

**AGREEMENT BETWEEN  
CITY OF MIAMI BEACH  
AND  
FLORIDA GRAFFITI CONTROL, INC.  
FOR GRAFFITI ABATEMENT**

**THIS AGREEMENT** made and entered into this 20th day of December, 2001, by and between the **CITY OF MIAMI BEACH, FLORIDA** (hereinafter referred to as City), having its principal offices at 1700 Convention Center Drive, Miami Beach, Florida 33139 and **FLORIDA GRAFFITI CONTROL, INC.**, (hereinafter referred to as Contractor), whose address is 2221 NE 164<sup>th</sup> Street, North Miami Beach, Florida 33160.

**SECTION 1  
DEFINITIONS**

**Agreement:** This written Agreement between the City and Contractor.  
**City Manager:** "City Manager" means the Chief Administrative Officer of the City.  
**Services:** All services, work and actions by Contractor performed pursuant to this Agreement and as specifically described in Exhibit "A."

**SECTION 2  
SCOPE OF WORK**

The scope of work to be performed by the Contractor is set forth in Exhibit "A," entitled "Scope of Services" (Services).

**SECTION 3**  
**COMPENSATION**

**3.1 Fees**

Contractor shall be compensated for the Services performed herein, pursuant to the rate schedule set forth in Exhibit "A" hereto. Notwithstanding the preceding sentence, and the services to be provided pursuant to the Agreement and Exhibit "A" hereto, the total compensation to Contractor, throughout the initial term of this Agreement, shall not exceed the maximum amount of \$40,000.00. Additionally, in the event the City renews this Agreement, each renewal term herein shall provide for a maximum, not to exceed amount, of Compensation to Contractor.

**3.2 Method of Payment**

Payment shall be made within twenty (20) days of submission of invoices to the ordering City agencies.

**SECTION 4**  
**GENERAL PROVISIONS**

**4.1 Responsibility of Contractor**

With respect to the performance of the Services, Contractor shall exercise the highest degree of skill, care, efficiency and diligence exercised by recognized professionals with respect to the performance of comparable Services. In its performance of the Services, Contractor shall comply with all applicable laws and ordinances, including but not limited to, applicable regulations of the City, County, State, Federal Government, ADA, EEO Regulations and Guidelines.

**4.2 Public Entity Crimes**

State of Florida Form PUR 7068, Sworn Statement under Section 287.133(3)(a) Florida Statute on Public Entity Crimes shall be filed with the City's Procurement Division.

**4.3 Duration and Extent of Agreement**

The term of this Agreement shall be for an initial term of one (1) year from the date of execution of this Agreement by all parties hereto. This Agreement may be renewed, at the City's sole discretion, for two additional one (1) year terms. Contractor shall notify the City, in writing, sixty (60) days prior to the expiration of the initial term, or the expiration of the first renewal term, as the case may be, should it wish to be considered for renewal. In that event, and upon receipt of Contractor's written request, the City shall, at its sole discretion, consider such renewal, and shall notify Contractor of same. In the event that Contractor fails to timely notify the City, the City may waive said timeline as set forth in this subsection, and consider renewal or, at its further option, terminate this Agreement for convenience pursuant to subsection 4.5.2.

**4.4 Termination**

**4.4.1 Termination for Cause**

If Contractor shall fail to fulfill in a timely manner, or otherwise violate, any of the covenants, agreements, or stipulations material to this Agreement, the City shall thereupon have the right to terminate this Agreement. Prior to exercising its option to terminate for cause, the City shall notify Contractor of its violation of the particular terms of this Agreement, and shall grant Contractor seven (7) days to cure such default. If such default remains uncured after seven (7) days, the City, upon three (3) days notice to Contractor, may terminate this Agreement without further notice and without liability to the City.

**4.4.2 Termination for Convenience of City**

Notwithstanding Section 4.4.1, the City may, for its convenience and without cause, terminate this Agreement at any time by giving written notice to Contractor of such termination, which shall become effective seven (7) days following receipt by Contractor of the written

termination notice.

#### **4.5 Indemnification**

Contractor agrees to indemnify and hold harmless the City of Miami Beach and its officers, employees and agents, from and against any and all actions, claims, liabilities, losses, and expenses, including, but not limited to, attorneys' fees, for personal, economic or bodily injury, wrongful death, loss of or damage to property, at law or in equity, which may arise or be alleged to have arisen from the negligent acts, errors, omissions or other wrongful conduct of the Contractor, its employees, agents, sub-consultants, or any other person or entity acting under Contractor's control, in connection with the Contractor's performance of the Services pursuant to this Agreement; and to that extent, the Contractor shall pay all such claims and losses and shall pay all such costs and attorneys' fees expended by the City in the defense of such claims and losses, including appeals. The parties agree that one percent (1%) of the total compensation to the Contractor for performance of the Services under this Agreement is the specific consideration from the City to the Contractor for the Contractor's Indemnity Agreement.

The Contractor's obligation under this subsection shall not include the obligation to indemnify the City of Miami Beach and its officers, employees and agents, from and against any actions or claims which arise or are alleged to have arisen from negligent acts or omissions or other wrongful conduct of the City and its officers, employees and agents. The parties each agree to give the other party prompt notice of any claim coming to its knowledge that in any way directly or indirectly affects the other party.

#### **4.6 Limitation of City's Liability**

The City desires to enter into this Agreement only if in so doing the City can place a limit on its liability for any cause of action for money damages due to an alleged breach by the City of this Agreement, so that its liability for any such breach never exceeds the sum of \$5,000. Contractor hereby expresses its willingness to enter into this Agreement with Contractor's recovery from the City for any damage action for breach of contract to be limited to a maximum amount of \$5,000, less the amount of all funds actually paid by the City to Contractor pursuant to this Agreement.

Accordingly, and notwithstanding any other term or condition of this Agreement, Contractor hereby agrees that the City shall not be liable to the Contractor for damages in an amount in excess of \$5,000, which amount shall be reduced by the amount actually paid by the City to the Contractor pursuant to this Agreement, for any action of claim for breach of contract arising out of the performance or non-performance of any obligations imposed upon the City by this Agreement.

**4.7 Assignment, Transfer or Subcontracting**

The Contractor shall not subcontract, assign, or transfer any work under this Agreement without the prior written consent of the City.

**4.8 Insurance Requirements**

The Contractor shall not commence any work pursuant to this Agreement until all insurance required under this Subsection has been obtained and such insurance has been approved by the City's Risk Manager. The Contractor shall maintain and carry in full force during the term of this Agreement and throughout the duration of the Services the following insurance:

1. Professional General Liability in the amount of \$1,000,000.00.
2. Commercial General Liability (including garage liability) in the amount of \$1,000,000.00.
3. Non-Owned Automobile Liability in the amount of \$1,000,000.00.
4. Workers Compensation & Employers Liability, as required pursuant to Florida Statute.

All policies are subject to the following provisions:

All insurance must be furnished by insurance companies authorized to do business in the State of Florida and approved by the City's Risk Manager. The City must be named as an additional insured. Original certificates of insurance for the above mentioned coverages, or any other form of insurance as may be required by the City or the City designee, must be submitted to the City's Risk Manager for approval prior to any work commencing. These certificates will be kept on file in the Office of the Risk Manager, 3rd Floor, City Hall. The Contractor is responsible for obtaining and submitting all insurance certificates for its sub-contractors. Thirty (30) days

written notice of cancellation or substantial modification in the insurance coverage must be given to the City's Risk Manager by the Contractor and its insurance company.

All insurance policies must be issued by companies authorized to do business under the laws of the State of Florida. The companies must be rated no less than "B+" as to management and not less than "Class VI" as to strength by the latest edition of Best's Insurance Guide, published by A.M. Best Company, Oldwick, New Jersey, or its equivalent, subject to the approval of the City's Risk Manager.

Compliance with the foregoing requirements shall not relieve the Contractor of the liabilities and obligations under this Subsection or under any other portion of this Agreement, and the City shall have the right to obtain from the Contractor specimen copies of the insurance policies in the event that submitted certificates of insurance are inadequate to ascertain compliance with required coverage.

#### **4.9 Equal Employment Opportunity**

In connection with the performance of this Agreement, the Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, ancestry, sex, age, national origin, place of birth, marital status, sexual orientation or physical handicap. The Contractor shall take affirmative action to ensure that applicants are employed and that employees are treated during their employment without regard to their race, color, religion, ancestry, sex, age, national origin, place of birth, marital status, disability, or sexual orientation. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or termination; recruitment or recruitment advertising; layoff or termination; rates of pay, or other forms of compensation; and selection for training, including apprenticeship.

#### **4.10 Litigation Jurisdiction/Venue**

This Agreement shall be enforceable in Miami-Dade County, Florida, and if legal action is necessary by either party with respect to the enforcement of any or all of the terms or

conditions herein, exclusive venue for the enforcement of same shall lie in Miami-Dade County, Florida.

**4.11 Notices**

All notices and communications in writing required or permitted hereunder may be delivered personally to the representatives of the Contractor and the City listed below or may be mailed by registered mail, postage prepaid.

Until changed by notice in writing, all such notices and communications shall be addressed as follows:

**TO CONTRACTOR:** Florida Graffiti Control, Inc.  
Attn: Larry Michelson  
General Manager  
2221 NE 164<sup>th</sup> Street  
North Miami Beach, Florida 33160  
(305) 975-5313

**TO CITY:** City of Miami Beach  
Attn: Code Compliance Division  
Albert P. Childress  
Director  
1700 Convention Center Drive  
Miami Beach, FL 33139  
(305) 673-7555

**WITH COPIES TO:**  
Office of the City Attorney  
Attn: Murray H. Dubbin  
City of Miami Beach  
1700 Convention Center Drive  
Miami Beach, FL 33139

**4.12 Entirety of Agreement**

This writing and all exhibits hereto embody the entire Agreement and understanding between the parties hereto, and there are no other agreements and understandings, oral or written with reference to the subject matter hereof that are not merged herin and superseded hereby. The exhibits are hereby incorporated by reference into this Agreement.

No alteration, change, or modification of the terms of this Agreement shall be valid unless amended in writing, signed by both parties hereto, and approved by the City.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their appropriate officials, as of the date first entered above.

CITY OF MIAMI BEACH, FLORIDA

ATTEST:

By: Robert Parcher  
Robert Parcher  
City Clerk

By: David Dermer  
David Dermer  
Mayor

ATTEST:

By: Dale Michelson  
Dale Michelson  
Secretary  
Florida Graffiti Control, Inc.

FOR CONTRACTOR:

By: Larry Michelson  
Larry Michelson  
General Manager  
Florida Graffiti Control, Inc.

APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION

W. M. DeWitt - 2-15-02  
City Clerk



## **EXHIBIT "A"**

### **SCOPE OF SERVICES:-**

Florida Graffiti Control, Inc (FGC) will provide comprehensive graffiti control services to the City of Miami Beach. These services will consist of providing the necessary equipment, supplies and personnel to treat the occurrence of new graffiti and the removal of existing graffiti.

Each graffiti removal request from the City is forwarded immediately to the vehicles on patrol to further speed response time.

FGC will be available 24 hours a day / 7 days a week as follows:

(888) 333-6374 – via their dedicated toll free number

(305) 975-5313 – locally

(305) 652-7246 – fax

floridagraffiti@hotmail.com – e-mail

Upon commencement of the contract, requests for service can be submitted via web, fax, or phone. The site will provide the City's Code Compliance Division with immediate and detailed reports regarding responses to City request for paint out of graffiti. Further, the site will provide photographs that may be used by the Police Department and the Code Compliance Division. FGC will work with the City to design and provide detailed reports regarding all incidents of graffiti and disposition.

FGC will perform the graffiti removal services as requested in the Scope of Services section of RFP No. 18-00/01(Exhibit "A-1"), utilizing the same process currently used by the City's Parks Department to do Lot Clearance (Contractor will be notified of the location of the graffiti and contractor will remove the graffiti and bill the City).

Code Compliance will cite private property graffiti. The owner will be given time to correct the violation; if he/she does not do so, FGC will be contacted to remove graffiti. FGC will bill the City based on time and materials used, and the City in turn will bill the property owner for reimbursement. Failure to pay the invoice in a timely manner will result in the placement of a lien on subject property.

FGC will:

1. Remove graffiti from private residential, commercial and industry structures alleys and walls.
2. Provide personnel, supervision, tools, supplies, materials, equipment, transportation and other incidentals necessary to perform the work.
3. Remove graffiti from all types of surfaces, such as, but not limited to wood, metal, stucco, brick, concrete, cinder blocks, sidewalks, etc.
4. Maintain a zero tolerance zone Citywide by removing graffiti within forty-eight (48) hours of notification.
  - As specified in the RFP, FGC will provide removal within forty-eight (48) hours, following notification, to include weekends and holidays.
  - Each service vehicle is equipped with a cellular phone and computer to stay in contact with the City's Program Coordinator.
5. Remove graffiti, which is vulgar (i.e., profane, obscene or racist) within 24 hours (seven days a week).
6. Respond to reports of graffiti from the City Code Compliance Division and remove graffiti from private property within forty-eight (48) hours of notification by telephone, fax, or e-mail.
7. Provide the City with monthly reports no later than the 15<sup>th</sup> of each month, to include property location, date reported, date treated, and before and after pictures.
8. Make periodic formal presentations to the City Commission, City boards, community groups, homeowners' associations, and schools. These presentations may include a review of such data, documentation, measures and controls to demonstrate the level of effectiveness of FGC's efforts to reduce and control graffiti.
9. Match the existing surface color when painting over or obscuring graffiti whenever possible. Paint shall be neatly feathered in all areas.
10. Use appropriate protective materials to protect sidewalks and, vegetation from paint spillage.
11. Train its personnel in the appropriate methods of graffiti removal.

12. Remove all debris, waste, and work product from the job site.
  - Additionally, FGC will remove litter and trash found at the job sites throughout the City.
13. Maintain a record/ log of all requests. Records will available to the City for review upon request. The complaint log shall include the action taken to resolve the complaint.
  - All data will be available via the Website.
14. Assist the City with special requests (i.e., removal of graffiti before parades, special events, etc.).
15. Remove graffiti found on commercial signage with the owner's / occupant's specific, written approval and with the owner's / occupant's understanding that the contractor is not responsible, under this contract, for replacing any original lettering, pictures, etc., on a commercial sign. With the owner's / occupant's approval, FGC shall proceed with diligence to remove the graffiti with as little damage to the commercial sign as is possible.
16. Remove graffiti that is only accessible by boat on a case-by case basis.

### **COST**

FGC will be paid a fee of \$275.00 for each location City advises in which graffiti is to be removed.

The Agreement is for each request by the City for a particular location / address at a cost of \$275.00. FGC will provide documentation and notification of successful removal of the graffiti.

### **FGC APPROACH**

Once graffiti is identified by FGC and reported to the City, it will be inspected by the City and issue notices will be issued to the property owner(s) to allow an opportunity to comply. FGC conducts the following methods according to the following standards.

- **Graffiti Removal** – FGC’s removal will not leave shadows or ghosts after the graffiti marking have been removed. If the area is heavily graffitied, the entire surface is to be abated. The removal method will not harm, deface, or mar the surface. Removal methods will include sand or water blasting, chemical removal.
- **Painting** – FGC is required to reasonably match existing painted surfaces and will properly prepare all exterior surfaces in a manner that will result in proper bonding of the paint.
- **Sacrificial Coating System** – FGC will provide a sacrificial coating system to be used on natural surfaces when requested. The sacrificial coating will provide a removal protective barrier between the base surface and graffiti markings made by spray paints, marking pens, crayons, and other common defacing materials. Pressure or environmentally safe chemicals will be used to remove markings.
- **Trees** – Will be treated on a case-by-case basis.
- **Asphalt Concrete – street** – FGC shall not be responsible for removing graffiti from the asphalt portions of the street. However, at the direction of the City, FGC may be directed to coat the surface with the appropriate colored materials.
- **FGC will provide storage facilities for its use.**
- **Project Site Safety** – FGC will provide, at its expense, all safeguards, safety devices, and protective equipment, and shall take any and all actions appropriate to providing a safe project site.
- **Water for the Project** – FGC will be responsible for acquiring all necessary water.
- **Worksite Protection and Cleanup** – FGC will take precautions to protect surfaces adjacent to the location where graffiti is to be removed. Adequate measures, including the use of covers, shall be provided by our company to protect adjacent surfaces, equipment and vehicles from over spray and from painting or sane and water-blasting operations. FGC will sweep all work sites clean of any debris during graffiti removal work.

- **Under the direction of the City, FGC will cooperate with the City, volunteer groups and other organizations in developing programs to eliminate graffiti. This effort may include participation in promotional plans and educational presentations.**
- **Employees, equipment and vehicles of FGC will be neat and clearly identified. Identification on company vehicles will consist of the company name and local telephone number (contractor's dedicated phone line). Identification of employees will consist of a uniform and picture identification card to be worn at all times.**
- **FGC will use warning signs and sidewalk and street cones in accordance with established Florida standards to inform the public of work being conducted. For any work performed within the public right-of-way, FGC shall obey any and all directives received from County and City traffic engineers.**
- **FGC may request a police escort or presence to remove graffiti of a sensitive nature (i.e. gang related, etc.). The City will be asked to provide this presence when requested.**