

CITY OF TUCSON

REQUEST FOR PROPOSAL

REQUEST FOR PROPOSAL NUMBER: 120440
PROPOSAL DUE DATE: Friday, January 27, 2012, AT 4:00 P.M.,
Local AZ Time
PROPOSAL SUBMITTAL LOCATION: Department of Procurement
255 W. Alameda, 6th Floor, Tucson, AZ 85701

MATERIAL OR SERVICE: GRAFFITI ABATEMENT

PRE-PROPOSAL CONFERENCE DATE: Friday, January 20, 2012
TIME: 10:00 A.M., Local AZ Time
LOCATION: City Hall, Procurement 6th Floor Conference Room,
255 W. Alameda, Tucson, AZ 85701

SENIOR CONTRACT OFFICER: Cherie Odeski, CPPB
TELEPHONE NUMBER: (520) 837-4126
Cherie.Odeski@tucsonaz.gov

Interested offerors may obtain a copy of this complete solicitation by calling (520) 791-4217. A copy of this solicitation and possible future amendments may also be obtained from our Internet site at: <http://www.tucsonprocurement.com/> by selecting the Bid Opportunities link and the associated solicitation number.

Competitive sealed proposals for the specified material or service shall be received by the Department of Procurement, 255 W. Alameda, 6th Floor, Tucson, Arizona 85701, until the date and time cited.

Proposals must be in the actual possession of the Department of Procurement at the location indicated, on or prior to the exact date and time indicated above. Late proposals shall not be considered. The prevailing clock shall be the City Department of Procurement clock.

Proposals must be submitted in a sealed envelope. The Request for Proposal number and the offeror's name and address should be clearly indicated **on the outside** of the envelope. All proposals must be completed in ink or typewritten. Questions must be addressed to the Contract Officer listed above.

****NOTICE****

Effective July 1, 2009, the City will no longer mail Notices of available solicitations via the U.S. Postal Service. Email notifications will be provided to those vendors that have updated their vendor record and selected email as their preferred delivery method. For information on how to update your vendor record, please visit www.tucsonprocurement.com, click on What's New? and read the section titled "Notice of Solicitations." You may also call (520) 791-4217 if you have questions.

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PUBLISH DATE: Thursday, January 12, 2012

INTRODUCTION

The City of Tucson (City) seeks to continuously improve upon current practices and programs that promote a graffiti-free community. The City has budgeted \$37,500.00 per month for graffiti abatement work to be performed during the first term under this contract. Should additional funding become available the City reserves the right to increase the scope of work. Any funds not spent under this contract can be reallocated to the budgeted amount allocated for internal work on the project, resulting in a greater impact to the overall efficiency of the program. Payment for services shall be assessed in accordance with the agreed upon Price Proposal. The Contractor shall ensure that monthly fees for services do not exceed the budget amount stated above. In addition, Offerors are encouraged to identify opportunities for cost control and savings in their response to this solicitation.

Work will be divided into 2 groups; Group 1 painting and Group 2 media blasting which will include everything but paint. It is the intent of the City to award to one contractor, however at the City's sole discretion, multiple awards may be made.

Work shall be performed at a variety of locations within the City limits. Locations shall include, but not be limited to, City-owned property, inside privately owned property for which permission to enter has been obtained by the department initiating the work order (Contractor, Ward Offices, Contract Administrator or Tucson Police Department) and property owned by other government agencies.

The Contract Administrator and Tucson Police Department will conduct a quarterly review of contract performance for the first term of the contract, at a minimum.

The Contract Administrator, Procurement Department, and Tucson Police Department will conduct an Annual review of the contract for the first term of the contract, at minimum. Modifications to the Scope of Work agreed upon by the City and the Contractor may be made following the Annual review.

Graffiti removal methods may include painting, abrasive removal techniques and other methods proposed by the Contractor and approved by the City. Graffiti removal methods shall not harm, deface or mark the surface.

The City requires a minimum graffiti abatement rate of sixty-five (65) to ninety (90) square feet per hour per contractor crew.

The average size of a graffiti cleanup for paint and other media can range from a signature to a mural.

Six months of graffiti abatement activity history is provided in Attachment A. This information is provided for informational purposes only and is not a guarantee of volume of service.

SCOPE OF WORK

I. CONTRACTOR'S RESPONSIBILITIES – GROUPS 1 AND 2

A. Work Assignments

- 1) The Contractor shall contact the Contract Administrator or Designee once a month at a mutually agreed upon time to discuss the Contractor's schedule and if obligations are being met based on the contract. The Contractor shall receive work orders from the Contract Administrator's Designee daily and the Program Designee shall arrange for the work progress to be tracked and inspected. Weekend work orders will be assigned on Friday.
- 2) The Contractor shall receive work orders via electronic mail.
- 3) The Contractor shall return completed work orders in an electronic form. The work order shall be available electronically immediately upon completion for inspection either through the contractors electronic site or the City maintained site. The work order shall contain:
 - (a) Work order number
 - (b) Contractor's Technicians name
 - (c) The Date work order was posted.
 - (d) The Date and time the work order was completed.
 - (e) The abatement address or closest cross streets.
 - (f) How reported and by whom and any reportee notes.
 - (g) The exact GPS Coordinates by Latitude and Longitude with a GPS map showing the area cleaned
 - (h) The moniker or Crew deciphered name
 - (i) The Square footage of the area cleaned, type of surface, and cleaning method.
 - (j) A before picture of the item cleaned, with Tag and/or Crew name.
 - (k) Unit cost, subtotals and total for invoice
- 4) Upon receipt of a work order, the Contractor shall inspect the location and determine the method of removal that will maintain the integrity of the surface.
- 5) The Contractor shall provide services within twenty-four (24) hours of issuance of work orders. In the event that a site cannot be abated within twenty-four (24) hours due to inclement weather, size of the site or any other reason, the Contractor shall notify the Contract Administrator's Designee with the status of the site prior to the end of the twenty-four (24) hour timeline.
- 6) Work may be assigned as a targeted area graffiti removal, as directed by the Contract Administrator or Tucson Police Department Graffiti Unit, the Contractor shall be assigned to scheduled visits to specified sites, neighborhoods or corridors. The Contractor may be required to work with a site, neighborhood or corridor liaison in addition to the Contract Administrator.
- 7) The Contract Administrator or the Tucson Police Department Graffiti Unit may designate sites as needing an emergency response. An emergency work order will be issued immediately. Emergency response sites will have first priority and may require abatement on receipt of work order.
- 8) The Contractor shall deliver completed work orders to the Contract Administrator via electronic mail, for the previous month following the assignment of the work order. As designated in Section 3, a-k above. Accommodations for special projects may be made.
- 9) At its discretion the City may determine that the contractor obtain a waiver for work inside private property. Should the Contractor determine that a waiver is required for work, the Contractor shall contact the Contract Administrator or designee for further direction. The signed waiver shall accompany the work order and be sent electronically. The Contract Administrator shall maintain a database of Consent Forms.
- 10) In the event that the Contractor identifies graffiti in close proximity to the site designated on the work order or in the targeted area graffiti removal boundaries, the Contractor shall abate the graffiti and submit documentation and an invoice for the work as if in possession of a work order.

B. Description of Work

1. The completed work order shall be charged by Square foot.
2. The method of removal shall not leave shadows or ghosts and shall not follow the pattern of the graffiti such that letters or shapes remain apparent on the surface after the graffiti markings have been removed.
3. The Contractor shall protect the surfaces adjacent to the area to be abated.
4. The Contractor shall abate the entire surface in the event that the graffiti covers a significant area of the surface. The Contract Administrator shall determine whether or not an entire surface will be abated on a case by case basis.
5. In the event that the Contractor arrives on site to find the graffiti has been abated, the Contractor shall notify the Contract Administrator or designee and submit photos of the abated location.
6. The Contractor shall ensure protection of the work area at all times including, but not limited to:
 - a. Barricading the area of work at distances, so as not to allow persons who are not involved with the abatement into the area.
 - b. Barricading area for work performed within the public right-of-way.
 - c. Using warning signs and sidewalk and street cones to inform the public of work being conducted.
 - d. Immediately correcting damages to the work site.
 - e. Leaving work in undamaged condition.
 - f. Providing signs to protect the finishes and the public.
7. The Contractor shall remove all equipment and materials from each site and leave the site broom clean at the end of each workday.
8. The Contractor shall dispose of all material containers and excess materials in accordance with all applicable laws, regulations, ordinances, codes and any other legislative or statutory requirements. Material rinse residue shall be collected and disposed of appropriately.
9. The Contractor is responsible for obtaining and purchasing any water necessary for abatement. Water is available at fire hydrants throughout the City. The Contractor is responsible for obtaining all necessary permits, fittings and water meters that may be required by the City.

C. Personnel

1. Contractor shall designate one specific individual to oversee and inspect work performed by Contractor's personnel assigned to this contract. The designated representative shall be immediately available during work activities to receive communications from the Contract Administrator.
2. The Contractor shall utilize only trained, competent employees in the performance of this contract. At the request of the City, the Contractor shall remove from assignment to this contract any incompetent, abusive or disorderly employee, whether supervisory or non-supervisory.
3. The Contractor's crews shall be in possession of a copy of the resulting contract and the MSDS for each product used in the performance of work at all times.
4. Any person assigned to this contract found to be in possession of and / or under the influence of intoxicants or narcotics shall be removed from assignment to this contract. This person may be subject to arrest and criminal prosecution.

D. Equipment

1. The Contractor's vehicles and equipment shall be neat in appearance and easily identified. Identification on the Contractor's vehicles shall consist of, at a minimum, company name and local telephone number in print no less than eight (8) inches tall.
2. The Contractor shall maintain its vehicles and equipment in safe and mechanically sound condition.
3. The Contractor shall provide all personnel, vehicles, materials, supplies and equipment necessary to perform services with the exception of paint that may be provided by the City.
4. The City may make storage space for the Contractor's vehicles, materials, supplies and equipment available.

E. Compliance with Applicable Laws and Regulations

1. Contractor shall perform all requirements under this contract in strict observance of and compliance with all applicable laws, regulations, ordinances, codes and any other legislative or statutory requirements.

2. Contractor warrants that the performance of services under this contract shall be compliant with the current requirements of the Occupational Safety and Health Act (OSHA) and as it may be amended or updated throughout the term of this contract.
3. All paints, chemicals, or materials utilized by the contractor must be used in a manner specified by the product manufacturer. Contractor staff must utilize proper personal protective equipment (PPE) and be properly trained in the product's application. All waste materials generated under this contract must be properly disposed; following all federal, state and local regulations. Hazardous materials (as defined under RCRA) cannot be disposed in Los Reales landfill, or in refuse containers being collected by the City of Tucson Environmental Services.

F. Use of Products

1. Contractor shall ensure that all employees have immediate access to the Material Safety Data Sheet's (MSDS) for each product used in the performance of this contract.
2. Contractor shall be in compliance with all provisions of the Federal Hazard Communication Act.
3. All products used by the Contractor shall be manufactured products specifically intended for purpose for which they are being used. Contractor shall not devise any products of his/her own making for use under this contract. The use of all products shall be in strict conformance with the manufacturer's specifications.

G. Protection of the Public and Damages to Existing Structures

1. The Contractor shall exercise caution at all times for the protection of persons and property. All fines, penalties and/or repair charges resulting from the Contractor's actions shall be the sole responsibility of the Contractor.
2. The Contractor shall not permit placing or use of equipment in such a manner as to block vehicle traffic lanes or create safety hazards. The Contractor shall be responsible for the use of all appropriate warning devices.
3. The Contractor shall avoid damage to existing structures. In the event that a structure is damaged in the course of work, the Contractor shall be solely responsible for its repair or replacement.

H. Invoices

1. All invoices for work performed under this contract shall be submitted electronically in a format approved by the Contract Administrator. The invoice shall be based on a square foot price.
2. The following shall be included with the invoice:
 - (a) Work order number
 - (b) Contractor's Technicians name
 - (c) The Date work order was posted.
 - (d) The Date and time the work order was completed.
 - (e) The abatement address or closest cross streets.
 - (f) How reported and by whom and any reportee notes.
 - (g) The exact GPS Coordinates by Latitude and Longitude with a GPS map showing the area cleaned
 - (h) The moniker or Crew deciphered name
 - (i) The Square footage of the area cleaned, type of surface, and cleaning method.
 - (j) A before picture of the item cleaned, with Tag and/or Crew name.
 - (k) Unit cost, subtotals and total for invoice
 - (l) Contract number
 - (m) Purchase order number
 - (n) Square footage removed for each method of removal

J. On-Line Access to Records Database

The Contractor may propose providing to the City on-line computer access to the Contractor's records data base, if the Contractor maintains such a database. Should such service be proposed, the Contractor shall provide sufficient technical information and detail for the City to access and use the service. The service shall be provided at no additional cost to the City.

K. Reporting

1. Contractor shall act as the Custodian of Records for work orders and associated information and will make this information available to the City upon request.
2. In the event that the term of this contract expires or is terminated, and the Contractor no longer provides services to the City, the Contractor shall forward all prior records to the City.
3. The Contractor shall provide any proposed additional hardware or software required to the City at no charge.
4. Contractor shall make online storage of records accessible to City staff.

II. ADDITIONAL SPECIFICATIONS – GROUP 1 – PAINTING

1. Subject to availability, the City will provide the Contractor with colors of paint for use on City property as defined by the Contract Administrator.
2. The Contractor shall reasonably match existing painted surfaces using an approved paint palette provided by the Contract Administrator. The paint palette will be provided to the successful contractor. In the event that a private property owner provides matching paint, the Contractor shall use the paint provided by the property owner at the owner's property. If the paint is not a match, the Contractor shall fog the new paint with the existing
3. The Contractor shall not paint previously unpainted surfaces and finishes such as slump stone, split face masonry, stone, brick or concrete block unless painting is specifically requested by the property owner or **Contract Administrator**. These specific requests shall be noted on the work order for the site.

III. ADDITIONAL SPECIFICATIONS – GROUP 2 – MEDIA BLASTING

1. All chemical graffiti removal products shall be biodegradable and environmentally safe.
2. The Contractor shall perform all abrasive removal techniques so that the abatement area is blended into the adjacent surface.
3. Should one location require more than one removal technique and the total square footage of the abatement does not exceed one hundred (100) feet, the City shall not be charged the minimum charge for both techniques. The Contractor may charge the average of the minimum charges for the techniques used.
4. Should one location require more than one removal technique with one technique exceeding one hundred (100) square feet and the other not exceeding one hundred (100) square feet, the Contractor shall charge the per square foot rate for each technique. The Contractor shall not charge two minimum charges for any one location.

INSTRUCTIONS TO OFFERORS

1. DEFINITION OF KEY WORDS USED IN THE SOLICITATION:

For purposes of this solicitation and subsequent contract, the following definitions shall apply:

City: The City of Tucson, Arizona

Contract: The legal agreement executed between the City and the Contractor/Consultant. The Contract shall include this RFP document incorporated herein by reference, all terms, conditions, specifications, scope of work, Amendments, the Contractor's offer and negotiated items as accepted by the City.

Contractor/Consultant: The individual, partnership, or corporation who, as a result of the competitive solicitation process, is awarded a contract by the City.

Contract Representative: The City employee or employees who have specifically been designated to act as a contact person or persons to the Contractor, and is responsible for monitoring and overseeing the Contractor's performance under this Contract.

Director of Procurement: The contracting authority for the City, authorized to sign contracts and amendments thereto on behalf of the City.

May: Indicates something that is not mandatory but permissible.

Offeror: The individual, partnership, or corporation who submits a proposal in response to a solicitation.

Shall, Will, Must: Indicates a mandatory requirement. Failure to meet these mandatory requirements, if they constitute a substantive requirement, may, at the City's sole discretion, result in the rejection of a proposal as non-responsive.

Should: Indicates something that is recommended but not mandatory. If the Offeror fails to provide recommended information, the City may, at its sole option, ask the Offeror to provide the information or evaluate the proposal without the information.

2. **PRE-PROPOSAL CONFERENCE:** If scheduled, the date and time of a Pre-Proposal conference is indicated on the cover page of this document. Attendance at this conference is not mandatory. Written minutes and/or notes will not be available, therefore attendance is encouraged. If an Offeror is unable to attend the Pre-Proposal Conference questions may be submitted in writing. Offerors are encouraged to submit written questions, via electronic mail or facsimile, at least five days prior to the Request for Proposal due date to the Contract Officer listed above. The purpose of this conference will be to clarify the contents of this Request for Proposal in order to prevent any misunderstanding of the City's position. Any doubt as to the requirements of this Request for Proposal or any apparent omission or discrepancy should be presented to the City at this conference. The City will then determine the appropriate action necessary, if any, and may issue a written amendment to the Request for Proposal. Oral statements or instructions will not constitute an amendment to this Request for Proposal.
3. **INQUIRIES:** Any question related to the Request for Proposal shall be directed to the Contract Officer whose name appears above. An offeror shall not contact or ask questions of the department for whom the requirement is being procured. The Contract Officer may require any and all questions be submitted in writing. Offerors are encouraged to submit written questions via electronic mail or facsimile, at least five days prior to the proposal due date. Any correspondence related to a solicitation should refer to the appropriate Request for Proposal number, page and paragraph number. An envelope containing questions should be identified as such, otherwise it may not be opened until after the official proposal due date and time. Oral interpretations or clarifications will be without legal effect. Only questions answered by a formal written amendment to the Request for Proposal will be binding.
4. **AMENDMENT OF REQUEST FOR PROPOSAL:** The Offeror shall acknowledge receipt of a Request for Proposal Amendment by signing and returning the document by the specified due date and time.
5. **FAMILIARIZATION OF SCOPE OF WORK:** Before submitting a proposal, each offeror shall familiarize itself with the Scope of Work, laws, regulations and other factors affecting contract performance. The Offeror shall be responsible for fully understanding the requirements of the subsequent Contract and otherwise satisfy itself as to the expense and difficulties accompanying the fulfillment of contract requirements. The submission of a proposal will constitute a representation of compliance by the Offeror. There will be no subsequent financial adjustment, other than that provided by the subsequent Contract, for lack of such familiarization.

6. PREPARATION OF PROPOSAL:

- A. All proposals shall be on the forms provided in this Request for Proposal package. It is permissible to copy these forms as required. Facsimiles or electronic mail proposals shall not be considered.
- B. At a minimum, your proposal should include the signed Offer and Acceptance form, signed copies of any solicitation amendments, completed Price Page and your response to all evaluation criteria.
- C. The Offer and Acceptance page shall be signed by a person authorized to submit an offer. An authorized signature on the Offer and Acceptance page, Proposal Amendment(s), or cover letter accompanying the proposal documents shall constitute an irrevocable offer to sell the good and/or service specified herein. Offeror shall submit any additional requested documentation, signifying intent to be bound by the terms of the agreement.
- D. The authorized person signing the proposal shall initial erasure, interlineations or other modifications on the proposal.
- E. In case of error in the extension of prices in the proposal, unit price shall govern when applicable.
- F. Periods of time, stated as a number of days, shall be in calendar days.
- G. It is the responsibility of all offerors to examine the entire Request for Proposal package and seek clarification of any requirement that may not be clear and to check all responses for accuracy before submitting a proposal. Negligence in preparing a proposal confers no right of withdrawal after due date and time.
- H. The City shall not reimburse the cost of developing, presenting, submitting or providing any response to this solicitation.
- I. Offeror must list any subcontractors to be utilized in the performance of the services specified herein. For each subcontractor, details on respective qualifications must be included.

7. PAYMENT DISCOUNTS: Payment discount periods shall be computed from the date of receipt of the material/service or correct invoice, whichever is later, to the date City's payment warrant is mailed. Unless freight and other charges are itemized, any discount provided shall be taken on full amount of invoice. Payment discounts of twenty-one calendar days or more shall be deducted from the proposed price in determining the price points. However, the City shall be entitled to take advantage of any payment discount offered by a vendor provided payment is made within the discount period.

8. TAXES: The City of Tucson is exempt from federal excise tax, including the federal transportation tax.

9. PROPOSAL/SUBMITTAL FORMAT: An original and 6 copies (7 total) of each proposal should be submitted on the forms and in the format specified in the RFP. Offerors shall also submit one electronic copy of the proposal on cd, disc or zip disc in MS Office97 or .pdf format. Any confidential information shall be submitted on a separate cd, disc or zip disc. The original copy of the proposal should be clearly labeled "Original" and shall be single-sided, three hole punched and in a binder. The material should be in sequence and related to the RFP. **The sections of the submittal should be tabbed, clearly identifiable and should include a minimum of the following sections: the completed Offer and Acceptance Form, all signed Amendments, a copy of this RFP document and the Offeror's response to the Evaluation Criteria including the completed Price Page.** Failure to include the requested information may have a negative impact on the evaluation of the offeror's proposal.

10. EXCEPTIONS TO CONTRACT PROVISIONS: A response to any Request for Proposal is an offer to contract with the City based upon the contract provisions contained in the City's Request for Proposal, including but not limited to, the specifications, scope of work and any terms and conditions. Offerors who wish to propose modifications to the contract provisions must clearly identify the proposed deviations and any proposed substitute language. The provisions of the Request for Proposal cannot be modified without the express written approval of the Director or his designee. If a proposal or offer is returned with modifications to the contract provisions that are not expressly approved in writing by the Director or his designee, the contract provisions contained in the City's Request for Proposal shall prevail.

11. PUBLIC RECORD: All proposals submitted in response to this Request for Proposal shall become the property of the City and shall become a matter of public record available for review subsequent to the award notification.

12. CONFIDENTIAL INFORMATION: The City of Tucson is obligated to abide by all public information laws. If an Offeror believes that any portion of a proposal, offer, specification, protest or correspondence contains information that should be withheld, a statement advising the Contract Officer of this fact should accompany the submission and the information shall be so identified wherever it appears. The City shall review all requests for confidentiality and may provide a written determination to designate specified documents confidential or the request may be denied. Price is not confidential and will not be withheld. If the confidential request is denied, such information shall be disclosed as public information, unless the offeror submits a formal written objection.

- 13. CERTIFICATION:** By signature on the Offer and Acceptance page, solicitation Amendment(s), or cover letter accompanying the submittal documents, Offeror certifies:
- A. The submission of the offer did not involve collusion or other anti-competitive practices.
 - B. The Offeror shall not discriminate against any employee or applicant for employment in violation of Federal or State law.
 - C. The Offeror has not given, offered to give, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, meal or service to a public servant in connection with the submitted offer.
 - D. The Offeror hereby certifies that the individual signing the submittal is an authorized agent for the Offeror and has the authority to bind the Offeror to the Contract.
- 14. WHERE TO SUBMIT PROPOSALS:** In order to be considered, the Offeror must complete and submit its proposal to the City of Tucson Department of Procurement at the location indicated, prior to or at the exact date and time indicated on the Notice of Request for Proposal page. The Offeror's proposal shall be submitted in a sealed envelope. The words "SEALED PROPOSAL" with the REQUEST FOR PROPOSAL TITLE, REQUEST FOR PROPOSAL NUMBER, PROPOSAL DUE DATE AND TIME and OFFEROR'S NAME AND ADDRESS shall be written on the envelope.
- 15. LATE PROPOSALS:** Late proposals will be rejected.
- 16. OFFER AND ACCEPTANCE PERIOD:** In order to allow for an adequate evaluation, the City requires an offer in response to this solicitation to be valid and irrevocable for ninety (90) days after the proposal due date and time.
- 17. WITHDRAWAL OF PROPOSAL:** At any time prior to the specified solicitation due date and time, an offeror may formally withdraw the proposal by a written letter, facsimile or electronic mail from the Offeror or a designated representative. Telephonic or oral withdrawals shall not be considered.
- 18. DISCUSSIONS:** The City reserves the right to conduct discussions with offerors for the purpose of eliminating minor irregularities, informalities, or apparent clerical mistakes in the proposal in order to clarify an offer and assure full understanding of, and responsiveness to, solicitation requirements.
- 19. CONTRACT NEGOTIATIONS:** Exclusive or concurrent negotiations may be conducted with responsible offeror(s) for the purpose of altering or otherwise changing the conditions, terms and price of the proposed contract unless prohibited. Offerors shall be accorded fair and equal treatment in conducting negotiations and there shall be no disclosure of any information derived from proposals submitted by competing offerors. Exclusive or concurrent negotiations shall not constitute a contract award nor shall it confer any property rights to the successful offeror. In the event the City deems that negotiations are not progressing, the City may formally terminate these negotiations and may enter into subsequent concurrent or exclusive negotiations with the next most qualified firm(s).
- 20. VENDOR APPLICATION:** Prior to the award of a Contract, the successful offeror shall register with the City's Department of Procurement. Registration can be completed at <http://www.tucsonprocurement.com/> by clicking on Vendor Services. Please note that email notifications of newly published solicitations and amendments will be provided to those vendors that select email as their preferred delivery method in their vendor record.
- 21. CITY OF TUCSON BUSINESS LICENSE:** It is the responsibility of the Contractor to have a City of Tucson Business License throughout the life of this contract or a written determination from the City's Business License Section that a license is not required. At any time during the contract, the City may request the Contractor to provide a valid copy of the business license or a written determination that a business license is not required. Application for a City Business License can be completed at <http://www.tucsonaz.gov/etax>. For questions contact the City's Business License Section at (520) 791-4566 or email at tax-license@tucsonaz.gov.
- 22. UPON NOTICE OF INTENT TO AWARD:** The apparent successful offeror shall sign and file with the City, within five (5) days after Notice of Intent to Award, all documents necessary to the successful execution of the Contract.

- 22. AWARD OF CONTRACT:** Notwithstanding any other provision of the Request for Proposal, the City reserves the right to:
- (1) waive any immaterial defect or informality; or
 - (2) reject any or all proposals, or portions thereof; or
 - (3) reissue the Request for Proposal.

A response to this Request for Proposal is an offer to contract with the City based upon the terms, conditions and Scope of Work contained in the City's Request for Proposal. Proposals do not become contracts unless and until they are executed by the City's Director of Procurement and the City Attorney. A contract has its inception in the award, eliminating a formal signing of a separate contract. All of the terms and conditions of the contract are contained in the Request for Proposal, unless any of the terms and conditions are modified by a Request for Proposal amendment, a Contract Amendment, or by mutually agreed terms and conditions in the Contract documents.

- 23. PROPOSAL RESULTS:** The name(s) of the successful offeror(s) will be posted on the Procurement Department's Internet site at <http://www.tucsonprocurement.com/> upon issuance of a Notice of Intent to Award or upon final contract execution.
- 24. PROTESTS:** A protest shall be in writing and shall be filed with the Director of Procurement. A protest of a Request for Proposal shall be received at the Department of Procurement not less than five (5) working days before the Request for Proposal due date. A protest of a proposed award or of an award shall be filed within ten (10) days after issuance of notification of award or issuance of a notice of intent to award, as applicable. A protest shall include:
- A. The name, address, and telephone number of the protestant;
 - B. The signature of the protestant or its representative;
 - C. Identification of the Request for Proposal or Contract number;
 - D. A detailed statement of the legal and factual grounds of protest including copies of relevant documents; and
 - E. The form of relief requested.

PROPOSAL EVALUATION REQUIREMENTS

I. PROPOSAL EVALUATION CRITERIA – (listed in relative order of importance)

- A. Qualifications & Experience
- B. Method of Approach
- C. Price Proposal

II. REQUIREMENTS SPECIFIC TO EVALUATION CRITERIA: The narrative portion and the materials presented in response to this Request for Proposal should be submitted in the same order as requested and must contain, at a minimum, the following:

GROUP 1 – PAINTING

A. Qualifications & Experience

1. Provide a brief history of the firm.
2. List and provide documentation of all contractors' licenses held by Contractor and critical sub-contractors.
3. Provide resumes and/or biographies for all key personnel, who will be assigned to this contract.
4. Describe the training employees receive before beginning graffiti abatement work.
5. Provide at least three (3) references for work that is similar in scope to the Scope of Work of this contract.
6. If the use of subcontractors is proposed, provide information about the subcontractor and what service they will be providing.
7. Provide evidence that supports that after normal business hours (8:00 AM – 5:00 PM) emergency responses can be met.

B. Method of Approach

1. Describe in detail the equipment proposed to be used in the performance of this contract including, but not limited to, vehicles, spraying equipment, compressors, etc.
2. Describe the manner in which your firm will identify that it is under contract with the City to perform services on its vehicles. Describe the media to be used to identify and how it will be removed from the vehicles and stored when the vehicles are not performing services for the City.
3. Describe in detail the firm's photo equipment. Describe the firm's back up plan should photo equipment fail. Describe the manner in which you will deliver photographs to the Contract Representative.
4. Describe the manner in which you will show the size of the area of graffiti in photographs, as required in the Scope of Work.
5. Describe the manner in which you will document the address of the graffiti in photographs, as required in the Scope of Work.
6. Describe in detail your process for determining the appropriate graffiti removal method at each site.
7. Describe in detail your methods for removing graffiti from the following surfaces:
 - a. Previously painted surfaces
8. Describe your methods for preparing the following surfaces for appropriate abatement:
 - a. Previously painted surfaces
9. Describe the manner in which you will protect surfaces adjacent to the abatement area.
10. Describe in detail what features your records system offers that would lend themselves to investigative leads for prosecution/restitution purposes.
11. Describe how City staff will have access to these records i.e., online secure site, records request, etc.
12. Submit an example of the reporting format you intend to utilize under this contract.
13. Describe in detail the manner in which you will complete elevated cleanings less than 20 feet

C. Price Proposal

1. Provide price proposal as requested on the Price Page attached herein.

GROUP 2 – MEDIA BLASTING

A. Qualifications & Experience

1. Provide a brief history of the firm.
2. List and provide documentation of all contractors' licenses held by Contractor and critical sub-contractors.
3. Provide resumes and/or biographies for all key personnel, who will be assigned to this contract.
4. Describe the training employees receive before beginning graffiti abatement work.
5. Provide at least three (3) references for work that is similar in scope to the Scope of Work of this contract.
6. If the use of subcontractors is proposed, provide information about the subcontractor and what service they will be providing.
7. Provide evidence that supports that after normal business hours (8:00 AM – 5:00 PM) emergency responses can be met.

B. Method of Approach

1. Describe in detail the equipment proposed to be used in the performance of this contract including, but not limited to, vehicles, spraying equipment, compressors, etc.
2. Describe the manner in which your firm will identify that it is under contract with the City to perform services on its vehicles. Describe the media to be used to identify and how it will be removed from the vehicles and stored when the vehicles are not performing services for the City.
3. Describe in detail the firm's photo equipment. Describe the firm's back up plan should photo equipment fail. Describe the manner in which you will deliver photographs to the Contract Representative.
4. Describe the manner in which you will show the size of the area of graffiti in photographs, as required in the Scope of Work.
5. Describe the manner in which you will document the address of the graffiti in photographs, as required in the Scope of Work.
6. Describe in detail your process for determining the appropriate graffiti removal method at each site.
7. Describe in detail your methods for removing graffiti from the following surfaces:
 - a. Unpainted slump stone
 - b. Unpainted concrete block
 - c. Unpainted wood
 - d. Previously painted surfaces
8. Describe your methods for preparing the following surfaces for appropriate abatement:
 - a. Unpainted slump stone
 - b. Unpainted concrete block
 - c. Unpainted wood
 - d. Previously painted surfaces
9. Describe the manner in which you will protect surfaces adjacent to the abatement area.
10. Describe in detail what features your records system offers that would lend themselves to investigative leads for prosecution/restitution purposes.
11. Provide information about the ability of the Contractor to provide on-line access to records database, including hard copy samples of each page of the database, and provide the City access to the database of actual or sample information.
12. Describe how City staff will have access to these records i.e., online secure site, records request, etc.
13. Submit an example of the reporting format you intend to utilize under this contract.
14. Describe in detail the manner in which you will complete elevated cleanings less than 20 feet

C. Price Proposal

1. Provide price proposal as requested on the Price Page attached herein.

III. GENERAL

A. Shortlist:

The City reserves the right to shortlist the offerors on all of the stated criteria. However, the City may determine that shortlisting is not necessary.

B. Interviews:

The City reserves the right to conduct interviews with some or all of the offerors at any point during the evaluation process. However, the City may determine that interviews are not necessary. In the event interviews are conducted, information provided during the interview process shall be taken into consideration when evaluating the stated criteria. The City shall not reimburse the offeror for the costs associated with the interview process.

C. Additional Investigations:

The City reserves the right to make such additional investigations as it deems necessary to establish the competence and financial stability of any offeror submitting a proposal.

D. Prior Experience:

Experiences with the City and entities that evaluation committee members represent and that are not specifically mentioned in the solicitation response may be taken into consideration when evaluating offers.

E. Multiple Awards:

To provide adequate contract coverage, at the City's sole discretion, multiple awards may be made.

SPECIAL TERMS AND CONDITIONS

1. **KEY PERSONNEL:** It is essential that the Contractor provide adequate experienced personnel, capable of and devoted to the successful accomplishment of work to be performed under this Contract. The Contractor must agree to assign specific individuals to the key positions.

The Contractor agrees that, once assigned to work under this Contract, key personnel shall not be removed or replaced without written notice to and subsequent concurrence by the City.

If key personnel are not available for work under this Contract for a continuous period exceeding thirty calendar days, or are expected to devote substantially less effort to the work than initially anticipated, the Contractor shall immediately notify the City, and shall, subject to the concurrence of the City, replace such personnel with personnel of substantially equal ability and qualifications.

2. **INSURANCE:** The Contractor agrees to:

A. Obtain insurance coverage of the types and amount required in this section and keep such insurance coverage in force throughout the life of this Contract. All policies will contain an endorsement providing that written notice be given to the City at least ten (10) calendar days prior to termination, cancellation, or reduction in coverage in any policy.

B. The Comprehensive General Liability Insurance and Comprehensive Automobile Liability Insurance policies will include the City as an additional insured with respect to liability arising out of the performance of this Contract. The Contractor agrees that the insurance hereunder will be primary and that any insurance carried by the City will be excess and not contributing.

- C. Provide and maintain minimum insurance limits as applicable.

<u>Coverage Afforded</u>	<u>Limits of Liability</u>
Workmen's Compensation Employer's Liability	Statute \$100,000
Comprehensive General Liability Insurance Including: (1) Products & Completed Operations (2) Blanket Contractual	\$1,000,000 Bodily Injury Combined Single Limit \$100,000 Property Damage
Comprehensive Automobile Including: (1) Non-Owned (2) Leased (3) Hired Vehicles	\$1,000,000 Bodily Injury Liability Insurance Combined Single Limit \$100,000 Property Damage

Contractor will present to the City written evidence (Certifications of Insurance) of compliance with Items A., B and C. above. Said evidence shall be to the City Procurement Director's satisfaction.

3. **TERM AND RENEWAL:** The term of the Contract shall commence upon award and shall remain in effect for a period of one (1) year, unless terminated, canceled or extended as otherwise provided herein. The Contractor agrees that the City of Tucson shall have the right, at its sole option, to renew the Contract for four (4) additional one-year periods or portions thereof. In the event that the City exercises such rights, all terms, conditions and provisions of the original Contract shall remain the same and apply during the renewal period with the possible exception of price and minor scope additions and/or deletions.
4. **PRICE ADJUSTMENT:** The City will review fully documented requests for price adjustment after any Contract has been in effect for one (1) year. Any price adjustment will only be made at the time of Contract renewal and/or extension and will be a factor in the extension review process. The City will determine whether the requested price adjustment or an alternate option, is in the best interest of the City. Any price adjustment will be effective upon the effective date of the Contract extension.
5. **COOPERATIVE PURCHASING:** Any Contract resulting from this solicitation shall be for the use of the City of Tucson. In addition, public and nonprofit agencies that have entered into a Cooperative Purchasing Agreement with the City of Tucson's Department of Procurement are eligible to participate in any subsequent Contract. See www.tucsonaz.gov/procure and click on Cooperatives for a list of the public and nonprofit agencies that have currently entered into Cooperative Purchasing Agreements with the City of Tucson. Additionally, this contract is eligible for use by the Strategic Alliance for Volume Expenditures (SAVE) cooperative. See <http://www.maricopa.gov/Materials/PubDocuments/SAVE-members.pdf> for a listing of participating agencies. The parties agree that these lists are subject to change.

Any orders placed to, or services required from, the successful Contractor(s) will be requested by each participating agency. Payment for purchases made under this agreement will be the sole responsibility of each participating agency. The Contractor may negotiate additional expenses incurred as a result of participating agencies' usage of this contract (i.e., freight charges, travel related expenses, etc.). Additionally, the Contractor may negotiate pricing adjustments (upwards or downwards) based upon the participating agency's usage/volume. The City shall not be responsible for any disputes arising out of transactions made by others.

The Contractor(s) will provide an electronic copy of the complete Contract to the City of Tucson Department of Procurement upon receipt of the Notice of Intent to Award. At the City's request, the successful Contractor(s) may also be requested to provide an electronic copy of the complete Contract to a participating agency.

STANDARD TERMS AND CONDITIONS

1. **ADVERTISING:** Contractor shall not advertise or publish information concerning this Contract without prior written consent of the City's Director of Procurement.
2. **AFFIRMATIVE ACTION:** Contractor shall abide by the provisions of the Tucson Procurement Code Chapter 28, Article XII.
3. **AMERICANS WITH DISABILITIES ACT:** The Contractor shall comply with all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101, et seq.) and applicable Federal regulations under the Act.
4. **APPLICABLE LAW:** This Contract shall be governed, and the City and Contractor shall have all remedies afforded to each, by the Tucson Procurement Code and the law of the State of Arizona. State law claims shall be brought only in Pima County Superior Court.
5. **ASSIGNMENT-DELEGATION:** No right or interest in this Contract shall be assigned by the Contractor without prior written permission of the City, and no delegation of any duty of the Contractor shall be made without prior written permission of the City's Director of Procurement. The City shall not unreasonably withhold approval and shall notify the Contractor of the City's position by written notice.
6. **CERTIFICATION OF COMPLIANCE WITH A.R.S. SEC. 35-393 ET SEQ.:** By signing this contract, the Contractor certifies that it does not have scrutinized business operations in Iran as required by A.R.S. sec. 35-393 et seq. If the City determines that the Contractor has submitted a false certification, the City may impose remedies as provided in the Tucson Procurement Code up to and including termination of this contract.
7. **CHILD/SWEAT-FREE LABOR POLICY:** The Contractor shall comply with all applicable provisions of the United States Federal and State Child Labor and Worker's Right laws and agrees if called upon to affirm in writing, that they, and any subcontractor involved in the provision of goods to the City, are in compliance.
8. **CLEAN UP:** The Contractor shall at all times keep the contract area, including storage areas used by the Contractor, free from accumulation of waste material or rubbish and, prior to completion of the work, remove any rubbish from the premises and all tools, scaffolding, equipment and materials not property of the City. Upon completion of the repair, the Contractor shall leave the work and premises in clean, neat and workmanlike condition.
9. **COMMENCEMENT OF WORK:** The Contractor is cautioned not to commence any billable work or provide any material or service under this Contract until Contractor receives purchase order or is otherwise directed to do so, in writing, by the City.
10. **CONFIDENTIALITY OF RECORDS:** The Contractor shall establish and maintain procedures and controls that are acceptable to the City for the purpose of assuring that no information contained in its records or obtained from the City or from others in carrying out its functions under the Contract shall be used by or disclosed by it, its agents, officers, or employees, except as required to efficiently perform duties under the Contract. Persons requesting such information should be referred to the City. Information pertaining to individual persons shall not be divulged other than to employees or officers of Contractor as needed for the performance of duties under the Contract, unless otherwise agreed to in writing by the City.
11. **CONTRACT AMENDMENTS:** The Procurement Department has the sole authority to:
 - A. Amend the contract or enter into supplemental verbal or written agreements;
 - B. Grant time extensions or contract renewals;
 - C. Otherwise modify the scope or terms and provisions of the contract.

This Contract shall only be modified with the approval of the Department of Procurement. Except in the case of a documented emergency, approval must be granted prior to performance. Any contract modification not explicitly approved by the Procurement Department through a written contract amendment or change order is performed at the sole risk of the Contractor and may not be eligible for payment by the City.

12. **CONTRACT:** The Contract shall be based upon the Request for Proposal issued by the City and the Offer submitted by the Contractor in response to the Request for Proposal. The offer shall substantially conform to the terms, conditions, specifications and other requirements set forth within the text of the Request for Proposal. The City reserves the right to clarify any contractual terms with the concurrence of the Contractor; however, any substantial non-conformity in the offer, as determined by the City's Director of Procurement, shall be deemed non-responsive and the offer rejected. The Contract shall contain the entire agreement between the City of Tucson and the Contractor relating to this requirement and shall

prevail over any and all previous agreements, contracts, proposals, negotiations, purchase orders, or master agreements in any form.

- 13. DEFAULT IN ONE INSTALLMENT TO CONSTITUTE TOTAL BREACH:** Contractor shall deliver conforming materials in each installment or lot of this Contract and may not substitute nonconforming materials. Delivery of nonconforming materials, or default of any nature, may constitute breach of the Contract. Noncompliance may be deemed a cause for possible Contract termination.
- 14. DUPLEXED/RECYCLED PAPER:** In accordance with efficient resource procurement and utilization policies adopted by the City of Tucson, the Contractor shall ensure that, whenever practicable, all printed materials produced by the Contractor in the performance of this Contract are duplexed (two-sided copies), printed on recycled paper and labeled as such.
- 15. EXCLUSIVE POSSESSION:** All services, information, computer program elements, reports and other deliverables created under this Contract are the sole property of the City of Tucson and shall not be used or released by the Contractor or any other person except with prior written permission by the City.
- 16. FEDERAL IMMIGRATION LAWS AND REGULATIONS:** Contractor warrants that it complies with all Federal Immigration laws and regulations that relate to its employees and complies with A.R.S. § 23-214(A) and that it requires the same compliance of all subcontractors under this Contract. Contractor acknowledges that pursuant to A.R.S. § 41-4401 and effective September 30, 2008, a breach of this warranty is a material breach of this Contract subject to penalties up to and including termination of this Contract. The City retains the legal right to audit the records of the Contractor and inspect the papers of any employee who works for the Contractor to ensure compliance with this warranty and the Contractor shall assist in any such audit. The Contractor shall include the requirements of this paragraph in each contract with subcontractors under this Contract.

If the Contractor or subcontractor warrants that it has complied with the employment verification provisions prescribed by sections 274(a) and 274(b) of the Federal Immigration and Nationality Act and the E-verify requirements prescribed by A.R.S. § 23-214(A), the Contractor or subcontractor shall be deemed to be in compliance with this provision. The City may request proof of such compliance at any time during the term of this Contract by the Contractor and any subcontractor.

- 17. FORCE MAJEURE:** Except for payment of sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented by reason of Force Majeure. The term "Force Majeure" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Force Majeure shall not include late performance by a subcontractor unless the delay arises out of a Force Majeure occurrence in accordance with this Force Majeure term and condition.

If either party is delayed at any time in the progress of the work by Force Majeure, the delayed party shall notify the other party in writing of such delay, as soon as is practical, of the commencement thereof and shall specify the causes of such delay in such notice. Such notice shall be hand-delivered or mailed certified-return receipt and shall make a specific reference to this article, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing when it has done so. The time of completion shall be extended by contract modification for a period of time equal to the time that results or effects of such delay prevent the delayed party from performing in accordance with this Contract.

- 18. GRATUITIES:** The City may, by written notice to the Contractor, terminate this Contract if it is found that gratuities, in the form of entertainment, gifts, meals or otherwise, were offered or given by the Contractor or any agent or representative of the Contractor, to any officer or employee of the City amending, or the making of any determinations with respect to the performing of such Contract. In the event this Contract is terminated by the City pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover or withhold from the Contractor the amount of the gratuity.
- 19. HUMAN RELATIONS:** Contractor shall abide by the provisions of the Tucson City Code Chapter 28, Article XII.
- 20. INDEMNIFICATION:** To the fullest extent permitted by law, Contractor, its successors, assigns and guarantors, shall pay, defend, indemnify and hold harmless the City of Tucson, its agents, representatives, officers, directors, officials and employees from and against all allegations, demands, proceedings, suits, actions, claims, including claims of patent or copyright infringement, damages, losses, expenses, including but not limited to, attorney fees, court costs, and the cost of appellate proceedings, and all claim adjusting and handling expense, related to, arising from or out of or resulting from any actions, acts, errors, mistakes or omissions caused in whole or part by Contractor relating to work, services and/or products provided in the performance of this Contract, including but not limited to, any Subcontractor or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable and any injury or damages claimed by any of Contractor's and Subcontractor's employees.

21. INDEPENDENT CONTRACTOR: It is understood that each party shall act in its individual capacity and not as an agent, employee, partner, joint venturer, or associate of the other. An employee or agent of one party shall not be deemed or construed to be the employee or agent of the other party for any purpose.

The Contractor shall not be entitled to compensation in the form of salaries, paid vacation or sick days by the City.

The City of Tucson will not provide any insurance coverage to the Contractor, including Worker's Compensation coverage. The Contractor is advised that taxes, social security payments, and other withholdings shall not be withheld from a City payment issued under this Contract and that Contractor should make arrangements to directly pay such expenses.

22. INSPECTION AND ACCEPTANCE: All material or service is subject to final inspection and acceptance by the City. Material or service failing to conform to the specifications of this Contract shall be held at the Contractor's risk and may be returned to the Contractor. If returned, all costs are the responsibility of the Contractor. Noncompliance may be deemed a cause for possible Contract termination.

23. INTERPRETATION-PAROLE EVIDENCE: This Contract is intended by the parties to be a final expression of their agreement and is intended also as a complete and exclusive statement of the terms of this agreement. No course of prior dealings between the parties and no usage of the trade shall be relevant to supplement or explain any term used in the Contract. Acceptance or consent in the course of performance under this Contract shall not be relevant to determine the meaning of this Contract even though the accepting or consenting party has knowledge of the nature of the performance and the opportunity to object.

24. LICENSES: Contractor shall maintain in current status all Federal, State, and local licenses and permits required for the operation of the business conducted by the Contractor as applicable to this Contract.

25. LIENS: All materials, services, and other deliverables supplied to the City under this Contract shall be free of all liens other than the security interest. Security interest shall extinguish upon full payment made by the City. Upon the City's request, the Contractor shall provide a formal release of all liens.

26. NO REPLACEMENT OF DEFECTIVE TENDER: Every tender of materials must fully comply with all provisions of this Contract. If a tender is made which does not fully comply, this shall conform to the termination clause set forth within this document.

27. NON-EXCLUSIVE CONTRACT: Any contract resulting from this solicitation shall be awarded with the understanding and agreement that it is for the sole convenience of the City of Tucson. The City reserves the right to obtain like goods or services from another source when necessary.

28. OVERCHARGES BY ANTITRUST VIOLATIONS: The City maintains that, in actual practice, overcharges resulting from antitrust violations are borne by the purchaser. Therefore, to the extent permitted by law, the Contractor hereby assigns to the City any and all claims for such overcharges as to the materials or services used to fulfill the Contract.

29. PAYMENT: The City's preferred method of payment is via credit card. The City will issue a Purchase Order and, in some cases, either provide a credit card for payment at the time of ordering or pay subsequent invoices by credit card upon receipt of goods or services in good order. However, not all City employees will possess a credit card and, therefore, the City reserves the right to make payment by check as it deems necessary.

Unless payment is made by credit card at time of order or point of sale, a separate invoice shall be issued for each shipment of material or service performed, and no payment shall be issued prior to receipt of material or service and correct invoice.

The City shall make every effort to process payment for the purchase of materials or services within twenty-one (21) calendar days after receipt of materials or services and a correct invoice.

30. PROTECTION OF GOVERNMENT PROPERTY: The Contractor shall use reasonable care to avoid damaging existing buildings, equipment, and vegetation (such as trees, shrubs, and grass) on City property. If the Contractor fails to do so and damages such property, the Contractor shall replace or repair the damage at no expense to the City, as determined and approved by the City's Director of Procurement. If the Contractor fails or refuses to make such repair or replacement, the City will determine a cost and the Contractor shall be liable for the cost thereof, which may be deducted from the Contract price.

31. PROVISIONS REQUIRED BY LAW: Each and every provision of law and any clause required by law to be in the Contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not

inserted, or is not correctly inserted, then upon the application of either party the Contract shall be amended to make such insertion or correction.

- 32. RECORDS:** Internal control over all financial transactions related to this Contract shall be in accordance with sound fiscal policies. The City may, at reasonable times and places, audit the books and records of the Contractor and/or any subcontractors. Said audit shall be limited to this Contract.
- 33. RIGHT TO ASSURANCE:** Whenever one party to this Contract has reason to question, in good faith, the other party's intent to perform, the former party may demand that the other party give a written assurance of this intent to perform. In the event that a demand is made and no written assurance is given within five (5) days, the demanding party may treat this failure as the other party's intent not to perform and as a cause for possible Contract termination.
- 34. RIGHT TO INSPECT:** The City may, at reasonable times, and at the City's expense, inspect the place of business of a Contractor or subcontractor which is related to the performance of any Contract as awarded or to be awarded.
- 35. RIGHTS AND REMEDIES:** No provision in this document or in the Contractor's proposal shall be construed, expressly or by implication, as a waiver by either party of any existing or future right and/or remedy available by law in the event of any claim, default or breach of contract. The failure of either party to insist upon the strict performance of any term or condition of the Contract, to exercise or delay the exercise of any right or remedy provided in the Contract or by law, or to accept materials or services required by this Contract or by law shall not be deemed a waiver of any right of either party to insist upon the strict performance of the Contract.
- 36. SEVERABILITY:** The provisions of this Contract are severable to the extent that any provision or application held to be invalid shall not affect any other provision or application of the Contract which may remain in effect without the valid provision or application.
- 37. SHIPMENT UNDER RESERVATION PROHIBITED:** No tender of a bill of lading shall operate as a tender of the materials. Non-compliance shall conform to the termination clause set forth within this document.
- 38. SUBCONTRACTS:** No subcontract shall be entered into by the Contractor with any other party to furnish any of the material/service specified herein without the advance written approval of the City's Director of Procurement. All subcontracts shall comply with Federal and State laws and regulations which are applicable to the services covered by the subcontract and shall include all the terms and conditions set forth herein which shall apply with equal force to the subcontract, as if the subcontractor were the Contractor referred to herein. The Contractor is responsible for contract performance whether or not subcontractors are used.
- 39. SUBSEQUENT EMPLOYMENT:** The City may terminate this Contract without penalty or further obligation pursuant to A.R.S. Section 38-511 if any person significantly involved in initiating, negotiating, securing, drafting, or creating the Contract, on behalf of the City, is or becomes, at any time while the Contract or any extension of the Contract is in effect, an employee of, or a contractor to, any other party to this Contract with respect to the subject matter of the Contract. Termination shall be effective when written notice from the City's Director of Procurement is received by the parties to this Contract, unless the notice specifies a later time.
- 40. TERMINATION OF CONTRACT:** This Contract may be terminated at any time by mutual written consent, or by the City, with or without cause, upon giving thirty (30) days written notice. The City, at its convenience, by written notice, may terminate this Contract, in whole or in part. If this Contract is terminated, the City shall be liable only for payment under the payment provisions of this Contract for services rendered and accepted material received by the City before the effective date of termination.

The City reserves the right to terminate the whole or any part of this Contract due to the failure of the Contractor to carry out any term or condition of the Contract. The City will issue a written ten (10) day notice of default to the Contractor for acting or failing to act as specified in any of the following:

In the opinion of the City, the Contractor provides personnel that do not meet the requirements of the Contract;

In the opinion of the City, the Contractor fails to perform adequately the stipulations, conditions or services/specifications required in this Contract;

In the opinion of the City, the Contractor attempts to impose personnel, materials, products or workmanship of an unacceptable quality;

The Contractor fails to furnish the required service and/or product within the time stipulated in the Contract;

In the opinion of the City, the Contractor fails to make progress in the performance of the requirements of the Contract;

The Contractor gives the City a positive indication that the Contractor will not or cannot perform to the requirements of the Contract.

Each payment obligation of the City created by this Contract is conditioned upon the availability of City, State and Federal funds that are appropriated or allocated for the payment of such an obligation. If funds are not allocated by the City and available for the continued purchase of the services and/or materials provided under this Contract, this Contract may be terminated by the City at the end of the period for which funds are available. The City will endeavor to notify the Contractor in the event that continued service will or may be affected by non-appropriation. No penalty shall accrue to the City in the event this provision is exercised, and the City shall not be obligated or liable for any future payments due or for any damages as a result of termination under this paragraph.

- 41. TITLE AND RISK OF LOSS:** The title and risk of loss of material or service shall not pass to the City until the City actually receives the material or service at the point of delivery, unless otherwise provided within this Contract.
- 42. WARRANTIES:** Contractor warrants that all material or service delivered under this Contract shall conform to the specifications of this Contract. Mere receipt of shipment of the material or service specified and any inspection incidental thereto by the City shall not alter or affect the obligations of the Contractor or the rights of the City under the foregoing warranties. Additional warranty requirements may be set forth in this document.

PRICE PAGE

Fee must be inclusive of all costs, including but not limited to, direct and indirect costs for labor, overhead, materials, printing, travel and mileage, etc.

GROUP 1 – PAINTING

Price per Square foot \$ _____

Minimum Charge \$ _____

GROUP 2 – MEDIA BLASTING

Price per Square foot \$ _____

Minimum Charge \$ _____

ETCHED GLASS GRAFFITI REMOVAL

Price per Hour \$ _____

Minimum Charge \$ _____

1. As stated in the Instructions to Offerors, 7. Discounts, the price(s) herein can be discounted by _____%, if payment is made within _____ days.
2. Will payment be accepted via commercial credit card? _____ Yes _____ No
 - a. If yes, can commercial payment(s) be made online? _____ Yes _____ No
 - b. Will a third party be processing the commercial credit card payment(s)? _____ Yes _____ No
 - c. If yes, indicate the flat fee per transaction \$ _____ (as allowable, per Section 5.2.E of Visa Operating Regulations).
 - d. If “no” to above, will consideration be given to accept the card? _____ Yes _____ No

OFFER AND ACCEPTANCE

OFFER

TO THE CITY OF TUCSON:

The Undersigned hereby offers and shall furnish the material or service in compliance with all terms, scope of work, conditions, specifications, and amendments in the Request for Proposal which is incorporated by reference as if fully set forth herein.

For clarification of this offer, contact:

Company Name

Address

City State Zip

Signature of Person Authorized to Sign

Printed Name

Title

Name: _____

Title: _____

Phone: _____

Fax: _____

E-mail: _____

ACCEPTANCE OF OFFER

The Offer is hereby accepted. The Contractor is now bound to sell the materials or services specified in the Contract. This Contract shall be referred to as Contract No. _____.

Approved as to form this ____ day of _____, 2012.

As Tucson City Attorney and not personally

CITY OF TUCSON, a municipal corporation

Awarded this ____ day of _____, 2012.

Mark A. Neihart, C.P.M., CPPB, A.P.P., CPM
As Director of Procurement and not personally

Attachment A

Month	# of Tags	Public	Private	No Graffiti Found	Paint	Blast
July	2484	1560	924	83	2414	987
August	2831	1623	1208	94	1711	1026
September	3492	2124	1368	77	2197	1295
October	2736	1518	1218	80	1684	972
November	2968	1855	1113	45	1859	1064
December	3377	2040	1337	64	2112	1201