall not include the monetary value of benefit during said time, but salary only. Prior to such termination, in order to be eligible for severance as provided in this Section, a Management employee must have worked for the City a minimum of six (6) months.

Should Employee be terminated for cause, as defined in this section below, the City shall have no obligation to pay the severance provided for above. Additionally, should Employee resign or otherwise initiate termination of his or her employment with the City, then the City shall have no obligation to pay the severance provided for above.

#### C. GENERAL PROVISIONS

For the purposes of this Resolution, "cause" for termination shall include, but not be limited to, the following: (1) willful or persistent material breach of duties or inattention to duties, (2) résumé fraud or other acts of material dishonesty, (3) unauthorized or excessive absence or leave, (4) conviction of a misdemeanor involving moral turpitude (i.e., offenses contrary to justice, honesty, or morality), (5) conviction of a felony under California law, (6) violation of the City's anti-harassment policies and/or a finding that legally prohibited personal acts of harassment against a City official or employee or legally prohibited personal acts of discrimination against a City official or employee has occurred, (7) violation of state law or the City's Municipal Code or charter, ordinances, rules, and regulations, (8) use or possession of illegal drugs in violation of state law and/or the City's drug policy, to be adopted at a later date, (9) engaging in conduct tending to bring embarrassment or disrepute to the City, (10) any illegal or unethical act involving personal gain, including conviction of theft or attempted theft, (11) significant mismanagement of City finances, (12) any pattern of repeated, willful and intentional failure to carry out materially significant and legally constituted directions or policy decisions of the City Council or City Manager, (13) gross misfeasance or gross malfeasance, or (14) any similar cause. For any of the foregoing, the City may, in its discretion, place Employee on paid or unpaid administrative leave until resolution.

Government Code Section 53260 provides that all contracts of employment with a city must include a provision limiting the maximum cash settlement for the termination of the contract to

the monthly salary (excluding benefits) multiplied by the number of months left on the unexpired term, but not more than 18 months if the unexpired term exceeds 18 months. Accordingly, should such proposed severance payment exceed the amount authorized to be paid under Government Code Section 53260, then the amount paid to Employee shall be reduced in the amount necessary to comply with such statute. (For example, if termination occurs with two (2) months left in the term, severance would be equal to the monthly base salary multiplied by two (2) rather than the six (6) months provided in Section 5.1(b).)

## **SECTION 13. APPLICABLE POLICIES**

### **A. NEPOTISM**

The City's nepotism policy is described as follows:

1. No City employee shall be appointed or promoted to a position in any department in which such City employee's relative already holds a position, when such employment would result in any of the following:
  - a. A supervisor-subordinate relationship;
  - b. The employees' job duties will require performance of shared duties on the same or related work assignment;
  - c. Both employees will have the same immediate supervisor.
2. For purposes of this section, "relative" shall mean spouse, child, step-child, parent, grandparent, grandchild, brother, sister, half-brother, half-sister, aunt, uncle, niece, nephew, parent-in-law, brother-in-law or sister-in-law.
3. If a City employee marries another person employed by the City of Bell within the same department, both employees shall be allowed to retain their respective positions provided that a supervisory relationship does not exist between the two employees. For the purpose of this section, a supervisory relationship shall be defined as one in which one person exercises the right to control, direct, reward or punish another person by virtue of the duties and responsibilities assigned to his or her position.
4. The City also retains the right to refuse to place both relatives in the same department, division or facility where such has the potential for creating adverse impact on supervision, safety, security, morale or involves potential conflict of interest.
5. Where the circumstances mandate that two relatives shall not work together, the Personnel Department will attempt to transfer one relative to a similar position in another City department. Although the City will attempt to give consideration to the wishes of the involved parties as to which relative is to be transferred, the controlling factor in determining which relative is to be transferred shall be the positive operation and efficiency of the City. If any such transfer results in a reduction in salary or compensation, the same shall not be considered disciplinary in nature and shall not be the subject of any form of administrative appeal.
6. If continuing employment of two relatives cannot be accommodated consistent with the City's interest in promotion of safety, security, morale and efficiency, then the City retains sole discretion to separate one relative from City employment. Absent resignation by one affected relative, the less senior of the involved relatives will be subject to separation and the same shall not constitute discipline and shall not be subject to any administrative appeal.

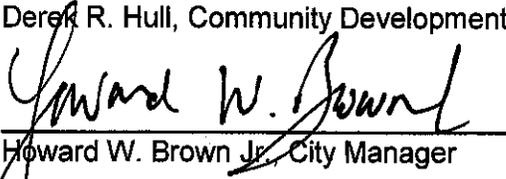
## City of Bell Agenda Report

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DATE: November 9, 2016

TO: Honorable Mayor and City Council Members

FROM: Derek R. Hull, Community Development Director

APPROVED BY:   
Howard W. Brown Jr., City Manager

SUBJECT: **Cont. Item from Oct. 26, 2016-** Award of Invitation for Bid (IFB) for Graffiti Removal Services in the City of Bell.

### RECOMMENDED ACTION

It is recommended that the Bell City Council:

1. Award an Invitation for Bid (IFB) to Graffiti Protective Coatings (GPC) in the amount of \$180,000.00 per year;
2. Authorize an amendment to the budget and transfer \$51,430.00 of General Fund reserves to the non-departmental general fund account for graffiti services.

### BACKGROUND

The City of Bell entered into a contract with Graffiti Protective Coatings (GPC) for graffiti removal services, based on the issuance of a Request for Proposals (RFP) which started on July 1, 2013. The contract was a one-year contract in the amount of \$180,000, but included an option to extend the contract for up to two years. The City Manager during that time extended the contract with GPC for an additional two years. The contract terminated on June 30, 2016. In review of the contract, a team of City staff members reviewed the Municipal Code section 3.12 for purchasing. The code states that all contracts of the city for the purchase of materials, supplies, equipment, or services of an aggregate annual value equal to or exceeding \$25,000 shall be awarded after compliance with the sealed bid procedures contained in this section. "Materials, supplies, equipment, and services" include all personal property and services, except professional services, procured by the city, would fit into this category. Graffiti removal is considered an aggregate contract activity, a fixed amount per month, with a not to exceed amount per year. After review of the code, City staff determined that an IFB was more suitable than a RFP because a RFP is generally reserved for professional services instead of labor related service.

City staff issued an IFB on July 20, 2016. The IFB was posted onto the City's website and a number of graffiti contractors were notified that a bid was opened for graffiti removal services. A total of two bids were received by the City Clerk by August 8, 2016- GPC in the amount of

\$180,000 per year and Spectrum Facility Maintenance in the amount of \$82,996.86 per year. The City Clerk opened all bids in the City Council Chambers at 3:00 p.m. on August 8, 2016, and Spectrum Facility Maintenance was recorded as the lowest responsible bid.

On October 17, 2016, City staff contacted Spectrum Facility Maintenance to discuss graffiti activities in Bell. On the same day, staff received an e-mail response from Spectrum's President and CEO, Christian Terry, acknowledging that Spectrum had decided to rescind their bid response and was no longer interested in continuing with the bidding process. No further explanation was provided to staff. As a result of these actions, the next lowest responsible bid was received by GPC in the amount of \$180,000.00.

## **DISCUSSION**

The Bell Municipal Code suggests that a bid shall be awarded to the lowest responsible and responsive bidder. "Lowest responsible and responsive bidder" means the bidder who submits the lowest monetary bid that responds to the terms upon which bids were requested, and who has demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity, and experience to satisfactorily perform the contract. To the extent permitted by law, criteria for determining whether a bidder is responsible include, without limitation, all of the following:

1. The conformity of the supplies, materials, equipment, or services to the required specifications;
2. The ability, capacity, and skill of the bidder to provide the supplies, materials, equipment, or services as required;
3. The ability of the bidder to provide the required items or services within the time specified;
4. The character, integrity, reputation, judgment, experience, efficiency, financial resources, and financial responsibility of the bidder;
5. The ability of the bidder to promptly provide future maintenance, repair, parts, and service after purchase;
6. The bidder's prior record of performance on other procurements or projects, including timely completion of performance, quality of products and work provided, and completion of projects within the bid amount submitted and project budget;
7. The bidder's involvement in prior or current litigation or contract disputes that could impair satisfactory performance of the contract to be awarded; and
8. The bidder's history of noncompliance with occupational safety and health requirements, labor statutes and regulations, and other local, state, and federal laws.

Staff has concluded that the bid for GPC meets these requirements. In addition, staff has contacted listed references in the bid submittal for the contractor. The reference checks provided favorable comments regarding GPC performances of services. Staff also held a conference call with GPC executives to discuss the expectations in the City of Bell. Staff has reviewed the list of eligible activities for the City of Bell FY16-17 CDBG allocation and graffiti abatement is not listed as an eligible activity. Therefore, CDBG funds cannot be used to pay for requested services.

## **ANALYSIS**

In addition to the removal and reporting of graffiti activities in the City of Bell, staff included an Anti-graffiti campaign initiative as a part of the bid specifications. The contractor will work with the City to development an Anti-graffiti campaign to educate residents and business owners on the importance of eradicating graffiti in the City. The workshops and events will include students at elementary, middle and high schools, non-profit groups, and local law enforcement and the contractor will participate in City events by providing Anti-graffiti literature for the Bell community.

## **ENVIRONMENTAL DETERMINATION**

The activity is not considered a project based on the definition of a project outlined in the CEQA regulations. No additional environmental review is required.

## **FISCAL IMPACT**

Graffiti removal services are paid out of non-departmental general fund expense account #:001-00-00-0000-6121. FY16-17, graffiti services were budgeted at \$128,570. The bid amount for GPC is \$180,000. Staff is requesting a budget amendment in the amount of \$51,430 from the general fund reserve to cover the remaining balance for graffiti services.

## **CONCLUSION**

1. Staff recommends that City Council Award an Invitation for Bid (IFB) Award an Invitation for Bid (IFB) to Graffiti Protective Coatings (GPC) in the amount of \$180,000.00 per year;
2. Authorize an amendment increase to the budget line, non-departmental general fund expenditure account #: 001-00-00-0000-6121, in the amount of \$51,430 to cover the full bid amount submitted by GPC graffiti services.

## **ATTACHMENTS:**

- A. 2013 Original GPC Contract
- B. GPC Contract Extension
- C. 2016 GPC Contract

**CITY OF BELL  
CONTRACT SERVICES AGREEMENT FOR  
GRAFFITI REMOVAL SERVICES**

THIS CONTRACT SERVICES AGREEMENT (herein "Agreement") is made and entered into this 1st day of July, 2013, by and between the CITY OF BELL, a California municipal corporation herein ("City") and Graffiti Protective Coatings, Inc. (herein "Contractor").

NOW, THEREFORE, the parties hereto agree as follows:

**1. SERVICES OF CONTRACTOR**

1.1 Scope of Services. In compliance with all of the terms and conditions of this Agreement, the Contractor shall perform the work or services set forth in the "Scope of Services" attached hereto as Exhibit "A" and incorporated herein by reference. Contractor warrants that it has the experience and ability to perform all work and services required hereunder and that it shall diligently perform such work and services in a professional and satisfactory manner.

1.2 Compliance With Law. All work and services rendered hereunder shall be provided in accordance with all ordinances, resolutions, statutes, rules, and regulations of the City and any Federal, State or local governmental agency of competent jurisdiction.

1.3 Licenses, Permits, Fees and Assessments. Contractor shall obtain at its sole cost and expense such licenses, permits, and approvals as may be required by law for the performance of the services required by the Agreement. (See Exhibit B.)

1.4 Warranty. The Contractor shall adopt reasonable methods during the life of the Agreement to furnish continuous protection to the work, and the equipment, materials, papers, documents, plans, studies and/or other components thereof to prevent losses or damages, and shall be responsible for all such damages, to persons or property, until acceptance of the work by City, except such losses or damages as may be caused by City's own negligence. Contractor warrants all work under the Agreement to be of good quality and free from any defective or faulty material and workmanship. Contractor agrees that for a period of one year (or the period of time specified elsewhere in the Agreement or in any guarantee or warranty provided by any manufacturer or supplier of equipment or materials incorporated into the work, whichever is later) after the date of final acceptance, Contractor shall within ten (10) days after being notified in writing by the City of any defect in the work or nonconformance of the work to the Agreement, commence and prosecute with due diligence all work necessary to fulfill the terms of the warranty at his sole cost and expense. The 1-year warranty may be waived in Exhibit "B" if the services hereunder do not include construction of any improvements or the supplying of equipment or materials.

1.5 Special Requirements. Additional terms and conditions of this Agreement, if any, which are made a part hereof are set forth in the "Special Requirements" attached hereto as Exhibit "B" and incorporated herein by this reference. In the event of a

conflict between the provisions of Exhibit “B” and any other provisions of this Agreement, the provisions of Exhibit “B” shall govern.

## 2. COMPENSATION

2.1 Contract Sum. For the services rendered pursuant to this Agreement, Contractor shall be compensated in accordance with the “Schedule of Compensation” attached hereto as Exhibit “C” and incorporated herein by this reference, but not exceeding the maximum contract amount of \$180,000 per year (“Contract Sum”).

2.2 Invoices. Each month Contractor shall furnish to City an original invoice for all work performed and expenses incurred during the preceding month in a form approved by City’s Community Development Director. The invoice shall detail charges for all necessary and actual expenses by the following categories: labor (by sub-category), travel, materials, equipment, supplies, and sub-contractor contracts. Sub-contractor charges shall also be detailed by such categories.

City shall independently review each invoice submitted by the Contractor to determine whether the work performed and expenses incurred are in compliance with the provisions of this Agreement. Except as to any charges for work performed or expenses incurred by Contractor which are disputed by City. City will use its best efforts to cause Contractor to be paid within forty-five (45) days of receipt of Contractor’s correct and undisputed invoice. In the event any charges or expenses are disputed by City, the original invoice shall be returned by City to Contractor for correction and resubmission.

2.3 Additional Services. City shall have the right at any time during the performance of the services, without invalidating this Agreement, to order extra work beyond that specified in the Scope of Services or make changes by altering, adding to or deducting from said work. No such extra work may be undertaken unless a written order is first given by the Contract Officer to the Contractor, incorporating therein any adjustment in (i) the Contract Sum, and/or (ii) the time to perform this Agreement, which said adjustments are subject to the written approval of the Contractor. Any increase in compensation of up to ten percent (10%) of the Contract Sum but not exceeding a total contract amount of \$18,000 or in the time to perform of up to one hundred eighty (180) days may be approved by the Contract Officer. Any greater increases, taken either separately or cumulatively must be approved by the City.

2.4 Prevailing Wages. Contractor is aware of the requirements of California Labor Code Section 1720, *et seq.*, and 1770, *et seq.*, as well as California Code of Regulations, Title 8, Section 1600, *et seq.*, (“Prevailing Wage Laws”), which require the payment of prevailing wage rates and the performance of other requirements on “Public Works” and “Maintenance” projects. If the Services are being performed as part of an applicable “Public Works” or “Maintenance” project, as defined by the Prevailing Wage Laws, and if the total compensation is \$1,000 or more, Contractor agrees to fully comply with such Prevailing Wage Laws. Contractor shall determine the applicable prevailing rates and make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the Services available to interested parties upon request, and shall post copies at the Contractor’s principal place of business and at the project site. Contractor shall defend, indemnify and hold the City, its elected officials, officers, employees and agents free and harmless from any claim or liability arising out of any failure or alleged failure to comply with

the Prevailing Wage Laws. The provisions of this Section may be waived in Exhibit "B" if inapplicable to the services provided hereunder.

### 3. PERFORMANCE SCHEDULE

3.1 Time of Essence. Time is of the essence in the performance of this Agreement.

3.2 Schedule of Performance. Contractor shall commence the services pursuant to this Agreement upon receipt of a written notice to proceed and shall perform all services within the time period(s) established in the "Schedule of Performance" attached hereto as Exhibit "D" and incorporated herein by this reference. When requested by the Contractor, extensions to the time period(s) specified in the Schedule of Performance may be approved in writing by the Contract Officer but not exceeding thirty (30) days cumulatively.

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

3.4 Inspection and Final Acceptance. City may inspect and accept or reject any of Contractor's work under this Agreement, either during performance or when completed. City shall reject or finally accept Contractor's work within forty five (45) days after submitted to City. City shall accept work by a timely written acceptance, otherwise work shall be deemed to have been rejected. City's acceptance shall be conclusive as to such work except with respect to latent defects, fraud and such gross mistakes as amount to fraud. Acceptance of any work by City shall not constitute a waiver of any of the provisions of this Agreement including, but not limited to, Article 5, pertaining to indemnification and insurance, respectively.

3.5 Term. Unless earlier terminated in accordance with Article 7 of this Agreement, this Agreement shall continue in full force and effect until June 30, 2014, except as otherwise provided in the Schedule of Performance (Exhibit "D"). The City's Administrative Officer, or designee, may, in his or her sole and absolute discretion, extend this Agreement through June 30, 2016 in writing before June 30, 2014.

#### 4. COORDINATION OF WORK

4.1 Representative of Contractor. \_\_\_\_\_ is hereby designated as being the representative of Contractor authorized to act on its behalf with respect to the work and services specified herein and make all decisions in connection therewith. All personnel of Contractor and any authorized agents shall be under the exclusive direction of the representative of Contractor. Contractor shall make every reasonable effort to maintain the stability and continuity of Contractor's staff and subcontractors, and shall keep City informed of any changes.

4.2 Contract Officer. The Community Development Director is hereby designated as being the representative the City authorized to act in its behalf with respect to the work and services specified herein and to make all decisions in connection therewith ("Contract Officer"). The City Manager shall have the right to designate another Contract Officer by providing written notice to Contractor.

4.3 Prohibition Against Subcontracting or Assignment. Contractor shall not contract with any entity to perform in whole or in part the work or services required hereunder without the express written approval of the City. Neither this Agreement nor any interest herein may be assigned or transferred, voluntarily or by operation of law, without the prior written approval of City. Any such prohibited assignment or transfer shall be void.

4.4 Independent Contractor. Neither the City nor any of its employees shall have any control over the manner, mode or means by which Contractor, its agents or employees, perform the services required herein, except as otherwise set forth. Contractor shall perform all services required herein as an independent contractor of City with only such obligations as are consistent with that role. Contractor shall not at any time or in any manner represent that it or any of its agents or employees are agents or employees of City, or that it is a member of a joint enterprise with City.

#### 5. INSURANCE AND INDEMNIFICATION

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

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

(b) Worker's Compensation Insurance. A policy of worker's compensation insurance in such amount as will fully comply with the laws of the State of California and which shall indemnify, insure and provide legal defense for both the Contractor and the City against any loss, claim or damage arising from any injuries or occupational diseases

occurring to any worker employed by or any persons retained by the Contractor in the course of carrying out the work or services contemplated in this Agreement.

(c) Automotive Insurance (Form CA 0001 (Ed 1/87) including “any auto” and endorsement CA 0025 or equivalent). A policy of comprehensive automobile liability insurance written on a per occurrence for bodily injury and property damage in an amount not less than either (i) bodily injury liability limits of \$100,000 per person and \$300,000 per occurrence and property damage liability limits of \$150,000 per occurrence or (ii) combined single limit liability of \$1,000,000. Said policy shall include coverage for owned, non-owned, leased and hired cars.

All of the above policies of insurance shall be primary insurance and shall name the City, its elected and appointed officers, employees and agents as additional insureds and any insurance maintained by City or its officers, employees or agents shall apply in excess of, and not contribute with Contractor’s insurance. The insurer is deemed hereof to waive all rights of subrogation and contribution it may have against the City, its officers, employees and agents and their respective insurers. All of said policies of insurance shall provide that said insurance may not be amended or cancelled by the insurer or any party hereto without providing thirty (30) days prior written notice by certified mail return receipt requested to the City. In the event any of said policies of insurance are cancelled, the Contractor shall, prior to the cancellation date, submit new evidence of insurance in conformance with this Section 5.1 to the Contract Officer. No work or services under this Agreement shall commence until the Contractor has provided the City with Certificates of Insurance or appropriate insurance binders evidencing the above insurance coverages and said Certificates of Insurance or binders are approved by the City

The insurance required by this Agreement shall be satisfactory only if issued by companies qualified to do business in California, rated “A” or better in the most recent edition of Best Rating Guide, The Key Rating Guide or in the Federal Register, and only if they are of a financial category Class VII or better, unless such requirements are waived by the City Manager or other designee of the City due to unique circumstances.

5.2 Indemnification. To the full extent provided by law, Contractor agrees to indemnify, defend and hold harmless the City, its officers, employees and agents against, any and all actions, suits, claims, damages to persons or property, losses, costs, penalties, obligations, errors, omissions or liabilities, including paying any legal costs, attorneys fees, or paying any judgment (herein “claims or liabilities”) that may be asserted or claimed by any person, firm or entity arising out of or in connection with the negligent performance of the work or services of Contractor, its officers, agents, employees, agents, subcontractors, or invitees, provided for herein (“indemnitors”), or arising from Contractor’s indemnitors’ negligent performance of or failure to perform any term, provision, covenant, or condition of this Agreement, except claims or liabilities to the extent caused by the negligence or willful misconduct of the City indemnitees.

5.3 General Insurance Requirements. All of the above policies of insurance shall be primary insurance and shall name the City, its elected and appointed officers, employees and agents as additional insureds and any insurance maintained by City or its officers, employees or agents shall apply in excess of, and not contribute with Contractor’s insurance. The insurer is deemed hereof to waive all rights of subrogation and contribution it may have against the City, its officers, employees and agents and their respective insurers. All of said policies of insurance

(d) Contractor shall promptly notify the City should Contractor be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed there under. The City retains the right, but has no obligation, to represent Contractor or be present at any deposition, hearing or similar proceeding. Contractor agrees to cooperate fully with the City and to provide the City with the opportunity to review any response to discovery requests provided by Contractor.

6.4 Ownership of Documents. All studies, surveys, data, notes, computer files, reports, records, drawings, specifications, maps, designs, photographs, documents and other materials (the “documents and materials”) prepared by Contractor in the performance of this Agreement shall be the property of the City and shall be delivered to the City upon request of the Contract Officer or upon the termination of this Agreement, and Contractor shall have no claim for further employment or additional compensation as a result of the exercise by the City of its full rights of ownership use, reuse, or assignment of the documents and materials hereunder. Moreover, Contractor with respect to any documents and materials that may qualify as “works made for hire” as defined in 17 U.S.C. § 101, such documents and materials are hereby deemed “works made for hire” for the City.

## 7. ENFORCEMENT OF AGREEMENT AND TERMINATION

7.1 California Law. This Agreement shall be interpreted, construed and governed both as to validity and to performance of the parties in accordance with the laws of the State of California. Legal actions concerning any dispute, claim or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of Los Angeles, State of California.

7.2 Disputes; Default. In the event that Contractor is in default under the terms of this Agreement, the City shall not have any obligation or duty to continue compensating Contractor for any work performed after the date of default. Instead, the City may give notice to Contractor of the default and the reasons for the default. The notice shall include the timeframe in which Contractor may cure the default. This timeframe is presumptively thirty (30) days, but may be extended, if circumstances warrant. During the period of time that Contractor is in default, the City shall hold all invoices and shall, when the default is cured, proceed with payment on the invoices. If Contractor does not cure the default, the City may take necessary steps to terminate this Agreement under this Article.

7.3 Legal Action. In addition to any other rights or remedies, either party may take legal action, in law or in equity, to cure, correct or remedy any default, to recover damages for any default, to compel specific performance of this Agreement, to obtain declaratory or injunctive relief, or to obtain any other remedy consistent with the purposes of this Agreement. Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the parties are cumulative and the exercise by either party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.

7.4 Termination Prior to Expiration of Term. This Section shall govern any termination of this Contract except as specifically provided in the following Section for

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

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

## 8. MISCELLANEOUS

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

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

8.3 Notice. Any notice, demand, request, document, consent, approval, or communication either party desires or is required to give to the other party or any other shall be in writing and either served personally or sent by prepaid, first-class mail, in the case of the City, to the City Manager and to the attention of the Contract Officer, at City of Bell City Hall, 6330 Pine Avenue, Bell, California 90201 and in the case of the Contractor, to the person at the address designated on the execution page of this Agreement.

8.4 Integration; Amendment. It is understood that there are no oral agreements between the parties hereto affecting this Agreement and this Agreement supersedes and cancels any and all previous negotiations, arrangements, agreements and understandings, if any, between the parties, and none shall be used to interpret this Agreement. This Agreement may be amended at any time by the mutual consent of the parties by an instrument in writing.

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

8.6 Waiver. No delay or omission in the exercise of any right or remedy by non-defaulting party on any default shall impair such right or remedy or be construed as a waiver. A party's consent to or approval of any act by the other party requiring the party's consent or approval shall not be deemed to waive or render unnecessary the other party's consent to or approval of any subsequent act. Any waiver by either party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

8.7 Attorneys' Fees. If either party to this Agreement is required to initiate or defend or made a party to any action or proceeding in any way connected with this Agreement, the prevailing party in such action or proceeding, in addition to any other relief which may be granted, whether legal or equitable, shall be entitled to reasonable attorney's fees, whether or not the matter proceeds to judgment.

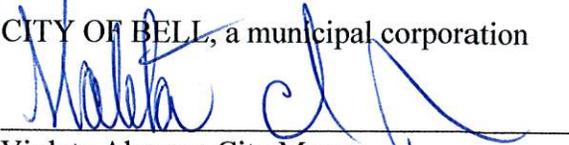
8.8 Corporate Authority. The persons executing this Agreement on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which said party is bound.

[Signatures on the following page.]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date and year first-above written.

CITY:

CITY OF BELL, a municipal corporation

  
Violeta Alvarez, City Mayor

ATTEST:

  
Janet Martinez, Interim City Clerk

APPROVED AS TO FORM:  
ALESHIRE & WYNDER, LLP

  
David J. Aleshire, City Attorney

CONTRACTOR:

  
Contracting Company, Inc.

By:   
Name: CARLA WENZEL / STEVEN WENZEL  
Title: PRES.

Address: 417 . W. Cawekout Blvd #264  
L.A. - C.A. - 90004

Two signatures are required if a corporation.

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

[END OF SIGNATURES]

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

CIVIL CODE § 1189

State of California

County of Los Angeles

On 7-5-2013

before me,

Andrew D. Geller, Notary Public

Here Insert Name and Title of the Officer

personally appeared

STEVEN ROSS LENHOFF AND

Name(s) of Signer(s)

CARLA ABERLE LENHOFF



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

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

WITNESS my hand and official seal.

Signature: \_\_\_\_\_

Signature of Notary Public

Place Notary Seal Above

**OPTIONAL**

*Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.*

**Description of Attached Document**

Title or Type of Document: CONTRACT SERVICE AGREEMENT

Document Date: 7-5-2013

Number of Pages: \_\_\_\_\_

Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: \_\_\_\_\_

Signer's Name: \_\_\_\_\_

Corporate Officer — Title(s): \_\_\_\_\_

Corporate Officer — Title(s): \_\_\_\_\_

Individual

Individual

Partner —  Limited  General

Partner —  Limited  General

Attorney in Fact

Attorney in Fact

Trustee

Trustee

Guardian or Conservator

Guardian or Conservator

Other: \_\_\_\_\_

Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_

## EXHIBIT "A"

### SCOPE OF SERVICES

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

#### 1. **Processes, Materials and Equipment**

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

**B. Application Quality:** The materials shall be applied in such a manner as will ensure smooth, even, uniform coats free of dirt, drips, ridges, waves, drops, runs, brush marks, sags, and laps. If any of these existed before, they shall be properly corrected and prepared before painting. When completed, the painting shall represent a first class, workman-like appearance. All work areas shall be cleaned of all debris, residue and excess paint immediately after completion of work.

**C. Application Process:** Paint shall be applied under dry, dust free conditions and shall not be applied when the temperature is below 40 degrees Fahrenheit. All primer and intermediate coats of paint shall be unscarred and completely integral as well as completely dry at the time of the application of each succeeding coat. Contractor shall match the existing surface color when painting over or obscuring graffiti whenever possible. Paint shall be neatly feathered in all areas. If residents/businesses request a specific color, Contractor may provide labor as long as paint has been provided by the resident/business.

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

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

- F. Paint Match:** The Contractor shall verify, to the satisfaction of the City, its method for matching paint. All repainted surfaces shall reasonably match wall color to the satisfaction of the Community Development Director or designee.
2. **Technology:** The Contractor shall provide a system that allows the community to report graffiti via phone, a free app on smart phones (iOS and Android), email, and a web-page. A person who has reported graffiti and has provided contact information shall receive a notice that the graffiti has been removed. The contractor shall provide to the City a web-based database system to track graffiti incidents. All graffiti incidents must show the date and time that the incidents were reported to the Contractor.
  3. **Response and Removal Time:** The Contractor shall remove graffiti within 24 hours of a graffiti location being reported by City staff or the public via phone, email, a web-page or smart phone seven days a week – no exceptions for holidays. Contractor shall also provide emergency services (removal of vulgar, racial or pornographic images, etc. within one hour of notification). At the City’s discretion and on a case-by-case basis, a 48 hour response time may be acceptable.
  4. **Contractor Responsibility:** Contractor is to assume the responsibility for all work and tenant and property owner relations.
  5. **Right of Entry:**
    - A. **Private Property:** Graffiti removal from private property will require a release from the property owner consenting to graffiti removal. Contractor must obtain written approval to enter and release of liability prior to starting the graffiti removal. Graffiti to be removed from private property must be visible from the public right-of-way.
    - B. **Public Right-of-Way Property:** Authorization shall be given by the Community Development Director for the removal of graffiti on public property.
    - C. **Commercial signage:** Graffiti found on commercial signage shall only be removed with the owner's/occupant's specific, written approval and with the owner's/occupant's understanding that Contractor is not responsible, under this contract, for replacing any original lettering, pictures, etc., on a commercial sign. With the owner's/occupant's approval, Contractor shall proceed with diligence to remove the graffiti with as little damage to the commercial sign as possible. Graffiti to be removed from private commercial property must be visible from the public right-of-way.
  6. **Clean up:** All finished surfaces of the building shall be left clean and reasonably dust free. At completion of work, Contractor shall clean all exposed surfaces soiled by the work; repair all damage caused by the work at no extra cost to the property owner or the City of Bell; remove all debris created as a direct result of the work from the job site; and leave the entire installation ready for use.
  7. **Public Relations and Safety:** Contractor shall at all times conduct services with the utmost of courtesy to the public. All employees of Contractor shall wear clean clothing in the performance of duties, and equipment shall be clean and maintained in a safe operating manner. All equipment shall be subject to inspection by the Community Development Director, or designee. All

personnel shall wear appropriate safety gear at all times while removing graffiti in the City of Bell.

8. **Photographic Documentation:** The contractor shall photographically document all locations prior to removal of graffiti and shall maintain said photographs. Upon removal of graffiti, the Contractor shall take an additional photograph of the same area. Digital photos of the abated sites shall be available online and accessible by City staff at any time. The City prefers a web-based photo system that updates in real time while in the field.
9. **Daily Logs:** Daily logs shall be maintained identifying graffiti removal sites by census tracts and block groups. Monthly program reports shall be submitted within five (5) days of the end of the month. Information on total graffiti removal in square feet and number of sites shall be provided. Should accomplishment target not be met for the reporting period, steps to remedy the situation shall be provided along with an implementation schedule.
10. **Air and Water Pollution Regulations Compliance:** The Contractor shall be required to conform to all current regulations of the South Coast Air Quality Management District (AQMD). The Contractor is also required to adhere to the provisions of the Federal Clean Water Act as regulated by the U.S. Environmental Protection Agency (EPA) in Code 40, Code of Federal Regulations (CFR) Parts 122, 123, 124, the Porter-Cologne Act (California Water Act), and the National Pollutant Discharge Elimination System (NPDES) requirements. Suitable Best Management Practices (BMPs) shall be applied to prevent any chemical, debris or any non-storm water discharges from entering the storm drain system (storm drains and gutters).
11. **Retention of Financial Records:** Contractor agrees to maintain financial records and accounts to assure proper accounting for all CDBG Program funds and to support all program expenditures for a period of five (5) years. These records and accounts shall include, but not be limited to, the following:
  - A. Records documenting procurement of goods and services;
  - B. Lease or Rental Agreements;
  - C. Invoices;
  - D. Billing Statements;
  - E. Cancelled Checks;
  - F. Timecards signed by employees and supervisors;
  - G. Personnel Authorization Records;
  - H. Payroll Registers;
  - I. Payroll Tax Records;
  - J. Bank Statements;
  - K. Bank reconciliations; and
  - L. Documentation to support the allocation of costs

**EXHIBIT "B"**

**SPECIAL REQUIREMENTS**  
(Superseding Contract Boilerplate)

1. Federal Requirements.

The following Section 8.9 is hereby added to read it in its entirety as follows:

8.9. Equal Employment Opportunity Clause. During the Performance of this Agreement, the Contractor agrees as follows:

(a) Contractor will, in all solicitation of advertisement for employees be placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color sex, or national origin.

(b) Contractor will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this Agreement so that such provision will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

(c) Contractor will comply with all provisions of the Executive Order 11246 of September 24, 1965 and of the rules, regulations, and relevant order of Secretary of Labor.

(d) Contractor will furnish all information and reports required by Executive Order 11246 of September 25, 1965, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the City and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

(e) In the event of the Contractor's non-compliance with the equal opportunity clauses of the Agreement or with any such rules, regulations or orders, this Agreement may be canceled, terminated, or suspended in whole or in part and the Contractor maybe declared ineligible for further government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(f) Contractor will include the provisions of paragraph (a) through (f) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the City may direct as a means of enforcing such provisions including sanctions for non compliance; provided, however,

that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such directions by the City, the Contractor may request the United States to enter into such litigation to protect the interest of the United States.

(g) Civil Rights Act of 1964. Under Title VI of the Civil Rights Act of 1964, no person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program activity receiving federal financial assistance.

(h) Section 109 of the Housing and Community Development Act of 1974. No person in the United States shall, on the grounds of race, color, national origin, or sex be excluded from participation in, be denied the benefits, or be subjected to discrimination under any program or activity funded in whole in part with funds made available under this title.

(i) Age Discrimination Act of 1975 and Rehabilitation Act of 1973. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975, or with respect to an otherwise qualified handicapped individual, as provided in Section 504 of the Rehabilitation Act of 1973, shall also apply to any such program or activity.

(j) Compliance in the Provision of Training, Employment and Business Opportunities. The work to be performed under this Agreement is on a project assisted under a program providing direct federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of Section 3 of the Housing and Urban Development and is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that, to the greatest extent feasible, opportunities for training and employment be given to lower income residents of the project area and contract for work in connection with the project be awarded to business concerns which are located in or owned in substantial part by persons residing in the area of the project.

(k) The parties of the agreement will comply with the provision of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR 135, and all applicable rules and order of the Department issued there under prior to the execution of the Agreement. The parties to this Agreement Certify and agree that they are under contractual or other disability which would prevent them from complying with these requirements.

(l) Contractor will send to each labor organization or representative of workers with which he has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization of workers' representatives of his commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment of training.

(m) Contractor will include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for or receipt of

federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations under 24 CFR Pat 135 and will not let any subcontract unless the subcontractor has first provided him with a preliminary statement of availability to comply with the requirement of these regulations.

(n) Compliance with provision of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the contract, shall be in condition of the federal financial assistance provide to the project, binding upon the applicant or recipient for such assistance, its successors, and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its Contractors and subcontractors, its successors and assigns to those sanctions specified by the grant or loan agreement or contract through which federal assistance is provided, and to such sanction as specified by 24 CFR Part 135.

(o) Lobbying Certification. Contractor certifies that no Federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or a making of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement.

(p) Contractor certifies that if any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of any agency in connection with this Federal contract, grant, loan, or cooperative agreement, the Contractor shall complete and submit Standard Form-LLL, "Disclosures Form to Report Lobbying," in accordance with its instructions. The Contractor shall require that the language of this certification be included in all subcontracts and that all subcontractors shall certify and disclose accordingly.

## 2. County of Los Angeles Requirements.

The following Section 8.10 is hereby added to read it in its entirety as follows:

### 8.10 County of Los Angeles Requirements

(a) The Contractor certifies that it is understood that each person, entity or firm that applies for a Community Development Commission contract, and as part of that process, shall certify that they are familiar with the requirements of Los Angeles County Chapter 2.160, (Los Angeles County Ordinance 93-0031) and;

(b) That all persons, entities or firms acting on behalf of the above named firm have and will comply with the County Code, and;

(c) That any persons, entities or firms that seeks a contract with the Community Development Commission shall be disqualified therefrom and denied the contract and, shall be liable in civil action, if any lobbyist, lobbying firm, lobbyist employer or any other person or entity acting on behalf of the above named firm fails to comply with the provisions of the County Code.

3. Storm Water and Urban Run Off Pollution Prevention.

The following Section 8.11 is hereby added to read it in its entirety as follows:

8.11 Storm Water and Urban Run Off Pollution Prevention.

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

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

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

The Contractor shall:

- Transport paint and materials to and from job sites in containers with secure lids and tied down to the transport vehicle;
- Not transfer or load paint near storm drain inlets or watercourses;

- Test and inspect spray equipment prior to starting to paint. Tighten all hoses and connections and not overfill paint container;
- Capture all clean-up water, and dispose of properly;
- Not remove graffiti during a rain event;
- Protect nearby storm drain inlets prior to removing graffiti from walls, signs, sidewalks, or other structures needing graffiti abatement. Clean up afterwards by sweeping or vacuuming thoroughly, and or by using absorbent and properly disposing of the absorbent;
- Direct runoff from sand blasting and high pressure washing (with no cleaning agents) into a landscaped or dirt area. If such an area is not available, filter runoff;
- Through an appropriate filtering device (e.g. filter fabric) to keep sand, particles, and debris out of storm drains;
- Plug nearby storm drains and vacuum/pump wash water to the sanitary sewer if a graffiti abatement method generates wash water containing a cleaning compound (such as high pressure washing with a cleaning compound); and
- Consider using a waterless and non-toxic chemical cleaning method for graffiti removal (e.g. gels or spray compounds) .

The Contractor may be asked to:

- Plug nearby storm drain inlets prior to the start of painting where there is significant risk of a spill reaching storm drains. Remove plugs when job is completed.
- Cover nearby storm drain inlets if sand blasting is used to remove paint, prior to starting work.
- Use a sander with a vacuum filter bag.

#### 4. Section 1.3

Section 1.3 is hereby amended to read it in its entirety as follows:

“1.3 Licenses, Permits, Fees and Assessments. Contractor shall obtain at its sole cost and expense such licenses, permits, and approvals as may be required by law for

the performance of the services required by the Agreement. Specifically, Contractor agrees to obtain a City of Bell Business License in order to provide services. This Business license shall be issued by the City's Business License Department upon approval of the Business License Application and payment of Business License Tax.”

**EXHIBIT "C"**

**SCHEDULE OF COMPENSATION**

- I. Contractor shall perform the Services listed in Exhibit "A" (Scope of Services) and shall be paid monthly in accordance with this Schedule of Compensation.**
- II. The total compensation for the Services shall not exceed \$ 15,000 per month or \$180,000 per year, as provided in Section 2.1 of this Agreement.**

**EXHIBIT "D"**

**SCHEDULE OF PERFORMANCE**

Contractor shall perform all services timely in accordance with the following schedule

- A.** Contractor shall patrol and clean seven days a week, Monday through Sunday, all commercial streets, alleys and walkways, bike path walls, areas surrounding school properties, main neighborhood streets including, but not limited to Bell Ave., Salt Lake Ave., Fillmore Ave., River Dr., Randolph Ave., Clarkson St., Southhall / Chanslor Ave., Lorna Vista Pl., Woodward Ave., Bear Ave., and Corona Ave., and any additional service requests from City. Isolate areas that are vandalized consistently on Fridays after 1:00 p.m. and re-patrol and clean those specific areas as needed.
- B.** Patrol and clean the east river wall and all residential streets at least once per week.
- C.** Every Saturday, or by preference Sunday, perform a complete sweep of Florence Ave., Salt Lake Ave., Gage Ave., Atlantic Ave., Wilcox Ave., bike path near Florence Ave., Federal Alley, Knoll Tract, and Walker-Crafton walkway.

Nestor Enrique Valencia - *Mayor*  
Alicia Romero - *Vice Mayor*  
Violeta Alvarez - *Councilmember*  
Ana Maria Quintana - *Councilmember*  
Ali Saleh - *Councilmember*



6330 Pine Avenue  
Bell, California 90201  
(323) 588-6211  
(323) 771-9473 fax

## CITY OF BELL

June 25, 2014

Carla Lenhoff  
Graffiti Protective Coatings, Inc.  
419 Larchmont Blvd, Ste #264  
Los Angeles, CA 90004

Dear Ms. Lenhoff,

Please accept this letter as the City of Bell's official extension of the agreement for graffiti removal services dated July 1, 2013. The agreement is hereby extended for two years until June 30, 2016 in accordance with Section 3.5 of the original agreement. Please call Joe Perez at (323) 588-6211 x 296 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Willmore".

Doug Willmore  
City Manager  
City of Bell

**CONTRACT SERVICES AGREEMENT**

**By and Between**

**CITY OF BELL**

**and**

**GRAFFITI PROTECTIVE COATINGS, INC.**

**AGREEMENT FOR CONTRACT SERVICES  
BETWEEN THE CITY OF BELL AND  
GRAFFITI PROTECTIVE COATINGS, INC.**

THIS AGREEMENT FOR CONTRACT SERVICES (herein "Agreement") is made and entered into this 26th day of October, 2016 by and between the City of Bell, a municipal corporation and charter city ("City") and Graffiti Protective Coatings, Inc., a California corporation ("Contractor"). City and Contractor may be referred to, individually or collectively, as "Party" or "Parties."

**RECITALS**

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

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

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

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

**OPERATIVE PROVISIONS**

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

**ARTICLE 1. SERVICES OF CONTRACTOR**

1.1 Scope of Services.

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

standards of practice recognized by one or more first-class firms performing similar work under similar circumstances.

1.2 Contractor's Proposal.

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

1.3 Compliance with Law.

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

1.4 Licenses, Permits, Fees and Assessments.

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

1.5 Familiarity with Work.

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

1.6 Care of Work.

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

1.7 Further Responsibilities of Parties.

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

1.8 Additional Services.

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

1.9 Special Requirements.

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

**ARTICLE 2. COMPENSATION AND METHOD OF PAYMENT.**

2.1 Contract Sum.

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

2.2 Method of Compensation.

The method of compensation may include: (i) a lump sum payment upon completion; (ii) payment in accordance with specified tasks or the percentage of completion of the services, less contract retention; (iii) payment for time and materials based upon the Contractor's rates as

specified in the Schedule of Compensation, provided that (a) time estimates are provided for the performance of sub tasks, (b) contract retention is maintained, and (c) the Contract Sum is not exceeded; or (iv) such other methods as may be specified in the Schedule of Compensation.

### 2.3 Reimbursable Expenses.

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

### 2.4 Invoices.

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

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

### 2.5 Waiver.

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

## **ARTICLE 3. PERFORMANCE SCHEDULE**

### 3.1 Time of Essence.

Time is of the essence in the performance of this Agreement.

3.2 Schedule of Performance.

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

3.3 Force Majeure.

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

3.4 Term.

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

**ARTICLE 4. COORDINATION OF WORK**

4.1 Representatives and Personnel of Contractor.

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

Carla Lenhoff  
(Name)

President  
(Title)

Julio Bonilla  
(Name)

Project Manager  
(Title)

Pedro Chavez  
(Name)

Field Tech  
(Title)

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

#### 4.2 Status of Contractor.

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

#### 4.3 Contract Officer.

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

#### 4.4 Independent Contractor.

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

Contractor in its business or otherwise or a joint venturer or a member of any joint enterprise with Contractor.

4.5 Prohibition Against Subcontracting or Assignment.

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

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

5.1 Insurance Coverages.

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

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

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

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

(d) Professional Liability. Professional liability insurance appropriate to the Contractor's profession. This coverage may be written on a "claims made" basis, and must include coverage for contractual liability. The professional liability insurance required by this Agreement must be endorsed to be applicable to claims based upon, arising out of or related to

services performed under this Agreement. The insurance must be maintained for at least 5 consecutive years following the completion of Contractor's services or the termination of this Agreement. During this additional 5-year period, Contractor shall annually and upon request of the City submit written evidence of this continuous coverage.

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

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

## 5.2 General Insurance Requirements.

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

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

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

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

CANCELLATION:

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

[to be initialed]

\_\_\_\_\_  
Contractor Initials

City, its respective elected and appointed officers, directors, officials, employees, agents and volunteers are to be covered as additional insureds as respects: liability arising out of activities Contractor performs; products and completed operations of Contractor; premises owned, occupied or used by Contractor; or any automobiles owned, leased, hired or borrowed by Contractor. The coverage shall contain no special limitations on the scope of protection afforded to City, and their respective elected and appointed officers, officials, employees or volunteers. Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

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

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

### 5.3 Indemnification.

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

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

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

Contractor hereunder; and Contractor agrees to save and hold the City, its officers, agents, and employees harmless therefrom;

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

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

5.4 Sufficiency of Insurer or Surety.

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

**ARTICLE 6. RECORDS, REPORTS, AND RELEASE OF INFORMATION**

6.1 Records.

Contractor shall keep, and require subcontractors to keep, such ledgers, books of accounts, invoices, vouchers, canceled checks, reports, studies or other documents relating to the disbursements charged to City and services performed hereunder (the "books and records"), as shall be necessary to perform the services required by this Agreement and enable the Contract Officer to evaluate the performance of such services. Any and all such documents shall be maintained in accordance with generally accepted accounting principles and shall be complete and detailed. The Contract Officer shall have full and free access to such books and records at all times during normal business hours of City, including the right to inspect, copy, audit and make records and transcripts from such records. Such records shall be maintained for a period of three

(3) years following completion of the services hereunder, and the City shall have access to such records in the event any audit is required. In the event of dissolution of Contractor's business, custody of the books and records may be given to City, and access shall be provided by Contractor's successor in interest. Notwithstanding the above, the Contractor shall fully cooperate with the City in providing access to the books and records if a public records request is made and disclosure is required by law including but not limited to the California Public Records Act.

## 6.2 Reports.

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

## 6.3 Ownership of Documents.

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

#### 6.4 Confidentiality and Release of Information.

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

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

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

(d) Contractor shall promptly notify City should Contractor, its officers, employees, agents or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed there under. City retains the right, but has no obligation, to represent Contractor or be present at any deposition, hearing or similar proceeding. Contractor agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Contractor. However, this right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

### **ARTICLE 7. ENFORCEMENT OF AGREEMENT AND TERMINATION**

#### 7.1 California Law.

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

#### 7.2 Disputes; Default.

In the event that Contractor is in default under the terms of this Agreement, the City shall not have any obligation or duty to continue compensating Contractor for any work performed after the date of default. Instead, the City may give notice to Contractor of the default and the reasons for the default. The notice shall include the timeframe in which Contractor may cure the default. This timeframe is presumptively thirty (30) days, but may be extended, though not

reduced, if circumstances warrant. During the period of time that Contractor is in default, the City shall hold all invoices and shall, when the default is cured, proceed with payment on the invoices. In the alternative, the City may, in its sole discretion, elect to pay some or all of the outstanding invoices during the period of default. If Contractor does not cure the default, the City may take necessary steps to terminate this Agreement under this Article. Any failure on the part of the City to give notice of the Contractor's default shall not be deemed to result in a waiver of the City's legal rights or any rights arising out of any provision of this Agreement.

#### 7.3 Retention of Funds.

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

#### 7.4 Waiver.

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

#### 7.5 Rights and Remedies are Cumulative.

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

#### 7.6 Legal Action.

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

#### 7.7 Termination Prior to Expiration of Term.

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

#### 7.8 Termination for Default of Contractor.

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

#### 7.9 Attorneys' Fees.

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

### **ARTICLE 8. CITY OFFICERS AND EMPLOYEES: NON-DISCRIMINATION**

#### 8.1 Non-liability of City Officers and Employees.

No officer or employee of the City shall be personally liable to the Contractor, or any successor in interest, in the event of any default or breach by the City or for any amount which

may become due to the Contractor or to its successor, or for breach of any obligation of the terms of this Agreement.

#### 8.2 Conflict of Interest.

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

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

#### 8.3 Covenant Against Discrimination.

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

#### 8.4 Unauthorized Aliens.

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

### **ARTICLE 9. MISCELLANEOUS PROVISIONS**

#### 9.1 Notices.

Any notice, demand, request, document, consent, approval, or communication either party desires or is required to give to the other party or any other person shall be in writing and either served personally or sent by prepaid, first-class mail, in the case of the City, to the City Manager and to the attention of the Contract Officer (with her/his name and City title), City of Bell, 6330

Pine Avenue, Bell, California 90201 and in the case of the Contractor, to the person at the address designated on the execution page of this Agreement. Either party may change its address by notifying the other party of the change of address in writing. Notice shall be deemed communicated at the time personally delivered or in seventy-two (72) hours from the time of mailing if mailed as provided in this Section.

9.2 Interpretation.

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

9.3 Counterparts.

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

9.4 Integration; Amendment.

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

9.5 Severability.

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

9.6 Corporate Authority.

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

**[SIGNATURES ON FOLLOWING PAGE]**

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement on the date and year first-above written.

**CITY:**

CITY OF BELL, a municipal corporation

\_\_\_\_\_  
Alicia Romero, Mayor

ATTEST:

\_\_\_\_\_  
Angela Bustamante, Assistant City Clerk

**APPROVED AS TO FORM:**

ALESHIRE & WYNDER, LLP *alt*

\_\_\_\_\_  
David J. Aleshire, City Attorney

**CONTRACTOR:**

GRAFFITI PROTECTIVE COATINGS, INC., a California corporation

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Two signatures are required if a corporation.

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

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

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

STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

On \_\_\_\_\_, 2016 before me, \_\_\_\_\_, personally appeared \_\_\_\_\_, proved to me on the basis of satisfactory evidence to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature: \_\_\_\_\_

**OPTIONAL**

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form

**CAPACITY CLAIMED BY SIGNER**

**DESCRIPTION OF ATTACHED DOCUMENT**

- INDIVIDUAL
- CORPORATE OFFICER
- \_\_\_\_\_
- TITLE(S)
  
- PARTNER(S)       LIMITED
- GENERAL
- ATTORNEY-IN-FACT
- TRUSTEE(S)
- GUARDIAN/CONSERVATOR
- OTHER \_\_\_\_\_
- \_\_\_\_\_

\_\_\_\_\_

TITLE OR TYPE OF DOCUMENT

\_\_\_\_\_

NUMBER OF PAGES

\_\_\_\_\_

DATE OF DOCUMENT

**SIGNER IS REPRESENTING:**  
 (NAME OF PERSON(S) OR ENTITY(IES))

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

SIGNER(S) OTHER THAN NAMED ABOVE

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

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

STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

On \_\_\_\_\_, 2016 before me, \_\_\_\_\_, personally appeared \_\_\_\_\_, proved to me on the basis of satisfactory evidence to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature: \_\_\_\_\_

**OPTIONAL**

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

<b>CAPACITY CLAIMED BY SIGNER</b>		<b>DESCRIPTION OF ATTACHED DOCUMENT</b>
<input type="checkbox"/>	INDIVIDUAL	_____
<input type="checkbox"/>	CORPORATE OFFICER	TITLE OR TYPE OF DOCUMENT
	_____	
	TITLE(S)	
<input type="checkbox"/>	PARTNER(S)	_____
<input type="checkbox"/>	LIMITED	NUMBER OF PAGES
<input type="checkbox"/>	GENERAL	
<input type="checkbox"/>	ATTORNEY-IN-FACT	_____
<input type="checkbox"/>	TRUSTEE(S)	DATE OF DOCUMENT
<input type="checkbox"/>	GUARDIAN/CONSERVATOR	
<input type="checkbox"/>	OTHER _____	
	_____	
	_____	
<b>SIGNER IS REPRESENTING:</b>		_____
(NAME OF PERSON(S) OR ENTITY(IES))		SIGNER(S) OTHER THAN NAMED ABOVE
_____		
_____		

## EXHIBIT "A"

### SCOPE OF SERVICES

#### **I. Contractor will perform the following Services:**

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

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

#### **A. Graffiti Removal**

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

#### **B. Processes, Materials and Equipment**

- i. Preparation: Contractor shall properly prepare all stucco, masonry, metal, wood or other exterior surfaces in a manner that will result in an acceptable bonding of the applied paint and deter the visibility of graffiti. Contractor will use new and/or recycled water-based paint, recycled paint being preferable. No lead-based paint will be used.
- ii. Application Quality: The materials shall be applied in such a manner as will ensure smooth, even, uniform coats free of dirt, drips, ridges, waves, drops, runs, brush marks, sags, and laps. If any of these existed before, they shall be properly corrected and prepared before painting. When completed, the painting shall be a first class, workman-like appearance. All work areas shall be cleaned of all debris, residue, and excess paint immediately after completion of work.

- iii. Application Process: Paint shall be applied under dry, dust-free conditions and shall not be applied when the temperature is below 40 degrees Fahrenheit. All primer and intermediate coats of paint shall be unscarred and completely integral as well as completely dry at the time of the application of each succeeding coat. Contractor shall match the existing surface color when painting over or obscuring graffiti whenever possible. Paint shall be neatly feathered in all areas. If residents/businesses request a specific color, Contractor may provide labor as long as paint has been provided by the resident/business.
- iv. Supplies and Equipment: The Contractor shall provide its own vehicle, equipment, supplies and materials necessary to perform the work outlined. Further, the Contractor shall have an aerosol spray unit (minimum 2500 p.s.i.) and standard extension ladder on the Contractor vehicle and such other equipment as may be necessary to perform graffiti removal (e.g., brushes, etc.). The Contractor shall have the ability to remove graffiti from difficult locations. The Contractor must have extension ladders on every vehicle and 24 hours a day, seven days a week, access to a bucket truck with a minimum extension height of forty feet.
- v. Manufacturer Directions: Manufacturer's recommendations for mixing, thinning, applying, type of exposure, surface to be covered, and type of surface wear to which the paint will be subjected shall be explicitly followed.
- vi. Paint Match: The Contractor shall verify, to the satisfaction of the City, its method for matching paint. All repainted surfaces shall reasonably match wall color to the satisfaction of the Community Development Director or designee.
- vii. Definition of Terms
  - 1. Painted Surface: Previously painted surfaces such as stucco, block walls, tilt ups fences, etc.
  - 2. Porous Surface: Natural unpainted surfaces such as block walls, concrete walls, curbs, sidewalks, marble, concrete light standards, etc.
  - 3. Non-Porous Surface: Glass, windows, mirrors, metal, street signs, poles, light standards, baked enamel, mail boxes, traffic control boxes, street signs, etc.

### C. Contractor Responsibility

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

**D. Right of Entry**

- i. Private Property: Graffiti removal from private property will require a release from the property owner consenting to graffiti removal. The Contractor and/or City must obtain written approval to enter and release of liability prior to starting graffiti removal. Graffiti to be removed from private property must be visible from the public right-of-way.
- ii. Public Right-of-Way Property: Authorization shall be given by the Contract Officer for the removal of graffiti on public property.

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

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

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

**H. Air and Water Pollution:** The Contractor shall be required to conform to all current regulations of the South Coast Air Quality Management District (AQMD). The Contractor is also required to adhere to the provisions of the Federal Clean Water Act as regulated by the U.S. Environmental Protection Agency (EPA) in Code 40, Code of Federal Regulations (CFR) Parts 122, 123, 124, the Porter-Cologne Act (California Water Act), and the National Pollutant Discharge Elimination System (NPDES) requirements. Suitable Best Management Practices

(BMPs) shall be applied to prevent any chemical, debris or any non-storm water discharges from entering the storm drain system (storm drains and gutters).

I. Technology:

- i. Receive work orders via a web based work order system.
- ii. Provide residents a free City branded Smartphone app on the Android and iPhone platform.
  1. Requests are to be electronically submitted to work order system and assigned a work order number in real time.
  2. Upon job completion, a Thank You note with before and after photos is to be transmitted electronically to the resident's email address.
  3. Responding email must have a feedback link to an electronic survey that allows residents to rate services and response time.
  4. App shall have flexibility to allow reporting of other Public Services requests.
- iii. App must be available on the Apple store and Android marketplace at the cost of the contractor.
- iv. Provide Contract Officer a mobile device for providing work orders in the field, which allows the Contract Officer to create, view and map open work orders.
- v. Photographs of work performed (before and after) shall be sent in real-time with work order number, address, zone, method, surface, time cleaned, square footage, moniker, total response time, and price to web based system.
- vi. System must allow for multiple photos per work order number.
- vii. Web based system must be able to show:
  1. All work order status
  2. Maps of zones as provided by the City
  3. Response time to work orders
  4. Cost by zones

5. Square footage cleaned by zones
  6. Custom graphs
  7. Custom reports
  8. Maps in google earth
- viii. Work order system shall allow direct link through URL from the City's website with City branded page.
1. Public can use site to report graffiti and upload photos
  2. Requests are electronically submitted to work order system and assigned to a work order number
- ix. All data collected in the work order system for this project is the property of the City
- x. Contractor must be able to demonstrate all aspects of the software requirements through a working version of the software prior to award of bid. Include Smartphone app names and contact information for a minimum of 3 Municipal customers of similar size that have used contractor's software for at least 12 months.

**J. Anti-Graffiti Campaign**

- i. Assist the City in establishing an Anti-Graffiti Campaign to discourage graffiti activities throughout the City by conducting outreach at schools, businesses, neighborhood block clubs, non-profit organizations, and religious institutions.
- ii. Host three public events (per year) to discuss and discourage graffiti activity and provide alternative solutions to graffiti activities on public and private property.
- iii. Provide the City with a written report for Best Practices dealing with Graffiti activities.

**K. Weekly Meetings**

Contractor shall attend weekly City Public Works Department meetings.

**L. Retention Of Financial Records**

- i. Contractor will maintain financial records and accounts for a period of five (5) years. These records and accounts shall include, but not be limited to, the following:
  1. A double-entry General Ledger that supports the costs charged to all related accounts;
  2. Records documenting procurement of goods and services;
- ii. Lease or Rental Agreements;
- iii. Invoices;
- iv. Billing Statements;
- v. Cancelled Checks;
- vi. Timecards signed by employees and supervisors;
- vii. Personnel Authorization Records;
- viii. Payroll Registers;
- ix. Payroll Tax Records;
- x. Bank Statements;
- xi. Bank reconciliations; and
- xii. Documentation to support the allocation of costs.

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

- A. Photographic Documentation: The Contractor shall photographically document all locations prior to removal of graffiti and shall maintain the photographs. Upon removal of graffiti, the Contractor shall take an additional photograph of the same area. Consultant will provide digital photos of the abated sites through a web-based photo system that updates in real time while in the field.
- B. Smartphone app for citizens to report graffiti.
- C. A Web-based system to create, view, and map open orders, and to maintain reports, records, and photographic evidence.
- D. A written report for Best Practices dealing with graffiti activities.

**III. In addition to the requirements of Section 6.2, during performance of the Services, Contractor will keep the City appraised of the status of performance by delivering the following status reports:**

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

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

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

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

**A. Julio Bonilla, Project Manager**

**B. Pedro Chavez, Technician**

## EXHIBIT "B"

### **SPECIAL REQUIREMENTS (Superseding Contract Boilerplate)**

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

1.3. Licenses, Permits, Fees and Assessments.

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

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

3.5 Storm Water and Urban Run Off Pollution Prevention.

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

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

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

The Contractor shall:

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

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- Capture all clean-up water, and dispose of properly;
- Not remove graffiti during a rain event;
- Protect nearby storm drain inlets prior to removing graffiti from walls, signs, sidewalks, or other structures needing graffiti abatement. Clean up afterwards by sweeping or vacuuming thoroughly, and or by using absorbent and properly disposing of the absorbent;
- Direct runoff from sand blasting and high pressure washing (with no cleaning agents) into a landscaped or dirt area. If such an area is not available, filter runoff;
- Through an appropriate filtering device (e.g. filter fabric) to keep sand, particles, and debris out of storm drains;
- Plug nearby storm drains and vacuum/pump wash water to the sanitary sewer if a graffiti abatement method generates wash water containing a cleaning compound (such as high pressure washing with a cleaning compound); and
- Consider using a waterless and non-toxic chemical cleaning method for graffiti removal (e.g. gels or spray compounds) .

The Contractor may be asked to:

- Plug nearby storm drain inlets prior to the start of painting where there is significant risk of a spill reaching storm drains. Remove plugs when job is completed.
- Cover nearby storm drain inlets if sand blasting is used to remove paint, prior to starting work.
- Use a sander with a vacuum filter bag.

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

**7.10 Liquidated Damages.**

Since the determination of actual damages for any delay in performance of this Agreement would be extremely difficult or impractical to determine in the event of a breach of this Agreement, the Contractor and its sureties shall be liable for and shall pay to the City the sum of One Hundred Dollars (\$100.00) as liquidated damages for each working day of delay in the performance of any service required hereunder, as specified in the Schedule of Performance (Exhibit “D”). The City may withhold from any monies payable on account of services performed by the Contractor any accrued liquidated damages.

**EXHIBIT "C"**

**SCHEDULE OF COMPENSATION**

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

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

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

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

## EXHIBIT "D"

### SCHEDULE OF PERFORMANCE

- I. Contractor shall comply with the following schedule of performance:**
- A. Contractor shall patrol and clean seven days a week, Monday through Sunday, all commercial streets, alleys and walkways, bike path walls, areas surrounding school properties, main neighborhood streets including, but not limited to Bell Ave., Salt Lake Ave., Filmore Ave., River Dr., Randolph Ave., Clarkson St., Southall Ln. / Chanslor Ave., Loma Vista Pl., Woodward Ave., Bear Ave., and Corona Ave.
  - B. Contractor will isolate areas that are vandalized consistently on Fridays after 1:00 p.m. and re-patrol and clean those specific areas as needed.
  - C. Contractor will patrol and clean the east river Wall and all residential streets at least once per week.
  - D. Every Saturday or by preference Sunday, perform a complete sweep of Florence Ave., Salt Lake Ave., Gage Ave., Atlantic Ave., Wilcox Ave., bike path near Florence Ave., Federal Alley, Knoll Tract, and Walker-Crafton walkway.
  - E. Contractor will also fulfill any additional service requests from the City.
- II. Contractor shall deliver the following tangible work products to the City by the following dates.**
- A. Photographic evidence taken before abatement and after abatement.
  - B. Smartphone app for citizens to report graffiti by the start of Services.
  - D. A Web-based system to create, view, and map open orders, and to maintain reports, records, and photographic evidence by the start of Services, or soon thereafter, but no later than 90 days following the start of Services.
  - E. A written report for Best Practices dealing with graffiti activities at the conclusion of development of the anti-graffiti campaign.
  - F. Contractor will be available to the City 24 hours a day, 365 days a year, and will provide the following response times:
    - (i) Emergencies (removal of vulgar, racial or pornographic images, etc.): less than 60 minutes
    - (ii) Routine- clean immediately upon spotting graffiti.

- (iii) Citizen or City reported incidents- less than 1 hour from notification during normal working hours, never more than 8 working hours.

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

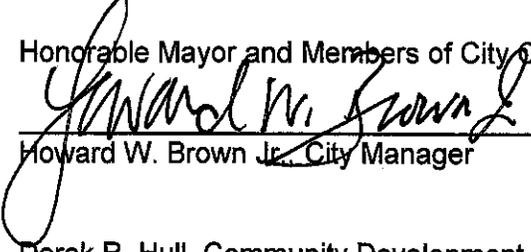
# AGENDA ITEM 3

## City of Bell Agenda Report

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DATE: November 9, 2016

TO: Honorable Mayor and Members of City Council

FROM:   
Howard W. Brown Jr., City Manager

PREPARED BY: Derek R. Hull, Community Development Director

SUBJECT: Summary of Activities and Policy Recommendations from Residential Code Compliance Task Force.

### RECOMMENDATION

It is recommended that Mayor and City Council receive a presentation from staff and the Residential Code Compliance Task Force members and provide staff with direction on policy recommendations regarding the City's Municipal Code for three specific areas of concern:

- Garage Conversion
- Driveway Additions
- Unpermitted Structures

### BACKGROUND

On July 27, 2016, the City Council authorized the City Manager to establish a Residential Code Compliance Task Force. The purpose of the Task Force was to establish a committee of residents that could meet independently, collect additional feedback from other residents, review comments and provide the City Manager and staff with policy recommendations related to code compliance issues. The Task Force was asked to review three areas of concern regarding code compliance issues:

- Garage Conversion
- Driveway Additions
- Unpermitted Structures

On Wednesday, August 17, 2016, City staff conducted the first recruiting meeting of the Residential Code Compliance Task Force. Approximately fourteen (14) residents attended the meeting and all expressed an interest to serve as a Task Force members. The City Clerk provided copies of the Task Force application to all who inquired serving on the committee and posted the application on the City's website. At the conclusion of the recruiting period, the City Clerk received 13 applications for residents who expressed an interest to serve on the Task Force.

The City Council extended the deadline to receive applications for Task Force members until Friday, August 26, 2016.

On September 14, 2016, Mayor and Council authorized the City Manager to establish the Residential Code Compliance Task Force with all members who applied:

Antonio Darila  
Marcos Olivia  
Ali K. Saleh  
Oscar Reynaga  
Ismael Garcia

Carlos Cazares  
Robert Mackin  
Silvia Martinez  
Roger Ramirez  
Marina Acosta

Lindsay Frank  
Rodrigo Rodarte  
Trina Mackin  
Alex Paredes

Since the September 14<sup>th</sup> City Council meeting, staff and the Task Force have convened four official meetings on the following dates:

September 23, 2016  
September 29, 2016  
October 24, 2016  
November 3, 2016

All meetings were duly posted on the City's website, at City Hall, Library and Community Center. As a part of their duties, the Task Force elected Marco Olivia and Carlos Cazares to serve as Co-Chairs of the Task Force.

To assist in garnering additional community input, staff recommended that the Task Force members create subcommittees of the three areas of concern and convene additional meetings with neighbors to collect data and gather additional feedback. During the Task Force meetings, members provided an overview of their neighborhood meetings with residents and some members even issued surveys to collect additional feedback. The recommendations of the Task Force are listed below in the Discussion section of the staff report.

## **DISCUSSION**

The Task Force members were assigned to Subcommittees for the three areas of concern. Each Subcommittee convene meetings outside the official four meetings to deliberate on the issues and concerns and to ascertain feedback from neighbors. A summary of the discussion and policy recommendations is listed below:

### **Garage Conversion Subcommittee (Recommendations to City Council):**

1. Prioritize an educational campaign and resources to create a consensus and undertaking of codes and how they are enforced.
2. Create a City of Bell newspaper to inform and educate residents.
3. Collectively create responsible legislation according to times and socioeconomics of the residents.
4. Need to update codes to reflect the needs of the Community in compliance with other codes (County, State, Federal).
5. Create a position to find resources and support for residents for Code issues.

Attachment A- Garage Conversion Subcommittee Report

**Driveway Addition and Unpermitted Structures Subcommittee (Recommendations to City Council):**

1. Consider amnesty for all non-compliance issues.
2. Educate residents on building codes.
3. Facilitate better communication with Code Enforcement staff and the Community.
4. Allow staff to enforce the Municipal Code as it is and encourage Code Enforcement staff to be more proactive.
5. Prioritize Code Enforcement tasks between public safety and general aesthetic code compliance issues.

Attachment B- Driveway Addition and Unpermitted Structures Subcommittee Report

**CONCLUSION**

It is recommended that Mayor and City Council provide staff with direction on policy recommendations regarding the City's Municipal Code for three specific areas of concern:

- Garage Conversion
- Driveway Additions
- Unpermitted Structures

Attachments

- A. Garage Conversion Subcommittee Report
- B. Driveway Addition and Unpermitted Structures Subcommittee Report

## **Garage Conversions Sub-Committee:**

### **Collective Interest of Sub-Committee:**

- Make a difference in the community.
- Return City of Bell to a beautiful city.
- To assure the general welfare and well-being of all residents is maintained.
- Assure our city is maintaining value.
- Educate ourselves and residents on codes and resources available.
- Establish city of bell codes for garage conversions.

### **Collective Expectations of Sub-Committee:**

- Work together to get the collective voice of the city of bell.
- Work collectively with city council, city staff to assure all suggestions are seriously considered.
- Review the current code and how it is enforced.
- Educate ourselves and all residents.
- Educate ourselves and find financial and supplemental resources to support the residents.
- Do not disregard socioeconomic status and culture when developing a code and enforcement for the city of Bell.
- Before anything there must be an educational campaign.

### **Positive reasons to allow Garage Conversions:**

- Additional space for family members.  
(Elderly, family without license or cars)
- Helps financially challenged families aid with house payments.
- Added extra storage space.  
(Financially helpful)
- If Approved property value increases.

### **Challenging reasons to avoid Garage Conversions:**

- Extra Vehicles without parking, limited parking outside during the daytime.
- Safety Hazard.
- If Permitted property taxes will increase.
- If not properly insulated the noise will carry to the neighbors.

### **Roles, Rights and Responsibilities of City Stakeholders:**

**Residents:**

- Be given a fair and equal opportunity to learn and understand city codes and enforcement protocol.  
(Language, version, and accessibility)
- Be active in learning what the codes or laws are and consistently updated.
- Report only violations that are directly affecting their property.
- Maintain the Property value of your house.

**Code Enforcement/City Staff:**

- Prioritize an educational campaign and resources to create a consensus and understanding of codes and how they're enforced.
- Enforce the codes properly, fairly and with transparency.
- Be respectful and polite during interaction with residents.
- Create more of a co-intentional relationship with residents rather than one-sided.
- Create a position to find resources and support for residents in regards to code issues.

**City Council:**

- Prioritize an educational campaign and resources to create a consensus and understanding of codes and how they're enforced.
- Create a City of Bell Newspaper to inform and educate the residents.
- To collectively create responsible legislation according to the times and socioeconomics of the residents.
- Need to update codes to reflect the needs of the community in compliance with county codes.
- Create a position to find resources and support for residents in regards to code issues.

**Landscape of City of Bell:**

- Asked over 200 residents over 5 weeks.
- All residents represent the 4 quadrants of the city of Bell.
- All discussions and questions were asked in public locations the city.

**1) Do you understand the codes in regards to Garage Conversions? (City or county)**

- Yes 2%
- No 70%
- Somewhat 28%

**2)Do you know of anyone who has had their Garage converted?**

Yes 57%

No 30%

Abstain 13%

**3)What are reasons you know people have converted their garage?**

Support Family 85%

Make Money 12%

Not Sure/Other 3%

**4. What is the Role of Residents?**

-Be Educated on Codes and Resources 97%

-Maintain safe environment if converted

61%

-Report and Violations if unsafe or illegal

32%

**5. What is the role of the Code Enforcement/ City Staff?**

-Need to update codes to reflect the needs of the community in compliance with county codes.

80%

-Prioritize an educational campaign and resources to create a consensus and understanding of codes and how they're enforced.

97%

-Enforce the codes properly, fairly and with transparency.

100%

Need to be strict on enforcing laws.

20%

**6. What is the role of city council?**

-Need to update codes to reflect the needs of the community in compliance with county codes.

91%

-Prioritize an educational campaign and resources to create a consensus and understanding of codes and how they're enforced.

92%

Need to focus on more support and resources for residents rather than enforce punitive issues.

70%

City of Bell residential code compliance  
recommendation draft

Recommendations being considered , these are general summary for all the 3 items from above  
if you have any other recommendations please let us know :

**Amnesty for all non compliance issues**

Time and scope  
Economic aid – CDBG fund program  
HUD home improvement programs  
grandfather – 2008 ?

**Educational campaign to residents about building codes**

For new and actual residents we need to be informed about current codes and how to be in  
compliance

**Code Enforcement educational path/ how to approach community members**

there seems to be a major issue with code enforcement and approach to residents , we need to ask  
that code enforcement personal work with the community when complaints are made

**We need to enforce our current city code as is and ask our code enforcement department to be  
more proactive**

**We need to enforce our current city codes but prioritize code enforcement tasks between  
people's safety and code compliance**

any more ...

City of Bell residential code compliance  
borrador de recomendaciones

Recomendaciones que se estan considerando, estas son una sintesis acerca de los 3 puntos que estamos trabajando :

**Anmestia para todas aquellas situaciones que no esten en regla**

Definir tiempo y que se cubrira

HUD programa de asistencia de mejoria de propiedades

Ayuda financiera para todos aquellos que peticionen – CDBG funding

**Campania educativa para todos los propietarios de casas acerca de los codigos de residencias**

Todos teneos que estar informados de lo que podemos o no hacer en nuestra propiedad

**El deparment de Code Enforcement necesita ser educado en como tratar a los residentes**

Es aparente que existe un problema de communication entre los propietarios de residencias y el departamento de Code enforcement en la Ciudad de Bell que ha creado un relation de fricciones necesitamos que el code enforcement sea mas apegado a la comunidad y que brinden asistencia

**Tenemos que implementar nuestra reglas de el codigo de residencias y pedir a nuestro Code enforcement department que sea mas estricto y proactivo**

**Tenemos que implementar nuestras reglas de el codigo de residencias pero priorizar entre aquellas que tienen qaue ser corregidas en el nombre de la segurida publica y las otras que solo sean por acatamiento de las reglas/codigos .**

algunas otras mas ? ..

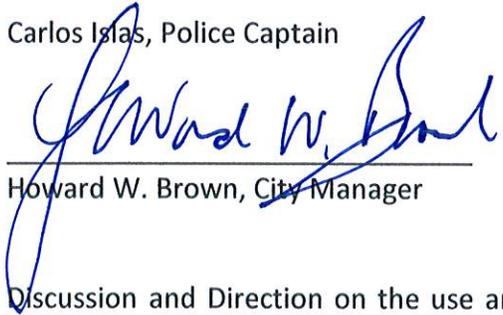
## City of Bell Agenda Report

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DATE: November 9, 2016

TO: Mayor and Member of the City Council

FROM: Carlos Islas, Police Captain

APPROVED BY:   
Howard W. Brown, City Manager

SUBJECT: Discussion and Direction on the use and sale of fireworks in the City of Bell.

### RECOMMENDATION:

It is recommended that the City Council discuss the options provided and give direction to staff in relation to the use and sales of fireworks in the City of Bell.

### BACKGROUND:

On June 21, 2016, staff presented an agenda item to the City Council to approve the sales of fireworks by seven (7) non-profit groups in the City. During that staff report and discussion, the City Council raised some concerns regarding the use and sale of safe/sane fireworks and the use of illegal fireworks within the City. Some of the City Council's concerns were:

- Safety
- Noise
- Fire hazards
- Consideration of Banning all firework use and sales within the City

The City Council approved the agenda item on June 21, 2016 allowing the non-profits to continue selling fireworks this current year. However, the City Council requested that staff bring an agenda report with options for the following year (2017).

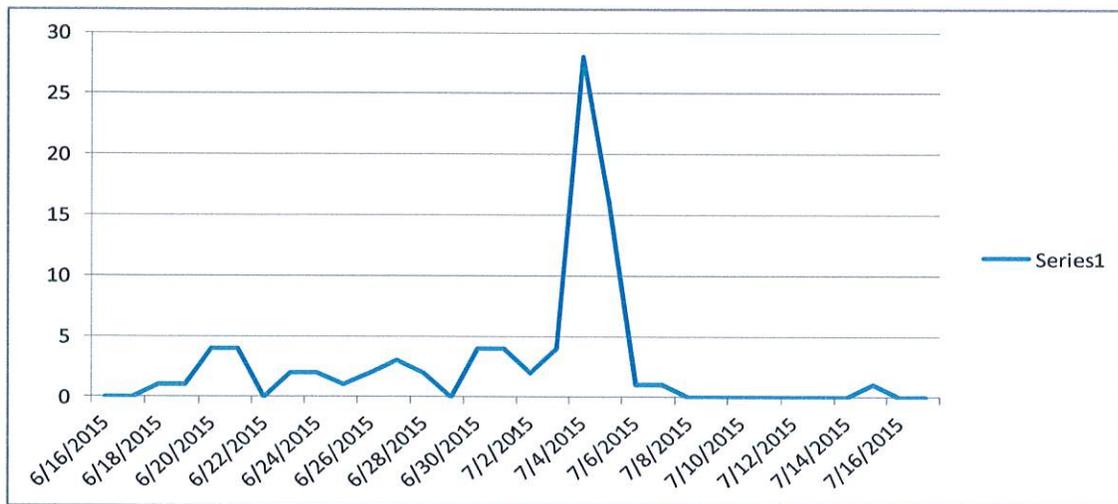
### DISCUSSION

Over the past several years, the Department has received numerous complaints and requests to reduce the use and amount of illegal fireworks ignited in the City of Bell. The past two years has been no different, in fact there has been an increase of complaints by community members

for the Police Department to increase enforcement. Last year (2015), the Police Department deployed additional officers, but was only done during hours that would have the least impact on overtime – that proved to be ineffective at best. The following chart shows the number of calls for service by the community and the number of citations issued by our officers from June 16 – July 17 for the past five years:

<b>Date</b>	<b>Calls for Service</b>	<b>Cites Issued</b>
June 16 - July 17, 2011	73	4
June 16 - July 17, 2012	91	3
June 16 - July 17, 2013	50	0
June 16 - July 17, 2014	69	0
June 16 - July 17, 2015	84	0
<b>Total</b>	<b>367</b>	<b>7</b>

The next chart shows calls for service each day from June 16<sup>th</sup> through July 17<sup>th</sup>, which is considered as the fireworks season. As you can see, the number of calls spike from July 3 through July 6 when they subside.



Clearly we need to take action to alleviate the calls for service and the danger posed by the use of illegal fireworks. This action begins with direction from the Council so staff can make the appropriate changes in policy and procedure.

There are several options the City Council can take to help alleviate this problem, none of which will by themselves have any guarantees of working. However, staff believes that we will be more successful if we combine some of these options. These options are:

- Keep status quo, which is to allow safe and sane fireworks to be sold and used in Bell
- Ban the use and sale of all fireworks in Bell
- Surcharge on sane/safe firework sales
- Increase overtime funding for enforcement by deployment of dedicated fireworks unit

- Greater Enforcement Mechanisms

#### Surcharge on sane/safe firework sales

The addition to the Municipal Code to enact a surcharge will provide the funding source to help pay for police officer overtime for enforcement and education of public on the dangers posed by the use of illegal fireworks during the Fourth of July and New Year's Eve celebrations. The police department will provide the City Council an outline of a plan of action a month prior to the Fourth of July and New Year's Eve to allow for City Council input and recommendations regarding education and enforcement. The education will include, but not limited to:

- Flyers distributed at key events and neighborhood watch meetings
- Electronic traffic sign placed on prominent streets stating that illegal fireworks are prohibited and will be strictly enforced.
- Posting signs on neighborhood areas that have historically been problem areas stating that illegal fireworks are prohibited and will be strictly enforced with fine amount indicated.

The City Council will be provided a cost estimate of the plan, which will allow time to amend the amount of the surcharge, not to exceed 7%. The ordinance may also require the Police Department to complete an After-Action Report (AAR) indicating personnel and resources used to enforce ordinance and present it to the City Council for their review and comment.

#### Increase overtime funding for enforcement

The City Council can increase overtime for the time period of June 30 to July 5 (6 days) for approximately 100 hours of overtime, for a total of approximately \$6,000 to the General Fund. This overtime fund would only be used for enforcement and not education and only during the Fourth of July. If Council wants additional overtime for the New Year's Eve celebrations, then additional funds would be required.

#### Greater Enforcement Mechanisms

Adding more enforcement sections to the Municipal Code to deter future use of fireworks is an option. While any person violating the Municipal Code is by default guilty of a misdemeanor or an infraction if specified in the code, the Fireworks section of the Municipal Code could be clearer about what constitutes a penalty. For example, some other cities municipal codes provide that firing safe and sane fireworks outside of a specified fireworks season is an infraction. And others provide that the possession, sale, or ignition of dangerous fireworks constitute a misdemeanor. In fact some cities even prosecute property owners for allowing dangerous fireworks to be set off on their property.

Once the citation is issued, the City's Deputy Prosecutor prosecutes the citation by filing a complaint. The District Attorney's office generally does not prosecute violations of municipal codes. The City's Deputy Prosecutor then generally meets with the defendant or if the defendant chooses to be represented by an attorney, meets with defendant's attorney and gives a typical plea offer that the defendant pay a 500 dollar fine to the City in exchange for

reducing the misdemeanor count to an infraction. This process can be expensive though given that it is necessary to pay for attorney time in prosecuting the violations.

An alternative to prosecuting fireworks violations as criminal violations is to prosecute them administratively by issuing administrative citations. This can be a cheaper alternative if the City has an administrative system in place, but this will require more staff time.

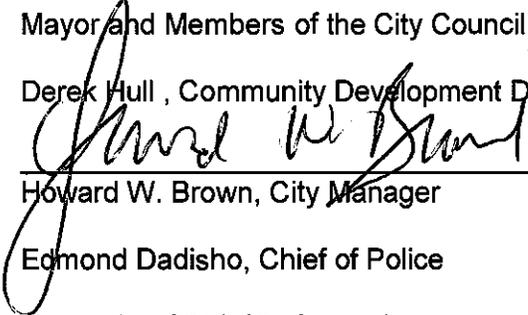
**FISCAL IMPACT:**

The fiscal impact to have officers deployed on overtime during the firework season would cost the General Fund approximately \$16,295.

**ATTACHMENTS**

1. June 21, 2016 agenda staff report and resolution

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DATE: June 21, 2016  
TO: Mayor and Members of the City Council  
FROM: Derek Hull, Community Development Director  
APPROVED:   
BY: Howard W. Brown, City Manager  
CC: Edmond Dadisho, Chief of Police  
SUBJECT: Resolution 2016-39- Approving seven organizations to operate Fireworks stands in the city of Bell for the year 2016.

**RECOMMENDED ACTION**

1. Read by title only, waive further reading and adopt Resolution No. 2016-39 - Approving seven organizations to operate fireworks stands in the City of Bell for the year 2016.

**BACKGROUND**

Pursuant to Bell Municipal Code section 8.20.030, no person shall sell or offer to sell, any safe and sane fireworks without first obtaining a temporary use permit from the City of Bell and approval from the City Council. All applications are on file with staff and were accepted from qualified organizations that propose to establish a fireworks stand within the city limit. All Organizations meet the minimum requirements as a qualified organizations pursuant to Bell Municipal Code section 8.20.010.

**ANALYSIS AND DISCUSSION**

The seven organizations will not exceed the maximum number of eight permits that the City Council is able to issue in any calendar year pursuant to Bell Municipal Code 8.20.080. The firework operators will be allowed to open their stands starting June 28, 2016 through July 4, 2016, subject to the approval of the Building and Safety Division inspection.

The following table summarizes the site address and sponsor of each individual firework stand:

<b><i>Site Address</i></b>	<b><i>Sponsoring Organization</i></b>
1) 6201-6391 Atlantic Ave (Bell Palm Plaza)	Masons of Bell
2) 7019 Atlantic Ave (Oreilly Shopping Center)	El Hussein Community Center
3) 5093 Florence Ave (SWC Otis and Florence)	Bell Police Officers Association
4) 6200 King Ave (SWC Randolph and King)	SAY Yes! Center for Youth

- |   |                           |
|---|---------------------------|
| 5) 4200 Florence Ave (SWC of Otis/Florence) | Al Hadi School            |
| 6) 5121 Gage Ave (NWC Gage/Walker)          | IDS Battlefront Youth     |
| 7) 4300 Gage Ave (SEC Gage/Fishburn)        | Southeast Youth Athletics |

### **ENVIRONMENTAL DETERMINATION**

This activity is not a "Project" for purposes of the California Environmental Quality Act (CEQA) because it does not fit within the definition of a "Project" set forth in Public Resources Code Section 21065 or State CEQA Guidelines Section 15378.

### **RECOMMENDED ACTION**

Staff recommends that the City Council Read by title only, waive further reading and adopt Resolution No. 2016-39 - Approving seven organizations to operate fireworks stands in the City of Bell for the year 2016.

**RESOLUTION 2016-39**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BELL APPROVING SEVEN ORGANIZATIONS TO OPERATE FIREWORKS STANDS IN THE CITY OF BELL FOR THE YEAR 2016**

**WHEREAS**, pursuant to Bell Municipal Code section 8.20.030, no person shall sell or offer to sell, any safe and sane fireworks without first obtaining a temporary use permit (TUP) from the City of Bell and approval from the City Council.

**WHEREAS**, the Masons of Bell, El Hussein Community Center, Bell Police Officers Association, Say Yes Center for Youth, Al Hadi School, IDS Battlefront Youth, and Southeast Youth Athletics, (the "Applicants") each filed a complete TUP application requesting the approval described herein ("Application");

**WHEREAS**, the applicants included the following locations to operate their proposed fireworks stands at 6201 Atlantic, 7019 Atlantic, 5093 Florence, 6200 King, 4200 Florence, 5121 Gage and 4300 Gage, respectively.

**WHEREAS**, all applications are on file with staff and were accepted from qualified organizations that propose to establish a fireworks stand within the city limit.

**WHEREAS**, all Organizations meet the minimum requirements as qualified organizations pursuant to Bell Municipal Code section 8.20.010.

**WHEREAS**, the seven applicant organizations will not exceed the maximum number of eight permits that the City Council is able to issue in any calendar year pursuant to Bell Municipal Code 8.20.080.

**WHEREAS**, an environmental assessment was conducted and staff determined that this activity is not a "Project" for purposes of the California Environmental Quality Act (CEQA) because it does not fit within the definition of a "Project" set forth in Public Resources Code Section 21065 or State CEQA Guidelines Section 15378.

**NOW, THEREFORE, THE CITY COUNCIL DOES HEREBY FIND, DETERMINE AND DECLARE AS FOLLOWS:**

SECTION 1: Recitals

- a) All of the facts set forth in the recitals, are true and correct and are incorporated herein by reference.
- b) All necessary notifications have been conducted in compliance with State law and the Municipal Code of the City of Bell.

SECTION 2: CEQA Determination

An environmental assessment was conducted and it was determined that this activity is not a "Project" for purposes of the California Environmental Quality Act

(CEQA) because it does not fit within the definition of a "Project" set forth in Public Resources Code Section 21065 or State CEQA Guidelines Section 15378.

SECTION 3: Approval

Based upon the foregoing recitals, the City Council hereby approves the applicants to operate a fireworks stand, subject to the conditions contained in Exhibit A which is attached and incorporated herein.

**PASSED, APPROVED and ADOPTED this 21<sup>st</sup> day of June, 2016.**

By: \_\_\_\_\_  
Alicia Romero, Chair

APPROVED AS TO FORM

By: \_\_\_\_\_  
David Aleshire, City Attorney

**CERTIFICATE OF ATTESTATION AND ORIGINALITY**

I, Angela Bustamante, Interim City Clerk of the City of Bell, hereby attest to and certify that the foregoing Resolution No. 2016-39 is the original resolution adopted by the Bell Planning Commission at its regular meeting held on the 21<sup>st</sup> day of June, 2016 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
Angela Bustamante, Interim City Clerk

## EXHIBIT A

### CONDITIONS OF APPROVAL

1. That the operation of the fireworks stand shall be conducted in accordance with the provisions of Chapter 8.20 of the Bell Municipal Code, attached hereto and made a part of this permit; and
2. That no fireworks stand shall have a floor area greater than two hundred fifty (250) square feet; and
3. That each fireworks stand less than forty (40) feet in length shall have at least two usable exits; each stand in excess of forty (40) feet in length shall have at least three usable exits; and
4. Fireworks stand shall be provided with two (2) fire extinguishers of a type and size approved by the fire chief.
5. Fireworks stands shall be located at least five hundred (500) feet apart; and
6. All weeds and other combustible material shall be cleared from the location of the stand, including a distance of at least twenty five (25) feet surrounding the stand; and
7. That "No Smoking" signs shall be prominently displayed on the exterior of each fireworks stand; and
8. That a "Fireworks Stand Permit" application shall be filed with the Los Angeles County Fire Department for review upon receipt of this approval; and
9. That no other person other than the licensed organization shall operate the fireworks stand for which the permit is issued, and person other than individuals who are members of the licensed organization shall participate in the operation of the fireworks stand; and
10. That an electrical permit shall be obtained from the Division of Building & Safety for the installation of temporary wiring and lighting in conjunction with the fireworks stand; and
11. That the fireworks stand shall be erected under the supervision of the building official who shall require that the fireworks stand be constructed in a manner which will reasonably ensure the safety of the attendants and patrons thereof. An inspection is required from the Building and Safety Division, that it shall be obtained at least 24 hours prior to the starting date indicated above; and
12. That the fireworks stand shall be supervised twenty-four (24) hours a day until the Fireworks Stand is dismantled; and
13. That the Fireworks Stand shall not be inhabited overnight but only supervised; and
14. That all persons working the fireworks stand shall be at least eighteen(18) years old, and no persons under the age of eighteen (18) years shall participation in the operation of the fireworks stand; and
15. That the sale or consumption of alcoholic beverages in or adjacent to the fireworks

stand and on public right-of-way, shall be prohibited at all times; and

16. That signs in conjunction with the fireworks stand, and the sale of fireworks, shall be prohibited on the public right-of-way, to include but not limited to utility and lighting poles; and
17. That the proposed use shall be conducted entirely within the boundaries of the subject property, and shall not encroach onto any other private or public right-of-way; and
18. That the fireworks stand shall be located at the approved site location, pursuant to the attached Site Plan; and
19. That no fireworks stand shall be located within ten(10) feet of any other building or within one hundred (100) feet of any gasoline service station, or other use which involves the use or storage of any flammable liquid or material; and
20. That any trash and debris from the proposed temporary use shall be cleaned from the subject site, as well as surrounding properties and public right-of-way throughout each day of activities; and
21. That fireworks shall not be sold prior to 12:00 P.M. on June 28, 2016 and such sale shall cease at 12:00 A.M. on July 5, 2016; and
22. That all unsold stock and accompanying litter shall be removed from the stand and from the City limits by twelve noon on July 6, 2016; and
23. That each firework stand shall be removed from its temporary location no later than twelve noon on July 28, 2016 and all accompanying litter shall be cleared from such location by such time and date; and
24. That damages caused to any public improvements shall be repaired and/or replaced in accordance with City standards; and
25. That prior to commencing the sale of fireworks, the fireworks and the stand shall be inspected and approved by inspectors from the City of Bell and the Los Angeles County Fire Department.
26. That the applicant shall provide an accounting report to the City, indicating how the proceeds from the fireworks stands were spent or budgeted for expenditure, no later than April 30, 2016 of each year following the usage of each permit issued. A failure to timely provide such accounting shall be grounds for denial of permits.
27. The sell or offer to sell of dangerous fireworks shall be prohibited.