THE STATE OF TEXAS

COUNTY OF HARRIS

BID # LC-R-0734-039-20653

ORDINANCE # 05-0373

CONTRACT # 56847

I. PARTIES

A. Address

THIS AGREEMENT FOR GRAFFITI ERADICATION & PROTECTIVE COATING APPLICATION SERVICES ("Agreement") is made on the Countersignature Date between the **CITY OF HOUSTON, TEXAS** ("City"), a municipal corporation and **IDEAL FINISHES, INC.** ("Contractor or Vendor"), a corporation doing business in Texas.

The initial addresses of the parties, which one party may change by giving written notice to the other party, are as follows:

City

City Purchasing Agent for Director
of Appropriate Department
City of Houston
P.O. Box 1562
Houston, Texas 77251

Contractor

Ideal Finishes, Inc.
6213 Corporate Drive
Houston, Texas 77036
Phone: 713-988-8811
Fax: 713-988-2273

The Parties agree as follows:

B. Table of Contents

This Agreement consists of the following sections:

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H. FEES AND COSTS

I. FORM OF PERFORMANCE BOND

C. Parts Incorporated

The above described sections and exhibits are incorporated into this Agreement.

D. Controlling Parts

If a conflict among the sections or exhibits arises the Exhibits control over the Sections.

E. Definitions

Certain terms used in this Agreement are defined in Exhibit "A".

F. Signatures

The Parties have executed this Agreement in multiple copies, each of which is an original.

ATTEST/SEAL (if a corporation):

WITNESS (if not a corporation):

By: _____

Name: Johnnie Hicks

Title: Secy.

IDEAL FINISHES, INC.

By: Deidre Morris

Name: Deidre Morris

Title: President

Federal Tax ID Number: 74-2947118

ATTEST/SEAL:

City Secretary

CITY OF HOUSTON, TEXAS
Signed by:

Mayor

APPROVED:

City Purchasing Agent

COUNTERSIGNED BY:

City Controller

DATE COUNTERSIGNED:

4/20/05

This Contract has been reviewed as to form by the undersigned legal assistant and has been found to meet established Legal Department criteria. The Legal Department has not reviewed the content of these documents.

3/31/2005
Date

Legal Assistant

II. DUTIES OF CONTRACTOR

A. Scope of Services

In consideration of the payments specified in this Agreement, Contractor shall provide all labor, materi and supervision necessary to perform the services described in Exhibit "B."

B. **RELEASE**

CONTRACTOR AGREES TO AND SHALL RELEASE THE CITY, ITS AGENTS, EMPLOYEES OFFICERS, AND LEGAL REPRESENTATIVES (COLLECTIVELY THE CITY) FROM ALL LIABILITY FOR INJURY, DEATH, DAMAGE, OR LOSS TO PERSONS OR PROPERTY SUSTAINED IN CONNECTION WITH OR INCIDENTAL TO PERFORMANCE UNDER THIS AGREEMENT, EVEN IF THE INJURY, DEATH, DAMAGE, OR LOSS IS CAUSED BY THE CITY'S SOLE OR CONCURRENT NEGLIGENCE AND/OR THE CITY'S STRICT PRODUCTS LIABILITY OR STRICT STATUTORY LIABILITY.

C. **INDEMNIFICATION**

CONTRACTOR AGREES TO AND SHALL DEFEND, INDEMNIFY, AND HOLD THE CITY, ITS AGENTS, EMPLOYEES, OFFICERS, AND LEGAL REPRESENTATIVES (COLLECTIVELY "THE CITY") HARMLESS FOR ALL CLAIMS, CAUSES OF ACTION, LIABILITIES, FINES, AND EXPENSES (INCLUDING, WITHOUT LIMITATION, ATTORNEY'S FEES, COURT COSTS, AND ALL OTHER DEFENSE COSTS AND INTEREST) FOR INJURY, DEATH, DAMAGE, OR LOSS TO PERSONS OR PROPERTY SUSTAINED IN CONNECTION WITH OR INCIDENTA TO PERFORMANCE UNDER THIS AGREEMENT INCLUDING, WITHOUT LIMITATION, THOSE CAUSED BY:

(1) CONTRACTOR'S AND/OR ITS AGENTS', EMPLOYEES', OFFICERS', DIRECTORS', CONTRACTORS', OR SUBCONTRACTORS' (COLLECTIVELY IN NUMBERED PARAGRAPHS 1-3, "CONTRACTOR") ACTUAL OR ALLEGED NEGLIGENCE OR INTENTIONAL ACTS OR OMISSIONS;

(2) THE CITY'S AND CONTRACTOR'S ACTUAL OR ALLEGED CONCURRENT

NEGLIGENCE, WHETHER CONTRACTOR IS IMMUNE FROM LIABILITY OR NO AND

(3) THE CITY'S AND CONTRACTOR'S ACTUAL OR ALLEGED STRICT PRODUCT LIABILITY OR STRICT STATUTORY LIABILITY, WHETHER CONTRACTOR I IMMUNE FROM LIABILITY OR NOT.

CONTRACTOR SHALL DEFEND, INDEMNIFY, AND HOLD THE CITY HARMLESS DURING THI TERM OF THIS CONTRACT AND FOR FOUR YEARS AFTER THE CONTRACT TERMINATES. CONTRACTOR'S INDEMNIFICATION IS LIMITED TO $500,000.00 PER OCCURRENCE. CONTRACTOR SHALL NOT INDEMNIFY THE CITY FOR THE CITY'S SOLE NEGLIGENCE.

D. **INDEMNIFICATION PROCEDURES**

(1) Notice of Claims. If the City or Contractor receives notice of any claim or circumstances which could give rise to an indemnified loss, the receiving party shall give written notice to the other party within 10 days. The notice must include the following:

(a) a description of the indemnification event in reasonable detail,

(b) the basis on which indemnification may be due, and

(c) the anticipated amount of the indemnified loss.

This notice does not stop or prevent the City from later asserting a different basis for indemnification or a different amount of indemnified loss than that indicated in the initial notice. If the City does not provide this notice within the 10 day period, it does not waive any right to indemnification except to the extent that Contractor is prejudiced, suffers loss, or incurs expense because of the delay.

(2) Defense of Claims

(a) Assumption of Defense. Contractor may assume the defense of the claim at its own expense with counsel chosen by it that is reasonably satisfactory to the City. Contractor shall then control the defense and any negotiations to settle the claim. Within 10 days after receiving written notice of the indemnification request, Contractor must advise the City as to whether

or not it will defend the claim. If Contractor does not assume the defense, the City sl assume and control the defense, and all defense expenses constitute an indemnification lc

(b) Continued Participation. If Contractor elects to defend the claim, the City may ret separate counsel to participate in (but not control) the defense and to participate in (but n control) any settlement negotiations. Contractor may settle the claim without the consent agreement of the City, unless it (i) would result in injunctive relief or other equitabl remedies or otherwise require the City to comply with restrictions or limitations tha adversely affect the City, (ii) would require the City to pay amounts that Contractor does no fund in full, (iii) would not result in the City's full and complete release from all liability to the plaintiffs or claimants who are parties to or otherwise bound by the settlement.

E. Insurance

Contractor shall maintain in effect certain insurance coverage and shall furnish certificates of insurance, in duplicate form, before beginning its performance under this Agreement. All policies except Professional Liability and Workers' Compensation must name the City as an additional insured. The issuer of any policy (1) shall have a Certificate of Authority to transact insurance business in Texas or (2) shall be an eligible non-admitted insurer in the State of Texas and have a Best's rating of at least B+ and a Best's Financial Size Category of Class VI or better, according to the most current edition Best's Key Rating Guide.

. Contractor shall maintain the following insurance coverages in the following amounts:

(1) Commercial General Liability insurance including Contractual Liability insurance:

$500,000 per occurrence; $1,000,000 aggregate

(2) Workers' Compensation including Broad Form All States endorsement:

Statutory amount

(3) Automobile Liability insurance

$1,000,000 combined single limit per occurrence

(4) Employer's Liability

Bodily injury by accident $100,000 (each accident)

Bodily injury by disease $100,000 (policy limit)

Bodily injury by disease $100,000 (each employee)

Defense costs are excluded from the face amount of the policy.

Aggregate Limits are per 12-month policy period unless otherwise indicated.

All insurance polices must require on their face, or by endorsement, that the insurance carrier waives any rights of subrogation against the City, and that it shall give 30 days written notice to the City before they may be canceled, materially changed, or non-renewed. Within the 30 day period, Contractor shall provide other suitable policies in lieu of those about to be canceled, materially changed, or non-renewed so as to maintain in effect the required coverage. If Contractor does not comply with this requirement, the Director, at his or sole discretion, may :

(1) immediately suspend Contractor from any further performance under this Agreement and begin procedures to terminate for default, or

(2) purchase the required insurance with City funds and deduct the cost of the premiums from amounts due to Contractor under this Agreement.

F. Warranties

Contractor represents and warrants that it shall perform all work in a good and workmanlike manner, meeting the standards of quality prevailing in Harris County, Texas for work of this kind. Contractor shall perform all work using trained and skilled persons having substantial experience performing the work required under this Agreement.

With respect to any parts and goods furnished by it, Contractor warrants:

(1) that all items are free of defects in title, material, and workmanship,

(2) that each item meets or exceeds the manufacturer's specifications and requirements for the equipment, structure, or other improvement in which the item is installed,

(3) that each replacement item is new in accordance with original equipment manufactur specifications, and of a quality at least as good as the quality of the item which it replaces (when t replaced item was new), and

(4) that no item or its use infringes any patent, copyright, or proprietary right.

G. Licenses and Permits

Contractor shall obtain and pay for all licenses, permits, and certificates required by any statute, ordinance rule, or regulation.

H. Compliance with Equal Opportunity Ordinance

Contractor shall comply with the City's Equal Employment Opportunity Ordinance as set out in Exhibit "C."

I. MWBE Compliance

Contractor shall comply with the City's Minority and Women Business Enterprise ("MWBE") programs as set out in Chapter 15, Article V of the City of Houston Code of Ordinances. Contractor shall make good faith efforts to award subcontracts or supply agreements in at least **five percent (5%)** of the value of this Agreement to MWBEs. Contractor acknowledges that it has reviewed the requirements for good faith efforts on file with the City's Affirmative Action Division and will comply with them.

Contractor shall require written subcontracts with all MWBE subcontractors and shall submit all disputes with MWBEs to binding arbitration in Houston, Texas if directed to do so by the Affirmative Action Division Director. MWBE subcontracts must contain the terms set out in Exhibit "D." If Contractor is an individual person (as distinguished from a corporation, partnership, or other legal entity), and the amount of the subcontract is $50,000 or less, the subcontract must also be signed by the attorneys of the respective parties.

J. Drug Abuse Detection and Deterrence

(1) It is the policy of the City to achieve a drug-free workforce and workplace. The manufacture, distribution, dispensation, possession, sale, or use of illegal drugs or alcohol by contractors while on City Premises is prohibited. Contractor shall comply with all the requirements and procedures set forth in the Mayor's Drug Abuse Detection and

Deterrence Procedures for Contractors, Executive Order No. 1-31 ("Executive Order"), which is incorporated i this Agreement and is on file in the City Secretary's Office.

(2) Before the City signs this Agreement, Contractor shall file with the Contract Compliance Officer f Drug Testing ("CCODT"):

(a) a copy of its drug-free workplace policy,

(b) the Drug Policy Compliance Agreement substantially in the form set forth in Exhibit "D, together with a written designation of all safety impact positions and,

(c) if applicable (e.g. no safety impact positions), the Certification of No Safety Impact Positions, substantially in the form set forth in Exhibit "E."

If Contractor files a written designation of safety impact positions with its Drug Policy Compliance Agreement, it also shall file every 6 months during the performance of this Agreement or on completion of this Agreement if performance is less than 6 months, a Drug Policy Compliance Declaration in a form substantially similar to Exhibit "F." Contractor shall submit the Drug Policy Compliance Declaration to the CCODT within 30 days of the expiration of each 6-month period of performance and within 30 days of completion of this Agreement. The first 6-month period begins to run on the date the City issues its Notice to Proceed or if no Notice to Proceed is issued, on the first day Contractor begins work under this Agreement.

(3) Contractor also shall file updated designations of safety impact positions with the CCODT if additional safety impact positions are added to Contractor's employee work force.

(4) Contractor shall require that its subcontractors comply with the Executive Order, and Contractor shall secure and maintain the required documents for City inspection.

K. Environmental Laws

Contractor shall comply with all rules, regulations, statutes, or orders of the Environmental Protection Agency ("EPA"), the Texas Commission on Environmental Quality ("TCEQ"), and any other governmental agency with the authority to promulgate environmental rules and regulations (Environmental Laws).

Contractor shall promptly reimburse the City for any fines or penalties levied against the City becaus Contractor's failure to comply.

Contractor shall not possess, use, generate, release, discharge, store, dispose of, or transport any Hazardc Materials on, under, in, above, to, or from the site except in strict compliance with the Environmen Regulations. "Hazardous Materials" means any substances, materials, or wastes that are or become regulat as hazardous or toxic substances under any applicable federal, state, or local laws, regulations, ordinances, c orders. Contractor shall not deposit oil, gasoline, grease, lubricants or any ignitable or hazardous liquids materials, or substances in the City's storm sewer system or sanitary sewer system or elsewhere on City Property in violation of the Environmental Laws.

L. Contractor's Performance

Contractor shall make citizen satisfaction a priority in providing services under this Agreement. Contractor shall train its employees to be customer service-oriented and to positively and politely interact with citizens when performing contract services. Contractor's employees shall be clean, courteous, efficient, and neat in appearance and committed to offering the highest quality of service to the public. If, in the Director's opinion, Contractor is not interacting in a positive and polite manner with citizens, he or she shall direct Contractor to take all remedial steps to conform to these standards.

M. Performance Bond

Contractor shall furnish and maintain throughout the initial term of the Agreement a performance bond in the amount of **100%** of the amount of the contract for the initial term. Contractor shall renew this bond for each renewal year of this agreement in an amount equal to the contract amount for the applicable renewal term. The bond shall be conditioned upon Contractor's full and timely performance of this agreement and must be issued by a corporate surety authorized to write surety bonds in the State of Texas and be in the form set out in Exhibit "I."

N. Payment of Employees and Subcontractors

Contractor shall make timely payments in accordance with applicable state and federal law to all persons a entities supplying labor, materials or equipment for the performance of this Agreement includi Contractor's employees.

Failure of Contractor to pay it's employees as required by law shall constitute a default under this contra for which the Contractor and it's surety shall be liable on Contractor's performance bond if Contractor fail to cure the default as provided under this Agreement.

Contractor shall defend and indemnify the City from any claims or liability arising out of Contractors failure to pay its subcontractors as required by law. Contractor shall submit disputes relating to payment of M/WBE subcontractors to arbitration in the same manner as any other disputes under the M/WBE subcontract.

III. DUTIES OF CITY

A. Payment Terms

The City shall pay and Contractor shall accept fees at the unit prices provided in Exhibit H for all servic rendered and the Deliverables furnished by Contractor. The fees must only be paid from Allocated Funds, a provided below.

Any quantities of services or Deliverable shown in any part of this contract or its exhibits are estimated onl and are not any guarantee that the City will not purchase more or less of those services or Deliverables. The City will pay only for the services or Deliverables actually ordered and only at the unit prices set out.

B. Taxes

The City is exempt from payment of Federal Excise and Transportation Tax and Texas Limited Sales and Use Tax. Contractor's invoices to the City must not contain assessments of any of these taxes. The Director will furnish the City's exemption certificate and federal tax identification number to Contractor if requested.

C. Method of Payment

The City shall pay Contractor on the basis of invoices submitted by Contractor and approved by the Director, showing the specific tasks completed in the preceding month and the corresponding prices. The City shall make payments to Contractor at its address for notices within 30 days of receipt of an approved invoice.

D. Method of Payment - Disputed Payments

If the City disputes any items in an invoice Contractor submits for any reason, including lack of supporting documentation, the Director shall temporarily delete the disputed item and pay the remainder of the invoice. The Director shall promptly notify Contractor of the dispute and request remedial action. After the dispute is settled, Contractor shall include the disputed amount on a subsequent regularly scheduled invoice or on a special invoice for the disputed item only.

E. Limit of Appropriation

(1) The City's duty to pay money to Contractor under this Agreement is limited in its entirety by the provisions of this Section.

(2) In order to comply with Article II, Sections 19 and 19a of the City's Charter and Article XI, Section 5 of the Texas Constitution, the City has appropriated and allocated the sum of **$35,346.00** to pay money due under this Agreement (the "Original Allocation"). The executive and legislative officers of the City, in their discretion, may allocate supplemental funds for this Agreement, but they are not obligated to do so. Therefore, the parties have agreed to the following procedures and remedies:

(3) The City makes a supplemental allocation by sending a notice signed by the Director and the City Controller to Contractor and where appropriate, approved by motion, or ordinance of City Council in substantially the following form:

"NOTICE OF SUPPLEMENTAL ALLOCATION OF FUNDS"

TO: [Name of Contractor]

FROM: City of Houston, Texas (the "City")

DATE: [Date of notice]

SUBJECT: Supplemental allocation of funds for the purpose of the"[title of this Agreement]" between the City and (name of Contractor) countersigned by the City Controller on (Date of Countersignature) (the "Agreement").

I, (name of City Controller), City Controller of the City of Houston, certify that the supplemental sum of $_____, upon the request of the below-signed Director, has been allocated for the purposes of the Agreement out of funds appropriated for this purpose by the City Council of the City of Houston. This supplemental allocation has been charged to such appropriation.

The aggregate of all sums allocated for the purpose of such Agreement, including the Original Allocation, and all supplemental allocations (including this one), as of the date of this notice, is $_____.

SIGNED:

(Signature of the City Controller)

City Controller of the City

REQUESTED:

(Signature of the Director)

Director

(4) The Original Allocation plus all supplemental allocations are the Allocated Funds. The City sh never be obligated to pay any money under this Agreement in excess of the Allocated Fund Contractor must assure itself that sufficient allocations have been made to pay for services provides. If Allocated Funds are exhausted, Contractor's only remedy is suspension or terminatio of its performance under this Agreement and it has no other remedy in law or in equity against th City and no right to damages of any kind.

F. Changes

(1) At any time during the Agreement Term, the City Purchasing Agent or Director upon written authorization by the City Purchasing Agent may issue a Change Order to increase or decrease the scope of services or change plans and specifications, as he or she may find necessary to accomplish the general purposes of this Agreement. Contractor shall furnish the services or deliverables in the Change Order in accordance with the requirements of this Agreement plus any special provisions, specifications, or special instructions issued to execute the extra work.

(2) The City Purchasing Agent or Director upon written authorization by the City Purchasing Agent will issue the Change Order in substantially the following form:

CHANGE ORDER

TO: [Name of Contractor]

FROM: City of Houston, Texas (the "City")

DATE: [Date of Notice]

SUBJECT: Change Order under the Agreement between the City and [Name of Contractor] countersigned by the City Controller on [Date of countersignature of the Agreement]

Subject to all terms and conditions of the Agreement, the City requests that Contractor provide the following:

[Here describe the additions to or changes to the equipment or services and the Change Or Charges applicable to each.]

Signed:

[Signature of City Purchasing Agent or Director upon written authorization by the City Purchasing Agent]

(3) The City Purchasing Agent or Director upon written authorization by the City Purchasing Agent ma issue more than one Change Order, subject to the following limitations:

(a) Council expressly authorizes the City Purchasing Agent or Director upon writter authorization by the City Purchasing Agent, to approve a Change Order of up to $25,000. A Change Order of more than $25,000 over the approved contract amount must be approved by the City Council.

(b) If a Change Order describes items that Contractor is otherwise required to provide under this Agreement, the City is not obligated to pay any additional money to Contractor.

(c) The Total of all Change Orders issued under this section may not increase the Original Agreement amount by more than 25%.

(4) Whenever Contractor receives a Change Order, Contractor shall furnish all material, equipment, and personnel necessary to perform the work described in the Change Order. Contractor shall complete the work within the time prescribed. If no time for completion is prescribed, Contractor shall complete the work within a reasonable time. If the work described in any Change Order causes an unavoidable delay in any other work Contractor is required to perform under this Agreement, Contractor may request a time extension for the completion of the work. The City Purchasing Agent's or Director's decision regarding a time extension is final.

(5) A product or service provided under a Change Order is subject to inspection, acceptance, or rejection in the same manner as the work described in the Original Agreement, and is subject to the terms and conditions of the Original Agreement as if it had originally been a part of the Agreement.

(6) Change Orders are subject to the Allocated Funds provisions of this Agreement.

IV TERM AND TERMINATION

A. Contract Term

This Agreement is effective on the Countersignature Date and expires one (1) year after the date specified the Notice to Proceed unless sooner terminated according to the terms of this Agreement.

B. Notice to Proceed

Contractor shall begin performance under this Agreement on the date specified in a Notice to Proceed fror the City Purchasing Agent.

C. Renewals

If sufficient funds are allocated, the City Purchasing Agent, at his or her sole discretion, may make a request to Contractor to renew this Agreement for up to four additional 1-year option periods, upon at least 30 days' written notice before expiration of the initial term, or first option period, as applicable. Any renewal, pursuant to this Section, shall be upon the same terms and conditions of the Agreement.

D. Time Extensions

If Department requests an extension of time to complete its performance, then the City Purchasing Agent may, in his or her sole discretion, extend the time so long as the extension does not exceed 90 days. The extension must be in writing but does not require amendment of this Agreement. Contractor is not entitled to damages for delay(s) regardless of the cause of the delay(s).

E. Termination for Convenience by the City

The City Purchasing Agent or Director upon written authorization by the City Purchasing Agent may terminate this Agreement at any time by giving 30 days written notice to Contractor. The City's right to terminate this Agreement for convenience is cumulative of all rights and remedies which exist now or in the future.

On receiving the notice, Contractor shall, unless the notice directs otherwise, immediately discontinue all services under this Agreement and cancel all existing orders and subcontracts that are chargeable to this Agreement. As soon as practicable after receiving the termination notice, Contractor shall submit an invoice

showing in detail the services performed under this Agreement up to the termination date. The City sl then pay the fees to Contractor for services actually performed, but not already paid for, in the same mani as prescribed in Section III unless the fees exceed the allocated funds remaining under this Agreement. TERMINATION OF THIS AGREEMENT AND RECEIPT OF PAYMENT FOR SERVICES RENDERE ARE CONTRACTOR'S ONLY REMEDIES FOR THE CITY'S TERMINATION FOR CONVENIENCI WHICH DOES NOT CONSTITUTE A DEFAULT OR BREACH OF THIS AGREEMENT CONTRACTOR WAIVES ANY CLAIM (OTHER THAN ITS CLAIM FOR PAYMENT AS SPECIFIEL IN THIS SECTION), IT MAY HAVE NOW OR IN THE FUTURE FOR FINANCIAL LOSSES OR OTHER DAMAGES RESULTING FROM THE CITY'S TERMINATION FOR CONVENIENCE.

F. Termination for Cause by City

If Contractor defaults under this Agreement, the City Purchasing Agent or Director upon written authorization by the City Purchasing Agent may either terminate this Agreement or allow Contractor to cure the default as provided below. The City's right to terminate this Agreement for Contractor's default is cumulative of all rights and remedies which exist now or in the future. Default by Contractor occurs if:

(1) Contractor fails to perform any of its duties under this Agreement;

(2) Contractor becomes insolvent;

(3) all or a substantial part of Contractor's assets are assigned for the benefit of its creditors; or

(4) a receiver or trustee is appointed for Contractor.

If a default occurs, the City Purchasing Agent or Director upon written authorization by the City Purchasing Agent may, but is not obligated to, deliver a written notice to Contractor describing the default and the termination date. The City Purchasing Agent or Director upon written authorization by the City Purchasing Agent, at his or her sole option, may extend the termination date to a later date. If the City Purchasing Agent or Director upon written authorization by the City Purchasing Agent allows Contractor to cure the default and Contractor does so to the City Purchasing Agent's or Director's satisfaction before the termination date, then the termination is ineffective. If Contractor does not cure the default before the termination date, then

the City Purchasing Agent or Director upon written notice to the City Purchasing Agent may terminate t Agreement on the termination date, at no further obligation of the City.

To effect final termination, the City Purchasing Agent or Director upon written notice to the City Purchasi Agent must notify Contractor in writing. After receiving the notice, Contractor shall, unless the noti directs otherwise, immediately discontinue all services under this Agreement, and promptly cancel all orde or subcontracts chargeable to this Agreement.

G. Termination for Cause by Contractor

Contractor may terminate its performance under this Agreement only if the City defaults and fails to cure the default after receiving written notice of it. Default by the City occurs if the City fails to perform one or more of its material duties under this Agreement. If a default occurs and Contractor wishes to terminate the Agreement, then Contractor must deliver a written notice to the Director describing the default and the proposed termination date.

The date must be at least 30 days after the Director receives notice. Contractor, at its sole option, may extend the proposed termination date to a later date. If the City cures the default before the proposed termination date, then the proposed termination is ineffective. If the City does not cure the default before the proposed termination date, then Contractor may terminate its performance under this Agreement on the termination date.

H. Removal of Contractor Owned Equipment and Materials

Upon expiration, or termination of this Agreement, Contractor is permitted ten (10) days within which to remove contractor-owned material and equipment from the City's premises. The City shall make such material and equipment readily available to Contractor. The time period may be extended upon approval by the Director. The City reserves the right to deny any extension of time.

V MISCELLANEOUS

A. Independent Contractor

Contractor shall perform its obligations under this Agreement as an independent contractor and not as employee of the City.

B. Force Majeure

1. Timely performance by both parties is essential to this Agreement. However, neither party is liabl for delays or other failures to perform its obligations under this Agreement to the extent the delay o failure is caused by Force Majeure. Force Majeure means fires, floods, explosions, and other acts o God, war, terrorist acts, riots, court orders, and the acts of superior governmental or military authority.

2. This relief is not applicable unless the affected party does the following:

   (a) uses due diligence to remove the Force Majeure as quickly as possible; and

   (b) provides the other party with prompt written notice of the cause and its anticipated effect.

3. The City may perform contract functions itself or contract them out during periods of Force Majeure. Such performance does not constitute a default or breach of this Agreement by the City.

4. If the Force Majeure continues for more than 30 days, the City Purchasing Agent or Director upon written authorization by the City Purchasing Agent may terminate this Agreement by giving 30 days' written notice to Contractor. This termination is not a default or breach of this Agreement. **CONTRACTOR WAIVES ANY CLAIM IT MAY HAVE FOR FINANCIAL LOSSES OR OTHER DAMAGES RESULTING FROM THE TERMINATION EXCEPT FOR AMOUNTS DUE UNDER THE AGREEMENT AT THE TIME OF THE TERMINATION.**

C. Severability

If any part of this Agreement is for any reason found to be unenforceable, all other parts remain enforceable unless the result materially prejudices either party.

D. Entire Agreement

This Agreement merges the prior negotiations and understandings of the Parties and embodies the ent agreement of the Parties. No other agreements, assurances, conditions, covenants (express or implied), other terms of any kind exist between the Parties regarding this Agreement.

E. Written Amendment

Unless otherwise specified elsewhere in this Agreement, this Agreement may be amended only by writtei instrument executed on behalf of the City (by authority of an ordinance duly adopted by the City Council) and Contractor. The Director is only authorized to perform the functions specifically delegated to him or her in this Agreement.

F. Applicable Laws

This Agreement is subject to the laws of the State of Texas, the City Charter and Ordinances, the laws of the federal government of the United States, and all rules and regulations of any regulatory body or officer having jurisdiction.

Venue for any litigation relating to this Agreement is Harris County, Texas.

G. Notices

All notices required or permitted by this Agreement must be in writing and are deemed delivered on the earlier of the date actually received or the third day following: (1) deposit in a United States Postal Service post office or receptacle; (2) with proper postage (certified mail, return receipt requested); and (3) addressed to the other party at the address set out in the preamble of this Agreement or at such other address as the receiving party designates by proper notice to the sending party.

H. Non-Waiver

If either party fails to require the other to perform a term of this Agreement, that failure does not prevent the party from later enforcing that term and all other terms. If either party waives the other's breach of a term, that waiver does not waive a later breach of this Agreement.

An approval by the Director, or by any other employee or agent of the City, of any part of Contract performance does not waive compliance with this Agreement or establish a standard of performance ot than that required by this Agreement and by law. The Director is not authorized to vary the terms of tl Agreement.

I. Inspections and Audits

City representatives may perform, or have performed, (1) audits of Contractor's books and records, and (2 inspections of all places where work is undertaken in connection with this Agreement. Contractor shall kee its books and records available for this purpose for at least 3 years after this Agreement terminates. This provision does not affect the applicable statute of limitations.

J. Enforcement

The City Attorney or his or her designee may enforce all legal rights and obligations under this Agreement without further authorization. Contractor shall provide to the City Attorney all documents and records that the City Attorney requests to assist in determining Contractor's compliance with this Agreement, with the exception of those documents made confidential by federal or State law or regulation.

K. Ambiguities

If any term of this Agreement is ambiguous, it shall not be construed for or against any party on the basis that the party did or did not write it.

L. Survival

Contractor shall remain obligated to the City under all clauses of this Agreement that expressly or by their nature extend beyond the expiration or termination of this Agreement, including but not limited to, the indemnity provisions.

M. Parties In Interest

This Agreement does not bestow any rights upon any third party, but binds and benefits the City and Contractor only.

N. Successors and Assigns

This Agreement binds and benefits the Parties and their legal successors and permitted assigns; however, t provision does not alter the restrictions on assignment and disposal of assets set out in the followi paragraph. This Agreement does not create any personal liability on the part of any officer or agent of tl City.

O. Business Structure and Assignments

Contractor shall not assign this Agreement at law or otherwise or dispose of all or substantially all of it: assets without the City Purchasing Agent's prior written consent. Nothing in this clause, however, prevents the assignment of accounts receivable or the creation of a security interest under Section 9.406(c) of the Texas Business & Commerce Code. In the case of such an assignment, Contractor shall immediately furnish the City with proof of the assignment and the name, telephone number, and address of the Assignee and a clear identification of the fees to be paid to the Assignee.

Contractor shall not delegate any portion of its performance under this Agreement without the City Purchasing Agent's prior written consent.

P. Remedies Cumulative

Unless otherwise specified elsewhere in this Agreement, the rights and remedies contained in this Agreement are not exclusive, but are cumulative of all rights and remedies which exist now or in the future. Neither party may terminate its duties under this Agreement except in accordance with its provisions.

EXHIBIT "A"

DEFINITIONS

As used in this Agreement, the following terms have the meanings set out below:

"Agreement" means this contract between the Parties, including all exhibits, change orders, and any writte amendments authorized by City Council and Contractor.

"City" is defined in the preamble of this Agreement and includes its successors and assigns.

"City Purchasing Agent" is defined as the person or duly authorized successor, authorized in writing to ac for the City. The term includes, except as otherwise provided in this Contract, the authorized representative of the City Purchasing Agent acting within the limits of delegated authority.

"Contractor Administrator" means the representative of the Appropriate Department who is responsible for the administration for the Contract.

"Contract Award Notice" means the official notification substantiated by the Notice to Proceed issued by the City Purchasing Agent to the Contractor.

"Contract Charges" means charges that accrue during a given month as defined in Article III.

"Contract Term" is defined in Article IV.

"Contractor" is defined in the preamble of this Agreement and includes its successors and assigns.

"Countersignature Date" means the date this agreement is countersigned by the City Controller.

"Director" means the Director of the each of the Departments or the City Purchasing Agent for the City, or the person he or she designates.

"Effective Date" is defined as date contract is countersigned by the City Controller.

"Governing Body" means the Mayor and City Council of the City of Houston.

"Hazardous Materials" is defined in Article IIK (Environmental Laws).

"Notice to Proceed" means a written communication from the City Purchasing Agent to Contractor instructing Contractor to begin performance.

"Parties" mean all the entities set out in the Preamble who are bound by this Agreement.

EXHIBIT "B"

Section 1.0 SCOPE OF WORK:

It is the City of Houston's intent to have all unwanted blight (GRAFFITI) eradicated from C properties and all amenities as soon as possible and as cost effective as reasonably possible:

The Contractor shall provide all permits, labor, material, equipment, warranties, selection, surfa preparation, application, products, repainting, inspection, safety, tools, parts and immedia response necessary to perform and execute graffiti removal/paint over and also provide protecti coating applications to amenities for various City Departments.

1) This specification covers mandatory requirements governing the supervision, warranties selection, surface preparation, application, products, repainting, inspectior performance/execution, safety, and immediate response for ERADICATION AND PROTECTIVE COATING APPLICATION.

Section 2.0 SUPERVISION, EQUIPMENT, AND MATERIAL:

The methods of abatement shall vary depending upon the type of damage inflicted by graffiti paint, conditions, and type of substrate surfacing. Contractor awarded the contract for these shall determine the most efficient and effective means/methods current in the construction trade at various locations throughout the City of Houston. Contractor will receive approval from the appropriate city department designee before beginning any work.

A.) This bidder agrees to furnish but not limited to all labor, equipment, supervision, materials and supplies, and transportation necessary for providing Graffiti Eradication Services and Protective Coating Application Services for the City of Houston. The methods of removal/paint over shall vary depending upon the type of damage impose by graffiti paint, conditions and type of substrate surfacing. At various locations throughout the City of Houston, the successful awarded bidder of the contract shall determine the most efficient and effective means/methods current in the construction trade. All means and methods shall be submitted to Appropriate Department Administrators/Designees of the contract for prior approval.

Section 3.0 INSURANCE, PERMITS, AND WARRANTY:

A.) All standardized requirements of insurance and permits by the City of Houston will be the responsibility of the successful contractor awarded the contract.

B.) Protective Coating Warranty shall include but not limited to all serviced areas performed under this contract for a term not less than one (1) year on workmanship and on products used, commencing at the completion date of each work order performed by the Contractor Warranty under normal circumstances and any manufacturers product warranties shall be submitted to the City of Houston prior to work beginning.

Section 4.0 AWARD CONSIDERATION:

A.) The city reserves the right to award this contract to more than one contractor.

Section 5.0 AREAS TO BE COVERED w/GRAFFITI ERADICATION SERVICES

Areas that require Graffiti Eradication and/or Protective Coating Application include the following, but not limited to:

A.) Community Center Building Walls, Ceilings, Overhangs, Doors, etc... Exterior/Interior Face of Tile, Wood, Brick, Concrete Block, Stucco, Metals, etc...

B.) Swimming Pool Building Walls, Ceilings, Overhangs, Doors, etc... Exterior/Interior Face Tile, Wood, Brick, Concrete Block, Stucco, Metals, etc...

C.) Restroom Modular Building Walls, Ceilings, Overhangs, Doors, Partitions, et Exterior/Interior Face of Tile, Wood, Brick, Concrete Block, Stucco, Metals, etc...

D.) Statues, Monuments, and Sculptures - Metals, Stone, Granite, Limestone, etc.

E.) Concrete/Asphalt Flatwork - Driveways, Sidewalks, Plaza Areas, Basketball/Tennis Courts, C Right of Ways, City Owned Property

F.) Park Bench/Picnic Table - Colored/White Concrete, Metal, Wood, PVC Coated, etc...

G.) All Types of Trees.

H.) Barbecue Pits and Trash Can Barrels - Galvanized/Painted Metal.

I.) Ball field Bleachers - Wood, Galvanized/Painted Steel and Metal.

J.) Basketball Backboards - Galvanized/Painted Steel and Metal, and Plastics.

K.) Fences - Wood, Galvanized/Painted Steel and Metal, Chain Link.

L.) Playground Equipment - Wood, Metal, Plastics, and Lexans.

M.) Windows - Glass, Lexans, and Plastics.

N.) Light Standards and/or Poles - Galvanized/Painted Steel and Metal.

O.) Identification Signs - Wood, Metals, Lexans Galvanized/Painted, Vinyl and Ink Lettered Sheeting.

P.) Water/Drinking Fountains - Decorative Stone, PVC, Stainless Steel, Concrete.

Q.) Granite, Marble & Concrete Aggregate, Concrete & Brick Walls

R.) Bridges, Cement Walkways

S.) Interior Graffiti

T.) Sheetrock

U.) Storage Tanks (steel, galvanized or concrete), and equipment such as generators, wells, booster pumps, etc.

Section 6.0 REMOVAL/PAINT OVER OF GRAFFITI:

PART I. - GENERAL:

It is the intent of this contract to have ALL GRAFFITI ERADICATED. There shall be no evidence of the encountered graffiti damage upon completion of eradication and with no further damage invented by means of the eradication. The successful Contractor shall use the most current eradication method(s) best known to the construction trade that is to include, but are not limited to:

A.) Product(s) that has expeditious response and success to breakup and dissolve paints, markings, etc.

B.) Equipment/machinery that has expeditious response and success to breakup and dissolve paints, markings, etc.

C.) Use only BIO-DEGRADABLE AND ENVIRONMENTALLY SAFE graffiti cleaners and solvents.

D.) Submit and maintain at all times during the contract period any manufacturer's product da application instructions, application equipment, and material safety data sheets. For verifical purposes, submittal of representative samples may be required.

E.) Perform quality assurance/field applied mock-ups with manufacturers to determine the be product(s) for services to be rendered. When quality assurance/field mock-ups are performed a approval of acceptability by the City of Houston is issued, mock-ups may be included as part of t work. Unacceptable field mock-ups shall be the sole responsibility of the contractor.

PART II. - PRODUCTS

A.) Use only BIO-DEGRADABLE AND ENVIRONMENTALLY SAFE graffiti cleaners ar solvents.

B.) Submit and maintain at all times during the contract period any manufacturer' product data, application instructions, application equipment, and material safet data sheets. For verification purposes, submittal of representative samples may be required.

C.) Perform quality assurance/field applied mock-ups with manufacturers to determine the best product(s) for services to be rendered. When quality assurance/field mock-ups are performed and approval of acceptability by the City of Houston is issued, mock-ups may be included as part of the work. Unacceptable field mock-ups shall be the sole responsibility of the contractor.

PART III. - EXECUTION:

A.) Bio-degradable cleaners, degreaser, solvents and clean hot water rinse.

B.) Clean hot water pressure rinse system (SPECIAL CARE SHOULD BE TAKEN TO ENSURE THAT DAMAGE IS NOT CAUSED TO THE SUBSTRATE SURFACE AREAS AND/OR EXISTING PROTECTIVE COATED SURFACE AREAS). Prior to abatement, existing damages shall be brought to the attention of the Contract Manager(s) for comprehensive documentation. Not adhering to this procedure will prompt the Inspections by the City to document damages not brought to the attention prior and all damages shall become the sole responsibility of the Contractor to promptly correct before invoicing is submitted by the Contractor, and accepted or paid by the City of Houston.

C.) All cleaners, degreasers, solvents, etc... used for abatement that fall under City, State, and/or Federal Codes for containment, shall be contained at all times and disposed of in the manner as required by law or statue.

D.) All excess and waste materials are the sole responsibility of the Contractor, and MUST BE REMOVED DAILY and at the end of any project being executed.

E.) Wood surfaces may be cleaned under water pressures but so not to damage, splinter, or alter configurations and conditions prior to removal. All wood surfaces cleaned under water pressures shall be treated with a non-toxic quick dry wood sealant, as to assure the life expectancy of the wood. No painting unless given prior approval.

F.) ALL ERADICATION OF IDENTIFIABLE GRAFFITI SHALL BE UNIFORMLY SQUARED IMMEDIATELY AROUND THE OUTER BOUNDARIES. THERE SHALL BE NO IDENTIFIABLE MARKINGS, LEGIBLE READINGS, GHOSTING, BLEED THROUGH AND/OR SHADOWING OF THE GRAFFITI. FAILURE TO PERFORM ACCEPTABLY WILL RESULT WITH NON-PAYMENT UNTIL ACCEPTABLE PERFORMANCE IS ACHIEVED.

G.) Graffiti Eradication Services will not be required above forty (40) feet. Above forty (40) feet will be considered special circumstances and will require a emergency change order to perform the task.

H.) All Graffiti Eradication products and materials shall be applied per manufacturer's recommendatic and specifications.

I.) Wet or dry blasting will be applied only where City, State, and/or Federal applicable laws and statu who govern will allow, but shall not be permitted in areas that are populated with the general publ city employees, and others on City of Houston properties.

J.) Water needed by the Contractor to perform Graffiti Eradication Services shall be the so responsibility of the Contractor throughout the term of the contract. Although the majority of the Ci of Houston sites are equipped with water supply, it is the sole responsibility of the Contractor t confirm. The City of Houston will assist with any secured area on the site that may have wate supply for the Contractors use. THE CITY OF HOUSTON DOES NOT ENDORSE OI ENCOURAGE ANY VERBAL AND/OR WRITTEN AGREEMENTS USE OF SERVICES ANI UTILITIES OF PRIVATE AND/OR NON-PRIVATE INDIVIDUALS WHO ARE NOT AFFILIATEI WITH THE CONTRACT.

K.) Contractor shall supply all color-matched paint for all Departments. When available, paint numbers will be supplied by Appropriate Department Representatives. The city may supply when available recycle paint for paint over on certain amenities.

Section 7.0 PROTECTIVE COATING APPLICATION:

PART I. - GENERAL

A.) Protective coating application includes surface preparation to remove dirt, dust, corrosion, existing loose and scaling protective coatings and similar contamination that would prevent bonding and cure of durable protective coating systems specified; primers, fillers barrier coats; intermediate and top coats on pool equipment, room walls, overhead structure, equipment and similar devices and sensing devices, motor shafts, parts of pumps and appurtenances, but does not include operating parts, of pumps, chemical control equipment, and similar devices and sensing devices motor shafts, code required labels and nomenclature plates. Protective coating applications are defined as those types of materials and applications requiring more than normal skills and techniques for mixing, handling and application. Protective coating application includes but not limited to the following within construction limits indicated:

1.) Various metals.

2.) Concrete masonry units.

3.) Exterior concrete.

4.) All exposed conduit, outlet boxes and electrical cabinets.

5). Prime coated hardware and other factory primed metal items, shop-fabricated or factory-built electrical equipment and accessories.

6.) All exposed pipe, plumbing, and exhaust fans.

7.) Where an item is not specifically mentioned, paint the same as similar adjacent materials or surfaces.

8.) Make test patches to verify coating compatibility and adhesion over existing coatings and surfaces.

B.) DO NOT INCLUDE APPLICATION OF PROTECTIVE COATING ON:

1.) Operating parts of mechanical, electrical, and plumbing equipment, including sensing devices, motor and fan shafts, and similar equipment.

2.) Code required labels and nomenclature plates.

C.) SUBMITTALS:

1.) Submit protective coating manufacturer's product data, application instructions, applicat equipment, material safety sheets, and all warranties for application methods schedul For verification purposes, submittal of representative samples approximately 12" x 12" size on brick or concrete block is required. On the back of each sample, identify surfa preparation, fillers, primers, intermediate and finish coat used as well as total dry fi thickness of coating system. Contractor will be required to resubmit samples as request until color, sheen, and/or texture are achieved.

D.) QUALITY ASSURANCE:

1.) Manufacturers: Provide primary products, including each type of protective coating materi and solvent required for each coating system, produced by a single manufacturer, which ha produced that type product successfully for not less than three (3) years. Provide secondar products which are acceptable to manufacturers of primary products.

2.) Test Patches: Use test patches for each type of coating system and each substrate upon which coatings will be applied to confirm that substrates are properly prepared and that coatings will adhere and cure in accordance with coating manufacturers printed application instructions.

E.) FIELD APPLIED MOCK-UPS:

1.) Prior to application of protective coating work, apply test patches not less than one square meter in area over each different substrate and sample areas representative of each type of protective coating system to demonstrate compatibility, adhesion, appearance, and workmanship. When acceptable, mock-ups may be included as part of the work. Unacceptable mock-ups shall be removed and reapplied until acceptable.

F.) PRE-APPLICATION CONFERENCE:

1.) Prior to application of the protective coating work, meet at the Project Site with Applicator, Installers of other work adjoining protective coating work, representatives of other entities directly concerned with performance of protective coating work including product manufacturers, and owner's department representatives of the contract. When requested, department representatives/contractor/product supplier will tour areas, and discuss substrate condition, review test patches for adhesion, lifting, reaction with existing coatings, cure, sheen, reversion into components, etc. Review requirements (Contract Documents), submittals, status of coordinating work, availability of materials and temporary facilities and controls, proposed installation schedule, requirements for inspections, forecasted weather conditions, and proposed installation procedures: Record discussion including agreement or disagreement on matters of significance: furnish copy of recorded discussions to each participant. Discuss possible need for temporary protection, barrier coats over incompatible coating as indicated by test patches, and similar problem areas. If meeting ends with substantial disagreements, determine how disagreements will be resolved and set date for reconvened meeting.

PART II. - PRODUCTS:

A.) GENERAL:

Subject to compliance with requirements, provide complete protective coating systems as specified, Benjamin Moore Co., Aliphatic Acrylic Clear Coat Urethane #M7400 (or approved equal). Equivalent products shall be submitted for approval to department within 5 days from request.

1.) Benjamin Moore Co., Mesquite, TX., represented locally by Southwestern Paint Co., (Tel) (713) - 522-1685.

B.) PROTECTIVE COATING SYSTEMS:

1.) The following specified products produced by Benjamin Moore Co., Mesquite, TX., are t quality and performance products that have been thoroughly researched for this projec use. Materials not displaying manufacturer's identification will not be acceptable.

a.) SURFACE PREPARATION: Remove latency and mortar dropping; surfaces mu be clean and dry. Cure all mortar and concrete. Test substrates for wat transmission in accordance with Benjamin Moore Surface Preparation Bulletin.

2.) Protective Coating System SPC-1 (Concrete and Masonry Walls):

b.) BLOCK FILLER AND CONCRETE SEALER (When required Benjamin Moore #17 "Moore Craft" "Block Filler" and/or #066 "Masonry Sealer" (or approved equal sprayed or rolled on the rate to achieve 8.0 mils. minimum dry film thickness. Allow twenty-four (24) hours curing period before top coating, or in accordance with commercial coating manufacturer recommendations.

c.) TOPCOATS: Benjamin Moore #M-74/#M-75 "Aliphatic Acrylic Clear Coat Urethane" (or approved equal), sprayed on at the rate minimum 8.0 mils dry film thickness with manufacturer's recommendation time for curing prior to recoating.

3.) Protective Coating System SPC-2 (Various Metals/Excluding Galvanized):

a.) SURFACE PREPARATION: Prepare ferrous metal surfaces to comply with SSPC-SP6 "Commercial Blast Cleaning" and SSPC-SP1 "Solvent Cleaning" to remove rust, previously applied coatings, oil, grease, dust and similar contaminants from all items prior to application of primer. Solvent clean in accordance with SSPC-SP1.

b.) PRIME COAT: Benjamin Moore #M07-70 "Universal Metal Primer-Gray" (or approved equal) sprayed, rolled, or brushed on at the rate of 4.0 mils. minimum dry film thickness with manufacturer's recommendation during before top coating.

c.) TOPCOATS: Benjamin Moore #M-74/#M-75 "Aliphatic Acrylic Clear Coat Urethane" (or approved equal), sprayed on at the rate 8.0 mils minimum dry film thickness with manufacturer's recommendation time for curing prior to recoating.

d.) COLOR: Color selections of underlay and/or tinted base coated if required will be determined by Appropriate Contract Manager(s) as warranted.

4) Protective Coating System SPC-1 (Galvanized Items):

a.) SURFACE PREPARATION: Solvent cleaning in accordance with SSPC-SP1. All faces must be clean and dry. Prepare rusted areas as specified for metals.

b.) PRIME COAT: Benjamin Moore #M07-70 "Universal Metal Primer-Gray" (or approved equal) sprayed, rolled, or brushed on at the rate of 4.0 mils. minimum dry film thickness with manufacturer's recommendation time for curing prior to recoating.

c.) TOPCOATS: Benjamin Moore #M-74/#M-75 "Aliphatic Acrylic Clear Coat Urethane" (or approved equal), sprayed on at the rate to achieve 8.0 mils minimum dry film thickness, with manufacturer's recommendation time for curing prior to recoating.

d.) COLOR: Color selections of underlay and/or tinted base coated if required will be determined by Appropriate Contract Manager(s) as warranted.

PART III. - EXECUTIONS:

A.) INSPECTIONS:

1.) Start of protective coating work will be constructed as Applicator's acceptance of surfac within any particular area. Do not apply coatings over dirt, rust, scale, grease, moistu scuffed surfaces, incompatible coatings, loose, wrinkled, or lifting coatings; or oth conditions otherwise detrimental to formation of a durable coating film.

a.) **STANDARD RESPONSE TIME** BY THE CONTRACTOR FOR PROTECTIVE COATING APPLICATION SERVICES WILL BE MANDATORY AN MOBILIZATION EXPECTED WITHIN (3) THREE WORKING DAYS UPO RECEIPT OF A JOB NOTICE TO PROCEED/WORK ORDER.

B.) SURFACE PREPARATION:

1.) Perform surface preparation and cleaning procedures in compliance with coating manufacturer's instructions for each particular substrate conditions and as specified:

a.) Provide barrier coats over incompatible coatings (walls and structure) equivalent to Benjamin Moore #M07-70 Universal Primer (or approved equal) applied at the rate 4.0 mils dry film thickness with manufacturer's recommendation time for curing prior to succeeding applications or completely remove incompatible coating and reapply primer as required. Notify Appropriate Contract Managers in writing of any anticipated problems in using the specified coating systems with substrates primed by others.

b.) Remove, mask, and protect hardware, hardware accessories, machined surfaces, plates, lighting fixtures, and similar items which are not to be coated, or provide surface-applied protection prior to surface preparation and coating operations. Following coating completion in each space or area, reinstall removed items, using workers skilled in trades involved.

c.) Clean Surfaces to be coated before applying coatings or surface treatments; solvents prior to mechanical cleaning. Program cleaning and application so that dust and other contaminants from the cleaning process will not fall on wet, newly coated surfaces.

d.) Mask surfaces not scheduled to receive protective coating paint materials.

e.) Protect adjacent surfaces at Owner's and adjacent properties from overspray.

C.) CEMENTITIOUS SURFACE PREPARATION:

1.) Prepare cementitious surfaces of concrete and cement plaster to receive protective coatings by removing efflorescence, chalk, dust, grease, oils, and by roughening if required to remove glaze.

a.) Use abrasive blast cleaning methods if recommended by coating system manufacturer.

b.) Determine alkalinity and moisture content of surfaces to be coated by performing appropriate tests. Do not apply coatings over surfaces where moisture content exceeds that permitted in manufacturer's printed directions.

D.) METAL SURFACE PREPARATION:

1.) Clean non-galvanized, metal surfaces which have not been shop-coated, of oil, grease, dirt, loose mill scale and other foreign substances by solvent or mechanical cleaning, complying with Steel Structures Painting Council (SSPC) recommendations. Comply with other surface preparation requirements specified.

E.) MIXING AND PREPARATION:

1.) Mix and prepare coating system materials in accordance with manufacturer's directions. not use coating materials produced by different manufacturer's instructions. Maint containers used in mixing and application of coating in a clean condition, free of fore materials and residue. Stir materials before application to produce a mixture of unifo density, and stir as required during application. Do not stir surface film into materi Remove film and, if necessary, strain material before using.

F.) APPLICATION:

1.) Apply coatings by airless spray, brush or roller as best suited to substrate and applicatic conditions, and in accordance with manufacturer's directions. Brushes best suited for typ of material being applied may be used only for minor touch-up of primers and barrier coats i inconspicuous areas. Use rollers of carpet, velvet black, or high-pile sheep's wool a recommended by manufacturer for material and texture required.

a.) Provide finish coats which are compatible with prime paints used.

b.) The number of coats and coating film thickness required is same regardless of the application method. Each coat must be applied and cured in accordance with manufacturer's printed application instructions. Do not apply succeeding coats until previous coat has cured as recommended by coating manufacturer. Sand between coat applications where required to produce an even, smooth surface in accordance with coating manufacturer's directions.

c.) Apply additional coats when undercoats or other conditions show through final coat until cured film is of uniform finish, color and appearance.

G.) COMPLETED WORK:

1.) Match approved samples for color, texture and coverage. Remove, refinish, or recoat work not in compliance with specified requirements.

H.) CLEAN-UP:

1.) During progress of work on a daily basis, remove from project site discarded materials, rubbish, cans, and rags resulting from work. Upon completion of work, clean all coating-spattered surfaces. Remove spattered materials by proper methods of washing and scraping, using care not to damage finished surfaces.

I.) PROTECTION:

1.) Protect work at all times, barricade area of work at distances so not to allow persons not directly affiliated with the application process to enter the work area. Immediately correct damages by cleaning, repairing or replacing, and recoating as directed by the Contract Managers. Leave work in undamaged condition. Provide "WET PAINT" signs as required to protect the finishes and the public. After coating application and cure, remove temporary masking and other protective wrappings and provide legal disposal.

Section 8.0 INVOICING:

A.) SUBMITTING OF INVOICES FOR PAYMENT:

1.) Invoices submitted for payment for the contract shall be precise, and without error. Failure to follow the outline for submittal will result in lengthy delay for payment. Also, see "Article III, Payment and Compensation for invoicing/ payment schedule. Invoices shall include, but not limited to the following:

a.) All invoices for the work performed under this contract shall be submitted in triplicate and on Contractors company stationary, one (1) signed original by the authorized agent of the company and (2) two copies included.

b.) City of Houston contract number, ordinance number, and work order numl supplied by the City of Houston. Contractors company invoice number shall supplied that cannot be duplicated during the term period of the contract.

c.) City facility name and address supplied by the City of Houston.

d.) Beginning and ending dates for services rendered per site visit.

e.) Total number of square feet for services rendered per site visit.

f.) Unit cost, subtotal cost, and total invoice cost.

g.) Upon request, before and after photographs of services rendered shall accompany invoices for payment and as outlined in Section 9.0 (A.1-A.4) of the specifications fo Parks & Recreation Department, Convention & Entertainment Facilities Departmen and Public Works & Engineering Department Water Production Division, Miller Outdoor Theatre and Library Department. Services may be requested at a later date by any other departments at no additional cost to the City.

l.) A single charge shall be bill for all square feet eradicated up to 65 square feet per a single job order. All other single job orders over (65) sixty-five square feet will be charged per square foot pricing.

2.) a.) City of Houston
Parks & Recreation Dept.
2999 South Wayside
Houston, Texas 77023
Contact Person: Cheryl Johnson @ 713-845-8034

b.) City of Houston
Library Dept. Facilities Manager
500 McKinney
Houston, Texas 77002
Contact Person: Barry Williams @ 832-393-1673

c.) City of Houston
Miller Outdoor Theatre
100 Concert Drive
Houston, Texas 77030
Contact Person: Shawn Hauptmann, General Superintendent @713-284-8352 or 713-284-8354

d) City of Houston
Health & Human Services Dept.
8000 North Stadium Drive
Houston, Texas 77054
Contact Person: Quin Harris @ 713-696-5910

e) City of Houston
Public Works & Engineering Department
P.O. Box 61489
Houston, Texas 77208-1489
Contact Person: Craig Foster @ 713-837-0280

Section 9.0 PERFORMANCE/EXECUTION:

A.) UPON REQUEST BY A DEPARTMENT, BEFORE AND AFTER PHOTOS SHALL BE PROVIDI FOR EACH CALL OUT ASSIGNMENT WHERE ERADICATED AND PROTECTIVE COATIN SERVICES WAS PERFORMED.

1.) All photos MUST be electronically labeled with the date when services were rendere Photographs can be neatly and firmly secured to a hardback surface and neatly/legib labeled with pertaining information for job and invoicing association, or digitally supplie "via" email or on a supplied disk.

2.) It is the Contractors responsibility to devise a contingency/backup plan in case of initia equipment failure. NO INVOICES WILL BE ACCEPTED OR PROCESSED FOR PAYMEN WITHOUT THE REQUIRED PHOTOS, AND FURNISHED AS OUTLINED IN THESE SPECIFICATIONS.

3.) Any photos supplied shall have the equal amount of before photos as after and with same angles, positions, and area where graffiti exist, (NO EXCEPTIONS). Photos must be with clarity where words and letters are legible to the naked eye without the use of magnifying equipment in most cases.

B.) The Contractor shall promptly remove all equipment, machinery, materials, and supplies on a daily basis from the premises of each job, unless prior approval by the Contract Manager(s) is given. The City of Houston will not be responsible for storing contractor's equipment, machinery, equipment, and supplies.

1) **(24) TWENTY-FOUR HOUR RESPONSE TIME** BY THE CONTRACTOR WILL BE MANDATORY AND MOBILIZATION EXPECTED WITHIN (24) TWENTY-FOUR HOURS FOR GRAFFITI ERADICATION SERVICES UPON RECEIPT OF A JOB NOTICE TO PROCEED/WORK ORDER.

2) Department designees assigning job mobilizations are as follows:

a. Parks - John L. Crouch III and/or Terry E. O'Bannion at 713-742-1417

b. Library – Barry Williams and/or Barolton Bullock @ 832-393-1671

c. Miller Theater – Shawn Hauptmann @ 713-284-8352 or 713-284-8354

d. Health & Human Services – Quin Harris @ 713-696-5910

e. Public Works & Engineering – Bruce Kao @ 713-837-0607

C.) 1.) **ALL EMERGENCY RESPONSE TIME** for emergency graffiti eradication services shall be within four (4) hours of notification of a job notice to proceed/work order.

2.) Contract services will be required seven (7) days per week, 24 hours per day, including authorized City Holidays.

D.) It is the responsibility of the Contractor to assure the safety at all times of his/her employees, City employees, and the general public.

E.) Contractor will assure that all crews are fully equipped with the needed materials and supplies to execute services promptly, efficiently, and effectively.

F.) Upon request, daily schedules shall be fax forwarded/emailed/telephoned to the department representative overseeing the contract activity.

1.) Depicting crew(s) schedule and in the order of site visit.

2.) Schedules shall be faxed no later than 8:00 A.M. each day services are rendered.

3.) Schedules shall indicate previous day completions.

5.) The City reserves the right to change the schedule during the workday.

G.) All crews shall possess at all times updated legible packets containing:

1.) Contract specifications copy.

2.) Chemical list of chemicals with MSDS sheets used on each job and while on City of Houstoı Property. Disregard of this mandate will result in immediate and automatic shutdown o ongoing work where infraction occurred until corrective measures are taken.

H.) 1.) The City of Houston shall issue a NOTICE TO PROCEED or WORK ORDER for each job.

2.) Each notice to proceed or work order shall indicate the initial assessed square foot amount for the job.

3.) Site mobilization/start of a job by the contractor, will constitute acceptance of the notice to proceed or work order and the square foot amount indicated.

4.) Prior to site mobilization/start of the job, any square foot amount disputes/discrepancies issued with each notice to proceed or work order, shall immediately be brought to the attention of department designee managing the contract.

5) Each notice to proceed or work order square foot amounts shall match the invoice submitted for payment.

I.) In the event turf grounds are water saturated that will not to allow vehicles, equipment, and machinery near the proximity of work to be performed, provisions shall be made under the following conditions:

1.) Accommodate the twenty-four (24) hour stipulation for graffiti eradication response.

2.) There are no exceptions for the twenty-four (24) hour response, except situations where extreme environmental conditions exist that are life threatening for causing injury and/or death.

3.) Care shall be observed at all times when operating upon City grounds, around trees, shrubs, and landscaping. The Contractor will be responsible for all direct damages caused by his or her negligence during operations.

J.) <u>CREW SIZE:</u>
Contractor will be allowed their choice for crew sizes to perform the services specified in the work order. For crew size verification, the city MUST be contacted upon any initial mobilization and job site arrival for each work order. **Any (1) one-person crew dispatched shall complete eradication of a work order within reasonable time from initial mobilization not to exceed (72) seventy – two hours**. Crewmembers added to a jobsite after the contractor accepts a work order shall be at the contractors' expense. Each work order will be faxed back to the city depicting crew size selected prior to mobilizing. All jobs must be performed within time specified in the work order.

K.) LIQUIDATED DAMAGES:

Completion of work orders exceeding the specified response time will have a **10% of the to invoice amount per job** liquidated damages charge for each job it exceeds the turnaround time service. This amount shall be deducted from the Contractor's invoice for services rendered. cases were the completion date has exceeded the turnaround time, the vendor may present writing to the Department Designee, justification for the delay. If the COH agrees that the delay caused by circumstances beyond the control of the vendor, the COH may at the discretion of tl Department Designee, waive or adjust the 10% of the total invoice amount per job penalty.

L.) CERTIFICATION & EXPERIENCE REQUIREMENTS:

Must be Traffic Control experienced and provide the City with equipment list for maintaining traffi control.

M.) ADDITIONS & DELETIONS:

The City, by written notice from the City Purchasing Agent to the Contractor, at any time during the term of this contract, may add or delete like or similar equipment, locations and/or services to the list of equipment, locations and/or services to be performed. Any such written notice shall take effect on the date stated in the notice from the City. Equipment, locations and/or services added will be subject to the contract services and charges or rates as an item already specified in the fee schedule. In the event the additional equipment, locations and/or service is not identical to any item already under contract, the charges therefore will then be the Contractor's normal and customary charges or rates for the equipment, locations and/or services classified in the fee schedule.

N.) ESTIMATED QUANTITIES NOT GUARANTEED:

The estimated quantities specified herein are not a guarantee of actual quantities, as the City does not guarantee any particular quantity of graffiti eradication & protective coating application services during the term of this contract. The quantities may vary depending upon the actual needs of the user Department. The quantities specified herein are good faith estimates of usage during the term of this contract. Therefore, the City shall not be liable for any contractual agreements/obligations the Contractor enters into based on the City purchasing/requiring all the quantities specified herein.

O.) WARRANTY OF SERVICES:

a) *Definitions:* "Acceptance" as used in this clause, means the act of an authorized representative of the City by which the City assumes for itself, approval of specific services as partial or complete performance of the contract.

"Correction" as used in this clause, means the elimination of a defect.

b) Notwithstanding inspection and acceptance by the City or any provision concerning the conclusiveness thereof, the Contractor warrants that all services performed under this contract will, at the time of acceptance, be free from defects in workmanship and conform to the requirements of this contract. The City shall give written notice of any defect or nonconformance to the Contractor within a one-year period from the date of acceptance by the City. This notice shall state either (1) that the Contractor shall correct or re-perform any defective or non-conforming services at no additional cost to the City, or (2) that the City does not require correction or re-performance.

c) If the Contractor is required to correct or re-perform, it shall be at no cost to the City, and any services corrected or re-performed by the Contractor shall be subject to this clause to the same extent as work initially performed. If the Contractor fails or refuses to correct or re-perform, the City may, by contract or otherwise, correct or replace with similar services and charge to the Contractor the cost occasioned to the City thereby, or make an equitable adjustment in the contract price.

d) If the City does not require correction or re-performance, the City shall make an equitable adjustment in the contract price.

P.) Protective sealant shall be Polysiloxane Penetrating Silicone Sealant and Waterproofing Compou or an approved equal. Number of high water pressure cleanings after the initial application Polysiloxane penetrating Silicone Sealant shall be no less than twenty-five cleanings before application of the sealant. High water pressure cleanings shall occur without the support mechanical or non-mechanical abrasive materials, but limited to meticulous mechanical wa pressure support of less than 1000 p.s.i. while utilizing a wand tip of no less than 45 degrees at tl time of water pressure discharge for removing graffiti from a protected surface with Polysiloxa Penetrating Sealant.

Penetrating sealant or approved equal shall perform the following:

a.) Penetrate the substrate surface.
b.) Bond/Seal/Consolidate
c.) Must be breathable
d.) Must be able to clean sealed surface with bio-degradable cleaners and solvents that ar environmentally and user safe.
e.) Must be able to re-apply sealant over the initial application without stripping.
f.) Must be able to apply sealant within twenty-four hours after surface preparations and under humid conditions

ADDITIONAL INFORMATION:

Types of eradiation method and estimated (%) of method performed on yearly basis:

75% High Pressure Water with Hot Water/Chemicals
10% Sanding
10% Paint Over
1% High Pressure Blasting Pot

19.0 RAW GOODS/SUPPORTSERVICES INDEX PRICE ADJUSTMENTS:

The Contractor may request a line item price increase or decrease annually based on the previous twelve (12) months average of their direct cost based on the raw goods index/support services for **various paints, coatings, chemical solvents, as it applies to graffiti eradication services and protective coating application under this contract.** Line item price increases shall not exceed 10% annually. Request for line item price increases or decreases shall include monthly raw index and caustic changes, initial cost for **various paints, coatings, chemical solvents,** at the time the contract was awarded or increase approved, and justification for the Contractor's request for a increase or decrease.

EXHIBIT "C"

EQUAL EMPLOYMENT OPPORTUNITY

1. The contractor, subcontractor, vendor, supplier, or lessee will not discriminate against any employee or applicant f employment because of race, religion, color, sex, national origin, or age. The contractor, subcontractor, vendor, supplier, or lesse will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regai to their race, religion, color, sex, national origin, or age. Such action will include, but not be limited to, the following: employmen upgrading; demotion or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation an selection for training, including apprenticeship. The contractor, subcontractor, vendor, supplier or lessee agrees to post i conspicuous places available to employees, and applicants for employment, notices to be provided by the City setting forth th provisions of this Equal Employment Opportunity Clause.

2. The contractor, subcontractor, vendor, supplier, or lessee states that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, national origin or age.

3. The contractor, subcontractor, vendor, supplier, or lessee will send to each labor union or representatives of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer advising the said labor union or worker's representative of the contractor's and subcontractor's commitments under Section 202 of Executive Order No. 11246, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

4. The contractor, subcontractor, vendor, supplier, or lessee will comply with all provisions of Executive Order No. 11246 and the rules, regulations, and relevant orders of the Secretary of Labor or other Federal Agency responsible for enforcement of the equal employment opportunity and affirmative action provisions applicable and will likewise furnish all information and reports required by the Mayor and/or Contractor Compliance Officer(s) for purposes of investigation to ascertain and effect compliance with this program.

5. The contractor, subcontractor, vendor, supplier, or lessee will furnish all information and reports required by Executive Order No. 11246, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to all books, records, and accounts by the appropriate City and Federal Officials for purposes of investigations to ascertain compliance with such rules, regulations, and orders. Compliance reports filed at such times as directed shall contain information as to the employment practice policies, program, and work force statistics of the contractor, subcontractor, vendor, supplier, or lessee.

6. In the event of the contractor's, subcontractor's, vendor's, supplier's, or lessee's non-compliance with the non-discrimination clause of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part, and the contractor, subcontractor, vendor, supplier, or lessee may be declared ineligible for further City contracts in accordance with procedures provided in Executive Order No. 11246, and such other sanctions may be imposed and remedies invoked as provided in the said Executive Order, or by rule, regulation, or order of the Secretary of Labor, or as may otherwise be provided by law.

7. The contractor shall include the provisions of paragraphs 1-8 of this Equal Employment Opportunity Clause 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 No. 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 subcontractor or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for noncompliance; 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 direction by the contracting agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

8. The contractor shall file and shall cause his or her subcontractors, if any, to file compliance reports with the City in the form and to the extent as may be prescribed by the Mayor. Compliance reports filed at such times as directed shall contain information as to the practices, policies, programs, and employment policies and employment statistics of the contractor and each subcontractor.

EXHIBIT "D"

MWBE SUBCONTRACT TERMS

Contractor shall ensure that all subcontracts with MWBE subcontractors and suppliers are clearly labeled "TH **CONTRACT IS SUBJECT TO BINDING ARBITRATION ACCORDING TO THE TEXAS GENERA ARBITRATION ACT**" and contain the following terms:

1. _____ (MWBE subcontractor) shall not delegate or subcontract more than 50% the work under this subcontract to any other subcontractor or supplier without the express written consent of the City Houston's Affirmative Action Director ("the Director").

2. _____ (MWBE subcontractor) shall permit representatives of the City of Houston at all reasonable times, to perform (1) audits of the books and records of the subcontractor, and (2) inspections of all place where work is to be undertaken in connection with this subcontract. Subcontractor shall keep such books and records available for such purpose for at least four (4) years after the end of its performance under this subcontract. Nothing in this provision shall affect the time for bringing a cause of action nor the applicable statute of limitations.

3. Within five business days of execution of this subcontract, Contractor (prime contractor) and Subcontractor shall designate in writing to the Director an agent for receiving any notice required or permitted to be given pursuant to Chapter 15 of the Houston City Code of Ordinances, along with the street and mailing address and phone number of such agent.

4. As concluded by the parties to this subcontract, and as evidenced by their signature hereto, any controversy between the parties involving the construction or application of any of the terms, covenants or conditions of this subcontract shall, on the written request of one party served upon the other or upon notice by Director served on both parties, be submitted to binding arbitration, under the Texas General Arbitration Act (Tex. Civ. Prac. & Rem. Code Ann., Ch. 171 -- "the Act"). Arbitration shall be conducted according to the following procedures:

a. Upon the decision of the Director or upon written notice to the Director from either party that a dispute has arisen, the Director shall notify all parties that they must resolve the dispute within thirty (30) days or the matter may be referred to arbitration.

b. If the dispute is not resolved within the time specified, any party or the Director may submit the matter to arbitration conducted by the American Arbitration Association under the rules of the American Arbitration Association, except as otherwise required by the City's contract with American Arbitration Association on file in the Office of the City's Affirmative Action Division.

c. Upon submittal of the matter to arbitration each party shall pay all fees required by the American Arbitration Association and sign a form releasing the American Arbitration Association and its arbitrators from liability for decisions reached in the arbitration.

d. In the event the American Arbitration Association no longer administers Affirmative Action arbitration for the City, the Director shall prescribe alternate procedures as necessary to provide arbitration by neutrals in accordance with the requirements of Chapter 15 of the Houston City Code of Ordinances.

e. All arbitrations shall be conducted in Houston, Texas, unless the parties agree to a different location.

EXHIBIT "E"

DRUG POLICY COMPLIANCE AGREEMENT

I, _____ as an owner or officer of
(Name) (Print/Type) (Title)

_____ (Contractor)
(Name of Company)

have authority to bind Contractor with respect to its bid, offer or performance of any and all contracts it may ente into with the City of Houston; and that by making this Agreement, I affirm that the Contractor is aware of and by th time the contract is awarded will be bound by and agree to designate appropriate safety impact positions fo company employee positions, and to comply with the following requirements before the City issues a notice tc proceed:

1. Develop and implement a written Drug Free Workplace Policy and related drug testing procedures for the Contractor that meet the criteria and requirements established by the Mayor's Amended Policy on Drug Detection and Deterrence (Mayor's Drug Policy) and the Mayor's Drug Detection and Deterrence Procedures for Contractors (Executive Order No. 1-31).

2. Obtain a facility to collect urine samples consistent with Health and Human Services (HHS) guidelines and a HHS certified drug testing laboratory to perform the drug tests.

3. Monitor and keep records of drug tests given and the results; and upon request from the City of Houston, provide confirmation of such testing and results.

4. Submit semi-annual Drug Policy Compliance Declarations.

I affirm on behalf of the Contractor that full compliance with the Mayor's Drug Policy and Executive Order No. 1-31 is a material condition of the contract with the City of Houston.

I further acknowledge that falsification, failure to comply with or failure to timely submit declarations and/or documentation in compliance with the Mayor's Drug Policy and/or Executive Order No. 1-31 will be considered a breach of the contract with the City and may result in non-award or termination of the contract by the City of Houston.

_____ _____
Date Contractor Name

_____
Signature

_____
Title

EXHIBIT "F"

Contractor's Certification Of No Safety Impact Positions In Performance Of A City Contract

I, _____

(Name)(Print/Type) **(Title)**

as an owner or officer of _____ (Contractor) hav authority to bind the Contractor with respect to its bid, and I hereby certify that Contractor has no employee safet impact positions as defined in §5.18 of Executive Order No. 1-31 that will be involved in performing this Cit Contract. Contractor agrees and covenants that it shall immediately notify the City's Director of Personnel if an safety impact positions are established to provide services in performing this City Contract.

_____ Date

_____ Contractor Name

_____ Signature

_____ Title

CONTRACTOR'S CERTIFICATION OF NON-APPLICATION OF CITY OF HOUSTON DRUG DETECTION AND DETERRENCE PROCEDURES FOR CONTRACTORS

I, _____ as an owner or officer of

(NAME) **(PRINT/TYPE)**

_____ (Contractor) have authority to bind the Contractor with respect to its bid, and I hereby certify that Contractor has fewer than fifteen (15) employees during any 20-week period during a calendar year and also certify that Contractor has no employee safety impact positions as defined in 5.18 of Executive Order No. 1-31 that will be involved in performing this City Contract. Safety impact position means a Contractor's employment position involving job duties that if performed with inattentiveness, errors in judgment, or diminished coordination, dexterity, or composure may result in mistakes that could present a real and/or imminent threat to the personal health or safety of the employee, co-workers, and/or the public.

_____ **DATE**

_____ **CONTRACTOR NAME**

_____ **SIGNATURE**

_____ **TITLE**

EXHIBIT "G"
DRUG POLICY COMPLIANCE DECLARATION

I, _____ as an owner or officer of
(Name) (Print/Type) (Title)

_____ (Contractor or Vendor)
(Name of Company)

have personal knowledge and full authority to make the following declarations:

This reporting period covers the preceding 6 months from _____ to _____, 20____.

_____ Initials — A written Drug Free Workplace Policy has been implemented and employees notified. The policy meets the criteria established by the Mayor's Amended Policy on Drug Detection and Deterrence (Mayor's Policy).

_____ Initials — Written drug testing procedures have been implemented in conformity with the Mayor's Drug Detection and Deterrence Procedures for Contractors, Executive Order No. 1-31. Employees have been notified of such procedures.

_____ Initials — Collection/testing has been conducted in compliance with federal Health and Human Services (HHS) guidelines.

_____ Initials — Appropriate safety impact positions have been designated for employee positions performing on the City of Houston contract. The number of employees in safety impact positions during this reporting period is _____.

_____ Initials — From _____ to _____ the following test has occurred
(Start date) (End date)

	Random	Reasonable Suspicion	Post Accident	Total
Number Employees Tested				
Number Employees Positive				
Percent Employees Positive				

_____ Initials — Any employee who tested positive was immediately removed from the City worksite consistent with the Mayor's Policy and Executive Order No. 1-31.

_____ Initials — I affirm that falsification or failure to submit this declaration timely in accordance with established guidelines will be considered a breach of contract.

I declare under penalty of perjury that the affirmations made herein and all information contained in this declaration are within my personal knowledge and are true and correct.

_____
(Date)

_____
(Typed or Printed Name)

_____
(Signature)

_____
(Title)

EXHIBIT "H"

FEES AND COSTS

Year One

Description	Cost
Protective Coating – Applying Aliphatic Acrylic Clear Coat Urethane Standard Response Time.	$1.10/square foot
Protective Coating –Applying Siloxane Penetrante Sealant Standard Response Time.	$.60/square foot
Graffiti Eradication - 66 Sq. Ft/AboveTwo (2) Person Crew - 24 Hr. Response Time.	$1.50/square foot
Graffiti Eradication - 66 Sq. Ft/AboveOne (1) Person Crew - 24 Hr. Response Time.	$1.85/square foot
Graffiti Eradication Two (2) Person Crew No Limit Sq. Ft. Weekday Emergency 4 Hr. Response Time.	$2.50/square foot
Graffiti Eradication One (1) Person Crew No Limit Sq. Ft. Weekday Emergency 4 Hr. Response Time.	$1.95/square foot
Graffiti Eradication Two (2) Person Crew / No Limit Sq. Ft. After Hours/Weekend Emergency 2 Hr. Response Time.	$2.50/square foot
Graffiti Eradication One (1) Person Crew / No Limit Sq. Ft. After Hours/Weekend Emergency 2 Hr. Response Time.	$1.95/square foot
Graffiti Eradication Two (2) Person Crew / No Limit Sq. Ft. CityHoliday 2 Hr. Emergency Response Time.	$2.50/square foot
Graffiti Eradication One (1) Person Crew / No Limit Sq. Ft. CityHoliday 2 Hr. Emergency Response Time.	$1.95/square foot
Graffiti Eradication – Up To 65 Sq. Feet. Two (2) Person Crew - 24 Hr. Response Time. Single Charge Only	$500.00/trip
Graffiti Eradication – Up To 65 Sq. Feet. One (1) Person Crew - 24 Hr. Response Time. Single Charge Only,	$250.00/trip

Estimated Expenditures for Year One - $231,387.50

The foregoing is an estimate only and not a guarantee of any quantity or volume of business. (See Page 36 of 46 Section N)

All Four Option Years

Description	Cost
Protective Coating – Applying Aliphatic Acrylic Clear Coat Urethane Standard Response Time.	$1.21/square foo
Protective Coating –Applying Siloxane Penetrante Sealant Standard Response Time.	$.66/square foo
Graffiti Eradication - 66 Sq. Ft/AboveTwo (2) Person Crew - 24 Hr. Response Time.	$1.65/square foot
Graffiti Eradication - 66 Sq. Ft/AboveOne (1) Person Crew - 24 Hr. Response Time.	$2.04/square foot
Graffiti Eradication Two (2) Person Crew No Limit Sq. Ft. Weekday Emergency 4 Hr. Response Time.	$2.75/square foot
Graffiti Eradication One (1) Person Crew No Limit Sq. Ft. Weekday Emergency 4 Hr. Response Time.	$2.15/square foot
Graffiti Eradication Two (2) Person Crew / No Limit Sq. Ft. After Hours/Weekend Emergency 2 Hr. Response Time.	$2.75/square foot
Graffiti Eradication One (1) Person Crew / No Limit Sq. Ft. After Hours/Weekend Emergency 2 Hr. Response Time.	$2.15/square foot
Graffiti Eradication Two (2) Person Crew / No Limit Sq. Ft. CityHoliday 2 Hr. Emergency Response Time.	$2.75/square foot
Graffiti Eradication One (1) Person Crew / No Limit Sq. Ft. CityHoliday 2 Hr. Emergency Response Time.	$2.15/square foot
Graffiti Eradication – Up To 65 Sq. Feet. Two (2) Person Crew - 24 Hr. Response Time. Single Charge Only	$550.00/trip
Graffiti Eradication – Up To 65 Sq. Feet. One (1) Person Crew - 24 Hr. Response Time. Single Charge Only,	$275.00/trip

Estimated Expenditures for Option Year One, Option Year Two, Option Year Three and Option Year Four - $254,962.00 /each year.

The foregoing is an estimate only and not a guarantee of any quantity or volume of business. (See Page 36 of 46 Section N)

EXHIBIT "I"
PERFORMANCE BOND

THE STATE OF TEXAS §
§
COUNTY OF HARRIS §

KNOW ALL MEN BY THESE PRESENTS

THAT WE, _____ as principal, hereinafter calle "Contractor" and the other subscriber hereto as Surety, do hereby acknowledge ourselves to be held and firmly bound to the Cit of Houston, a municipal corporation in the sum of _____ ($_____) for the payment of which sum, well and truly to be made to the City of Houston, and its successors the said Contractor and surety do bind themselves, their heirs, executors, administrators, successors, and assigns, jointly anc severally. DOLLARS

THE CONDITIONS OF THIS OBLIGATION ARE SUCH THAT:

WHEREAS, the said Contractor has on or about this day entered into a contract in writing with the City of Houston, Texas, entitled Graffiti Eradication & Protective Coating Application Services which is made a part of this instrument as fully and completely as if set in full herein.

NOW, THEREFORE, if the said Contractor shall faithfully and strictly perform as set out in said contract in all its terms, provisions, and stipulations in accordance with its true meaning and effect, and shall comply strictly with each and every provision of said contract and with this bond, then this obligation shall become null and void and shall have no further force and effect; otherwise the same is to remain in full force and effect.

It is further understood and agreed that the Surety does hereby relieve the said City of Houston or its representatives from the exercise of any diligence whatever in securing compliance on the part of the said Contractor with the terms of the said contract, and the Surety hereby waives any notice to it of any default, or delay by the Contractor in the performance of his contract and agrees that it, the said Surety, shall be bound to take notice of and shall be held to have knowledge of all acts or omissions of the said Contractor in all matters pertaining to said contract.

It is further expressly agreed by said Surety that the City of Houston or its representatives are at liberty at any time, without notice to the Surety, to make any changes in said contract and in the work to be done thereunder, as provided in said contract, and in the terms and conditions thereof, or to make any changes in, addition to, or deduction from the work to be done thereunder; and that such changes, if made, shall not in any way vitiate the obligation in this bond and undertaking, or release said Surety therefrom.

It is expressly agreed and understood that the Contractor and surety will fully indemnify and save harmless the City of Houston from any liability, loss, cost, expense or damage arising out of or in connection with the work done by the Contractor under said Contract.

In the event that the City of Houston shall bring any suit or other proceeding at law on this bond, the Contractor and Surety agree to pay to the said City the sum of ten percent (10%) of whatever amount may be recovered by the City in said suit or legal proceeding, which sum of ten percent (10%) is agreed by all parties to be payment to the City of Houston for the expense of or time consumed by its City Attorney, his assistants and office force and other cost and damage occasioned to the City. This said amount of ten percent (10%) is fixed and liquidated by the parties, it being agreed by them that the exact damage to the City would be difficult to ascertain.

This bond and all obligations created hereunder shall be performable in Harris County, Texas.

IN TESTIMONY WHEREOF, witness our hands this _____ day of _____ A.D. 20_____.

ATTEST: (Corporate Seal)

_____
(Principal)

By:_____
Name: (Typed)
Title:

By:_____
Name: (Typed)
Title:

ATTEST/WITNESS: (Corporate Seal)

_____
(Full Name of Surety)

By: _____
Name: (Typed)
Title:

By: _____
Name: (Typed)
Title:

The foregoing bond is approved and accepted this _____ day of _____, A.D. 20_____.

REVIEWED:

_____
Legal Assistant

PERFORMANCE BOND

Bond No. 902 89

THE STATE OF TEXAS §
§
COUNTY OF HARRIS §

KNOW ALL MEN BY THESE PRESENTS

THAT WE, Ideal Finishes, Inc. PO Box 2915 Sugarland, TX 77487 as principal, hereinafter calle "Contractor" and the other subscriber hereto as Surety, do hereby acknowledge ourselves to be held and firm bound to the City of Houston, a municipal corporation in the sum of Two Hundred Thirty-One Thousand Thre Hundred Eighty-Seven and No/100 DOLLARS. ($231,387.00) for the payment of which sum, well and truly to b made to the City of Houston, and its successors, the said Contractor and surety do bind themselves, their heirs executors, administrators, successors, and assigns, jointly and severally.

THE CONDITIONS OF THIS OBLIGATION ARE SUCH THAT:

WHEREAS, the said Contractor has on or about this day entered into a contract in writing with the City of Houston, Texas, entitled Graffiti Eradication & Protective Coating Application Services which is made a part of this instrument as fully and completely as if set in full herein.

NOW, THEREFORE, if the said Contractor shall faithfully and strictly perform as set out in said contract in all its terms, provisions, and stipulations in accordance with its true meaning and effect, and shall comply strictly with each and every provision of said contract and with this bond, then this obligation shall become null and void and shall have no further force and effect; otherwise the same is to remain in full force and effect.

It is further understood and agreed that the Surety does hereby relieve the said City of Houston or its representatives from the exercise of any diligence whatever in securing compliance on the part of the said Contractor with the terms of the said contract, and the Surety hereby waives any notice to it of any default, or delay by the Contractor in the performance of his contract and agrees that it, the said Surety, shall be bound to take notice of and shall be held to have knowledge of all acts or omissions of the said Contractor in all matters pertaining to said contract.

It is further expressly agreed by said Surety that the City of Houston or its representatives are at liberty at any time, without notice to the Surety, to make any changes in said contract and in the work to be done thereunder, as provided in said contract, and in the terms and conditions thereof, or to make any changes in, addition to, or deduction from the work to be done thereunder; and that such changes, if made, shall not in any way vitiate the obligation in this bond and undertaking, or release said Surety therefrom.

It is expressly agreed and understood that the Contractor and surety will fully indemnify and save harmless the City of Houston from any liability, loss, cost, expense or damage arising out of or in connection with the work done by the Contractor under said Contract.

In the event that the City of Houston shall bring any suit or other proceeding at law on this bond, the Contractor and Surety agree to pay to the said City the sum of ten percent (10%) of whatever amount may be recovered by the City in said suit or legal proceeding, which sum of ten percent (10%) is agreed by all parties to be payment to the City of Houston for the expense of or time consumed by its City Attorney, his assistants and office force and other cost and damage occasioned to the City. This said amount of ten percent (10%) is fixed and liquidated by the parties, it being agreed by them that the exact damage to the City would be difficult to ascertain.

This bond and all obligations created hereunder shall be performable in Harris County, Texas.

IN TESTIMONY WHEREOF, witness our hands this 23rd day of March, A.D. 2005.

ATTEST: (Corporate Seal)

Ideal Finishes, Inc.
(Principal)

By: _____
Name: (Typed)
Title:

By: _____
Name: (Typed)
Title:

ATTEST/WITNESS: (Corporate Seal)

Washington International Insurance Company
(Full Name of Surety)

By: _____
Name: Teresa L. Shaffer
Title: Bonds Account Manager

By: _____
Name: Thomas D. Moore
Title: Attorney-in-Fact

The foregoing bond is approved and accepted this _____ day of _____, A.D. 20_____.

REVIEWED:

This Bond has been reviewed as to form by the undersigned legal assistant and has been found to meet established Legal Department criteria.

_____
Date

_____
Legal Assistant

NAS SURETY GROUP

NORTH AMERICAN SPECIALTY INSURANCE COMPANY
WASHINGTON INTERNATIONAL INSURANCE COMPANY

GENERAL POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, THAT North American Specialty Insurance Company, a corporation duly organized and existing under laws of the State of New Hampshire, and having its principal office in the City of Manchester, New Hampshire, and Washington International Insurance Company, a corporation organized and existing under the laws of the State of Arizona and having its principal office in the City of Itasca, Illinois, each does hereby make, constitute and appoint:

John R. Ward, Thomas D. Moore,

Eva O. Limmer, Sherry Mesquita and Emily Mikeska

jointly or severally

Its true and lawful Attorney(s)-in-Fact, to make, execute, seal and deliver, for and on its behalf and as its act and deed, bonds or other writings obligatory in the nature of a bond on behalf of each of said Companies, as surety, on contracts of suretyship as are or may be required or permitted by law, regulation, contract or otherwise, provided that no bond or undertaking or contract or suretyship executed under this authority shall exceed the amount of:

TEN MILLION (10,000,000.00) DOLLARS

This Power of Attorney is granted and is signed by facsimile under and by the authority of the following Resolutions adopted by the Boards of Directors of both North American Specialty Insurance Company and Washington International Insurance Company at meetings duly called and held on the 24th of March, 2000:

"RESOLVED, that any two of the President, any Executive Vice President, any Vice President, any Assistant Vice President, the Secretary or any Assistant Secretary be, and each or any of them hereby is authorized to execute a Power of Attorney qualifying the attorney named in the given Power of Attorney to execute on behalf of the Company bonds, undertakings and all contracts of surety, and that each or any of them hereby is authorized to attest to the execution of any such Power of Attorney and to attach therein the seal of the Company; and it is

FURTHER RESOLVED, that the signature of such officers and the seal of the Company may be affixed to any such Power of Attorney or to any certificate relating thereto by facsimile, and any such Power of Attorney or certificate bearing such facsimile signatures or facsimile seal shall be binding upon the Company when so affixed and in the future with regard to any bond, undertaking or contract of surety to which it is attached."

NORTH AMERICAN SPECIALTY INSURANCE COMPANY CORPORATE SEAL 1973 NEW HAMPSHIRE

By Paul D. Amstutz
Paul D. Amstutz, President & Chief Executive Officer of Washington International Insurance Company & Vice President of North American Specialty Insurance Company

WASHINGTON INTERNATIONAL INSURANCE COMPANY CORPORATE SEAL ARIZONA

By
Steven P. Anderson, Executive Vice President of Washington International Insurance Company & Vice President of North American Specialty Insurance Company

IN WITNESS WHEREOF, North American Specialty Insurance Company and Washington International Insurance Company have caused their official seals to be hereunto affixed, and these presents to be signed by their authorized officers this 23 day of February, 2004.

North American Specialty Insurance Company
Washington International Insurance Company

State of Illinois
County of Du Page ss:

On this 23 day of February, 2004, before me, a Notary Public personally appeared Paul D. Amstutz, President and CEO of Washington International Insurance Company and Vice President of North American Specialty Insurance Company and Steven P. Anderson, Executive Vice President of Washington International Insurance Company and Vice President of North American Specialty Insurance Company, personally known to me, who being by me duly sworn, acknowledged that they signed the above Power of Attorney as officers of and acknowledged said instrument to be the voluntary act and deed of their respective companies.

OFFICIAL SEAL
YASMIN A PATEL
NOTARY PUBLIC - STATE OF ILLINOIS
MY COMMISSION EXPIRES 08-19-06

Yasmin A. Patel, Notary Public

I, James A. Carpenter, the duly elected Assistant Secretary of North American Specialty Insurance Company and Washington International Insurance Company, do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney given by said North American Specialty Insurance Company and Washington International Insurance Company, which is still in full force and effect.

IN WITNESS WHEREOF, I have set my hand and affixed the seals of the Companies this 23rd day of March, 2005.

James A. Carpenter, Vice President & Assistant Secretary of Washington International Insurance Company & Assistant Secretary of North American Specialty Insurance Company

IMPORTANT NOTICE

In order to Obtain Information or Make a Complaint:

You may call **Washington International Insurance Company and/or North American Specialty Insurance Company at the following toll-free number:**

800/338-0753

or

You may write to them at the following address:

Washington International Insurance Company
NAS Surety Group
1200 Arlington Heights Road #400
Itasca, IL 60143

You may also contact the **Texas Department of Insurance** to obtain information on companies, coverages, rights or complaints at:

800/252-3439

You may write to the **Texas Department of Insurance** at the following address:

P.O. Box 149104
Austin, TX 78714-9104

POLICYHOLDER DISCLOSURE
NOTICE OF TERRORISM INSURANCE COVERAGE
ENDORSEMENT

Coverage for acts of terrorism as defined in § 102(1) of the Terrorism Risk Insurance Act of 2002 ("the Act") is already included in this surety bond. You should know that, effective November 26, 2002, under your existing coverage, any losses caused by certified acts of terrorism would be partially reimbursed by the United States under a formula established by federal law. Under this formula, the United States pays 90% of covered terrorism losses exceeding the statutorily established deductible paid by the insurance company providing the coverage. The portion of your annual premium that is attributable to coverage for acts of terrorism is $0.

As your insurance/surety company we are sending you this notice to comply with the Terrorism Risk Insurance Act of 2002.

For questions regarding this notice please visit our website www.nassurety.com or you may call our office at 630-227-4825.

REV: 2/03 agent notice