

3H-4

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: September 13, 2011 Consent Regular
 Ordinance Public Hearing

Department: Facilities Development & Operations

I. EXECUTIVE BRIEF

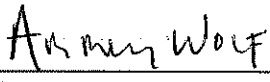
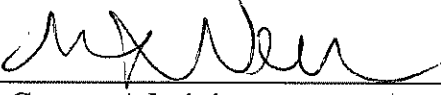
Motion and Title: Staff recommends motion to approve: Contract with The Gordian Group, Inc. for consulting/professional services for the administration and maintenance of the Job Order Contracting (JOC) system.

Summary: This Contract provides the terms and conditions under which The Gordian Group, Inc. will furnish professional consulting services to the County for the continuation of the Job Order Contracting system. Payment for services rendered will be made based on work awarded in the amount of 1.95% of the value or work ordered utilizing the JOC system with a not to exceed limit of \$400,000 for the two year period. There is no minimum guarantee in the contract, and the consultants' compensation is directly related to the success of the JOC program. The scope of services to be provided includes JOC document development and maintenance, JOC training for contractors and staff, implementation and technical support, software customization and project management services. The Gordian Group developed and is the sole provider of the PROGEN Software system which is the basis of implementation of the JOC process. Based on research conducted by Facilities Development and Operations Department staff, The Gordian Group is the only firm that can provide the County with an owner specific and owner focused JOC procurement system customized for the County's specific requirements. Duration of the contract is for a two (2) year period with three (3) - one (1) year options for renewal. The Gordian Group is based in South Carolina. (FD&O Capital Improvements Division) Countywide (JM)

Background and Justification: On April 20, 1993, the Board authorized the Facilities Development and Operations Department to negotiate a sole source contract with The Gordian Group, Inc. for consulting services. The terms of this initial contract were for two years with two one-year options. New sole source contracts for the same duration were awarded in 1997, 2001, and 2005. The Gordian Group, the originators of the JOC concept, is the sole provider of this type of services, consistent with the County's needs. The PROGEN software is proprietary to The Gordian Group and has not been duplicated by any other firm.

Attachments:

1. Contract
 2. Disclosure of Ownership Interests
-

| | | |
|-----------------|--|-----------------|
| Recommended by: |  Department Director | 8/18/11 Date |
| Approved by: |  County Administrator | 9/9/11 Date |

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

| Fiscal Year | 2011 | 2012 | 2013 | 2014 | 2015 |
|---|------|------|------|------|------|
| Capital Expenditures | 0 | 0 | 0 | 0 | 0 |
| Operating Costs | 0 | 0 | 0 | 0 | 0 |
| External Revenues | 0 | 0 | 0 | 0 | 0 |
| Program Income (County) | 0 | 0 | 0 | 0 | 0 |
| In-Kind Match (County) | 0 | 0 | 0 | 0 | 0 |
| NET FISCAL IMPACT | 0 | 0 | 0 | 0 | 0 |
| # Additional FTE Positions (Cumulative) | 0 | 0 | 0 | 0 | 0 |

Is Item Included in Current Budget? Yes ___ No ___

Budget Account No: **Not applicable**

Reporting Category

B. Recommended Sources of Funds/Summary of Fiscal Impact:

C. Departmental Fiscal Review:

This item does not authorize any expenditures. Payment to The Gordian Group will be made from the project budget capital account for each project as work orders are approved and work prosecuted.

III. REVIEW COMMENTS:

A. OFMB Fiscal and/or Contract Development and Control Comments:

Expenditures will incur as the work is completed. These expenditures are not currently budgeted.

OFMB
8/25/11
8/25/11

Contract Administrator
8-29-11

B. Legal Sufficiency:

This Contract complies with our contract review requirements.

Assistant County Attorney
9/8/11

C. Other Department Review:

Department Director

This summary is not to be used as a basis for payment.

CONTRACT FOR CONSULTING/PROFESSIONAL SERVICES

This Contract is made as of _____, by and between Palm Beach County, a Political Subdivision of the State of Florida, by and through its Board of Commissioners, hereinafter referred to as the COUNTY, and The Gordian Group, Inc., a corporation authorized to do business in the State of Florida, hereinafter referred to as the CONSULTANT.

In consideration of the mutual promises contained herein, the COUNTY and the CONSULTANT agree as follows:

ARTICLE 1 - SERVICES

The CONSULTANT'S responsibility under this Contract is to provide professional/consultation services in the area of implementation of a Job Order Contracting (JOC) system, as more specifically set forth in the Scope of Work detailed in Exhibit "A".

The COUNTY'S representative/liaison during the performance of this Contract shall be Mr. Darrell Lange.

The CONSULTANT'S representative/liaison during the performance of this Contract shall be Mr. Keith Greene.

ARTICLE 2 – PERIOD OF SERVICE

The CONSULTANT shall commence services on the effective date of the contract and extend for a two year period or until a maximum payment of \$400,000 is reached, whichever occurs first. The Contract may be extended at the sole discretion of the COUNTY for up to three (3) additional years, at one year intervals with a maximum of \$200,000 per extended term.

ARTICLE 3 - PAYMENTS TO CONSULTANT

- A. The total amount to be paid by the COUNTY under this Contract for all services shall not exceed a total contract amount of four hundred thousand dollars (\$400,000), unless extended by Amendment. The CONSULTANT shall notify the COUNTY's representative in writing when 90% of the "not to exceed amount" has been reached. The CONSULTANT will bill the COUNTY on a monthly basis, or as otherwise agreed to, at the rate of 1.95% of the value of work orders awarded by the COUNTY under the JOC System.
- B. Invoices received from the CONSULTANT pursuant to this Contract will be reviewed and approved by the COUNTY's representative, to verify that services have been rendered in conformity with the Contract. Approved invoices will then be sent to the Finance Department for payment. Invoices will normally be paid within thirty (30) days following the COUNTY representative's approval.

- C. "Out-of-pocket" expenses are not allowed.
- D. Final Invoice: In order for both parties herein to close their books and records, the CONSULTANT will clearly state "Final Invoice" on the CONSULTANT'S final/last billing to the COUNTY. This shall constitute CONSULTANT'S certification that all services have been properly performed and all charges and costs have been invoiced to Palm Beach County. Any other charges not properly included on this final invoice are waived by the CONSULTANT.

ARTICLE 4 - TRUTH-IN-NEGOTIATION CERTIFICATE

Signature of this Contract by the CONSULTANT shall also act as the execution of a truth-in-negotiation certificate certifying that the wage rates, over-head charges, and other costs used to determine the compensation provided for in this Contract are accurate, complete and current as of the date of the Contract and no higher than those charged the CONSULTANT'S most favored customer for the same or substantially similar service.

The said rates and costs shall be adjusted to exclude any significant sums should the COUNTY determine that the rates and costs were increased due to inaccurate, incomplete or noncurrent wage rates or due to inaccurate representations of fees paid to outside consultants. The COUNTY shall exercise its rights under this Article 4 within three (3) years following final payment.

ARTICLE 5 - TERMINATION

This Contract may be terminated by the CONSULTANT upon sixty (60) days' prior written notice to the COUNTY's representative in the event of substantial failure by the COUNTY to perform in accordance with the terms of this Contract through no fault of the CONSULTANT. It may also be terminated, in whole or in part, by the COUNTY, with or without cause, immediately upon written notice to the CONSULTANT. Unless the CONSULTANT is in breach of this Contract, the CONSULTANT shall be paid for services rendered to the COUNTY'S satisfaction through the date of termination. After receipt of a Termination Notice and except as otherwise directed by the COUNTY the CONSULTANT shall:

- A. Stop work on the date and to the extent specified.
- B. Terminate and settle all orders and subcontracts relating to the performance of the terminated work.
- C. Transfer all work in process, completed work, and other materials related to the terminated work to the COUNTY.
- D. Continue and complete all parts of the work that have not been terminated.

ARTICLE 6 - PERSONNEL

The CONSULTANT warrants that all services shall be performed by skilled and competent personnel to the highest professional standards. CONSULTANT's proposed personnel are subject to the approval of the COUNTY.

All of the CONSULTANT'S personnel while on County premises will comply with all COUNTY requirements governing conduct, safety and security.

ARTICLE 7 - SUBCONTRACTING

Not Applicable.

ARTICLE 8 - FEDERAL AND STATE TAX

The COUNTY is exempt from payment of Florida State Sales and Use Taxes. The COUNTY will sign an exemption certificate submitted by the CONSULTANT. The CONSULTANT shall not be exempted from paying sales tax to its suppliers for materials used to fulfill contractual obligations with the COUNTY, nor is the CONSULTANT authorized to use the COUNTY'S Tax Exemption Number in securing such materials.

The CONSULTANT shall be responsible for payment of its own and its share of its employees' payroll, payroll taxes, and benefits with respect to this contract.

ARTICLE 9 - AVAILABILITY OF FUNDS

The COUNTY'S performance and obligation to pay under this contract for subsequent fiscal year's is contingent upon annual appropriations for its purpose by the Board of County Commissioners.

ARTICLE 10 - INSURANCE

- A. CONSULTANT shall, at its sole expense, agree to maintain in full force and effect at all times during the life of this Contract, insurance coverages and limits (including endorsements), as described herein. CONSULTANT shall agree to provide the COUNTY with at least ten (10) day prior notice of any cancellation, non-renewal or material change to the insurance coverages. The requirements contained herein, as well as COUNTY'S review or acceptance of insurance maintained by CONSULTANT are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by CONSULTANT under the contract.

Commercial General Liability CONSULTANT shall maintain Commercial General Liability at a limit of liability not less than \$1,00,000 Each Occurrence. Coverage shall not contain any endorsement excluding Contractual Liability or Cross Liability unless granted in writing by County's Risk Management Department. CONSULTANT shall provide this coverage on a

primary basis.

Business Automobile Liability CONSULTANT shall maintain Business Automobile Liability at a limit of liability not less than \$1,000,000 Each Accident for all owned, non-owned and hired automobiles. In the event CONSULTANT doesn't own any automobiles, the Business Auto Liability requirement shall be amended allowing CONSULTANT to agree to maintain only Hired & Non-Owned Auto Liability. This amended requirement may be satisfied by way of endorsement to the Commercial General Liability, or separate Business Auto coverage form. CONSULTANT shall provide this coverage on a primary basis.

Worker's Compensation Insurance & Employers Liability CONSULTANT shall maintain Worker's Compensation & Employers Liability in accordance with Florida Statute Chapter 440. CONSULTANT shall provide this coverage on a primary basis.

Additional Insured CONSULTANT shall endorse the COUNTY as an Additional Insured with a CG 2026 Additional Insured - Designated Person or Organization endorsement, or its equivalent, to the Commercial General Liability. The Additional Insured endorsement shall read "Palm Beach County Board of County Commissioners, a Political Subdivision of the State of Florida, its Officers, Employees and Agents." CONSULTANT shall provide the Additional Insured endorsements coverage on a primary basis.

Waiver of Subrogation CONSULTANT hereby waives any and all rights of Subrogation against the County, its officers, employees and agents for each required policy. When required by the insurer, or should a policy condition not permit an insured to enter into a pre-loss agreement to waive subrogation without an endorsement, then CONSULTANT shall agree to notify the insurer and request the policy be endorsed with a Waiver of Transfer of rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy, which a condition to the policy specifically prohibits such an endorsement, or voids coverage should CONSULTANT enter into such an agreement on a pre-loss basis.

Certificate(s) of Insurance Prior to execution of this Contract, CONSULTANT shall deliver to the COUNTY'S representative as identified in Article 26, a Certificate(s) of Insurance evidencing that all types and amounts of insurance coverages required by this Contract have been obtained and are in full force and effect. Such Certificate(s) of Insurance shall include a minimum ten (10) day endeavor to notify due to cancellation or non-renewal of coverage. The certificate of insurance shall be issued to

Palm Beach County
c/o Facilities Development & Operations
Capital Improvements Division
2633 Vista Parkway
West Palm Beach, FL 33411

Umbrella or Excess Liability If necessary, CONSULTANT may satisfy the minimum limits required above for either Commercial General Liability, Business Auto Liability, and Employer's Liability coverage under Umbrella or Excess Liability. The Umbrella or Excess Liability shall have an Aggregate limit not less than the highest "Each Occurrence" limit for

either Commercial General Liability, Business Auto Liability, or Employer's Liability. The COUNTY shall be specifically endorsed as an "Additional Insured" on the Umbrella or Excess Liability, unless the Certificate of Insurance notes the Umbrella or Excess Liability provides coverage on a "Follow-Form" basis.

Right to Review COUNTY, by and through its Risk Management Department, in cooperation with the contracting/monitoring department, reserves the right to review, modify, reject or accept any required policies of insurance, including limits, coverages, or endorsements, herein from time to time throughout the term of this Contract. COUNTY reserves the right, but not the obligation, to review and reject any insurer providing coverage because of its poor financial condition or failure to operate legally.

ARTICLE 11 - INDEMNIFICATION

The CONSULTANT shall indemnify and save harmless the COUNTY, its officers, agents, servants and employees from and against all claims, liability, damages, losses, and/or cause of action including reasonable attorneys' fees, which may arise from any breach of contract, negligent act, error or omission of the CONSULTANT, its officers, employees, agents, subconsultants or anyone acting under their authority and control in the performance of this Contract. The indemnity obligations of this section shall not apply to damages or injury to the extent caused by the negligence or willful misconduct of COUNTY, or its officers, employees, or agents.

The CONSULTANT's duty to indemnify the COUNTY, its officers and employees shall continue even if COUNTY is contributory negligent.

If any legal action or other proceeding is brought for the enforcement of this Contract, or because of an alleged dispute, breach, default or misrepresentation in connection with any provisions of this Contract, each party shall bear its own attorney's fees, court costs and all expenses (including taxes and, without limitation, all such fees, costs, and expenses incident to appeals) incurred in that action or proceeding.

ARTICLE 12 - SUCCESSORS AND ASSIGNS

The COUNTY and the CONSULTANT each binds itself and its partners, successors, executors, administrators and assigns to the other party and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Contract. Except as above, neither the COUNTY nor the CONSULTANT shall assign, sublet, convey or transfer its interest in this Contract without the prior written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of the COUNTY, nor shall it be construed as giving any rights or benefits hereunder to anyone other than the COUNTY and the CONSULTANT.

ARTICLE 13 - REMEDIES

This Contract shall be governed by the laws of the State of Florida. Any legal action necessary to enforce the Contract will be held in Palm Beach County. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity, by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

ARTICLE 14 - CONFLICT OF INTEREST

The CONSULTANT represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance of services required hereunder, as provided for in Chapter 112, Part III, Florida Statutes. The CONSULTANT further represents that no person having any such conflict of interest shall be employed for said performance of services.

The CONSULTANT shall promptly notify the COUNTY's representative, in writing, by certified mail, of all potential conflicts of interest of any prospective business association, interest or other circumstance which may influence or appear to influence the CONSULTANT'S judgement or quality of services being provided hereunder. Such written notification shall identify the prospective business association, interest or circumstance, the nature of work that the CONSULTANT may undertake and request an opinion of the COUNTY as to whether the association, interest or circumstance would, in the opinion of the COUNTY, constitute a conflict of interest if entered into by the CONSULTANT. The COUNTY agrees to notify the CONSULTANT of its opinion by certified mail within thirty (30) days of receipt of notification by the CONSULTANT. If, in the opinion of the COUNTY, the prospective business association, interest or circumstance would not constitute a conflict of interest by the CONSULTANT, the COUNTY shall so state in the notification and the CONSULTANT shall, at its option, enter into said association, interest or circumstance and it shall be deemed not in conflict of interest with respect to services provided to the COUNTY by the CONSULTANT under the terms of this Contract.

ARTICLE 15 - EXCUSABLE DELAYS

The CONSULTANT shall not be considered in default by reason of any failure in performance if such failure arises out of causes reasonably beyond the control of the CONSULTANT or its subcontractors and without their fault or negligence. Such causes include, but are not limited to, acts of God, force majeure, natural or public health emergencies, labor disputes, freight embargoes, and abnormally severe and unusual weather conditions.

Upon the CONSULTANT'S request, the COUNTY shall consider the facts and extent of any failure to perform the work and, if the CONSULTANT'S failure to perform was without it or its subcontractors fault or negligence, the Contract Schedule and/or any other affected provision of this Contract shall be revised accordingly, subject to the COUNTY'S rights to change, terminate, or stop any or all of the work at any time.

ARTICLE 16 - ARREARS

The CONSULTANT shall not pledge the COUNTY'S credit or make it a guarantor of payment or surety for any contract, debt, obligation, judgment, lien, or any form of indebtedness. The CONSULTANT further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Contract.

ARTICLE 17 - DISCLOSURE AND OWNERSHIP OF DOCUMENTS

The CONSULTANT shall deliver to the COUNTY's representative for approval and acceptance, and before being eligible for final payment of any amounts due, all documents and materials prepared by and for the COUNTY under this Contract.

To the extent allowed by Chapter 119, Florida Statutes, all written and oral information not in the public domain or not previously known, and all information and data obtained, developed, or supplied by the COUNTY or at its expense will be kept confidential by the CONSULTANT and will not be disclosed to any other party, directly or indirectly, without the COUNTY'S prior written consent unless required by a lawful court order. All drawings, maps, sketches, programs, data base, reports and other data developed, or purchased, under this Contract for or at the COUNTY'S expense shall be and remain the COUNTY'S property and may be reproduced and reused at the discretion of the COUNTY.

All covenants, agreements, representations and warranties made herein, or otherwise made in writing by any party pursuant hereto, including but not limited to any representations made herein relating to disclosure or ownership of documents, shall survive the execution and delivery of this Contract and the consummation of the transactions contemplated hereby.

ARTICLE 18 - INDEPENDENT CONTRACTOR RELATIONSHIP

The CONSULTANT is, and shall be, in the performance of all work services and activities under this Contract, an Independent Contractor, and not an employee, agent, or servant of the COUNTY. All persons engaged in any of the work or services performed pursuant to this Contract shall at all times, and in all places, be subject to the CONSULTANT'S sole direction, supervision, and control. The CONSULTANT shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the CONSULTANT'S relationship and the relationship of its employees to the COUNTY shall be that of an Independent Contractor and not as employees or agents of the COUNTY.

The CONSULTANT does not have the power or authority to bind the COUNTY in any promise, agreement or representation.

ARTICLE 19 - CONTINGENT FEES

The CONSULTANT warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT to solicit or secure this Contract and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the CONSULTANT, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Contract.

ARTICLE 20 - ACCESS AND AUDITS

The CONSULTANT shall maintain adequate records to justify all charges, expenses, and costs incurred in estimating and performing the work for at least three (3) years after completion or termination of this Contract. The COUNTY shall have access to such books, records, and documents as required in this section for the purpose of inspection or audit during normal business hours, at the CONSULTANT'S place of business.

ARTICLE 21 - NONDISCRIMINATION

The CONSULTANT warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, sexual orientation, gender identity or expression or familial status.

ARTICLE 22 - AUTHORITY TO PRACTICE

The CONSULTANT hereby represents and warrants that it has and will continue to maintain all licenses and approvals required to conduct its business, and that it will at all times conduct its business activities in a reputable manner. Proof of such licenses and approvals shall be submitted to the COUNTY's representative upon request.

ARTICLE 23 - SEVERABILITY

If any term or provision of this Contract, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this Contract, or the application of such terms or provision, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Contract shall be deemed valid and enforceable to the extent permitted by law.

ARTICLE 24- PUBLIC ENTITY CRIMES

As provided in F.S. 287.132-133, by entering into this contract or performing any work in furtherance hereof, the CONSULTANT certifies that it, its affiliates, suppliers, subcontractors and consultants

who will perform hereunder, have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within the 36 months immediately preceding the date hereof. This notice is required by F.S. 287.133(3)(a).

ARTICLE 25 - MODIFICATIONS OF WORK

The COUNTY reserves the right to make changes in Scope of Work, including alterations, reductions therein or additions thereto. Upon receipt by the CONSULTANT of the COUNTY'S notification of a contemplated change, the CONSULTANT shall, in writing: (1) provide a detailed estimate for the increase or decrease in cost due to the contemplated change, (2) notify the COUNTY of any estimated change in the completion date, and (3) advise the COUNTY if the contemplated change shall affect the CONSULTANT'S ability to meet the completion dates or schedules of this Contract.

If the COUNTY so instructs in writing, the CONSULTANT shall suspend work on that portion of the Scope of Work affected by a contemplated change, pending the COUNTY'S decision to proceed with the change.

If the COUNTY elects to make the change, the COUNTY shall initiate a Contract Amendment and the CONSULTANT shall not commence work on any such change until such written amendment is signed by the CONSULTANT and approved and executed on behalf of Palm Beach County.

ARTICLE 26 - NOTICE

All notices required in this Contract shall be sent by certified mail, return receipt requested, hand delivery or other delivery service requiring signed acceptance.

If sent to the COUNTY, notices shall be addressed to:

Mr. John Chesher, P.E., Director
Capital Improvements Division
2633 Vista Parkway
West Palm Beach, FL 33411

With copy to:

Ms. Audrey Wolf, Director
Facilities Development & Operations
2633 Vista Parkway
West Palm Beach, FL 33411

If sent to the CONSULTANT, notices shall be addressed to:

The Gordian Group
140 Bridges Road, Suite E
Mauldin, SC 29662
Attn: David Mahler, Vice President

ARTICLE 27 - ENTIRETY OF CONTRACTUAL AGREEMENT

The COUNTY and the CONSULTANT agree that this Contract sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Contract may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto in accordance with Article 25- Modifications of Work.

ARTICLE 28 - REGULATIONS; LICENSING REQUIREMENTS:

The CONSULTANT shall comply with all laws, ordinances and regulations applicable to the services contemplated herein, to include those applicable to conflict of interest and collusion. CONSULTANT is presumed to be familiar with all federal, state and local laws, ordinances, codes and regulations that may in any way affect the services offered.

ARTICLE 29 - OFFICE OF THE INSPECTOR GENERAL

Palm Beach County has established the Office of the Inspector General, Ordinance R2009-049, as may be amended. The Inspector General's authority includes but is not limited to the power to review past, present and proposed County contracts, transactions, accounts and records, to require the production of records, and audit, investigate, monitor, and inspect the activities of the consultant, its officers, agents, employees, and lobbyists in order to ensure compliance with contract specifications and detect corruption and fraud. All consultants and parties doing business with the County and receiving County funds shall fully cooperate with the Inspector General including receiving access to records relating to RFP or any resulting contract.

IN WITNESS WHEREOF, the Board of County Commissioners of Palm Beach County, Florida has made and executed this Contract on behalf of the COUNTY and CONSULTANT has hereunto set its hand the day and year above written.

ATTEST:
SHARON R. BOCK, Clerk and Comptroller

PALM BEACH COUNTY BOARD OF
COUNTY COMMISSIONERS

BY: _____
Deputy Clerk

By: _____
Karen T. Marcus, Chair

APPROVED AS TO TERMS AND
AND CONDITIONS

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: Armen Wolf
Director - FD&O

By: James C. [Signature]
County Attorney

WITNESS for CONSULTANT signature:

CONSULTANT:

Christina J.L. Sandefur
Signature

David L. Mahler
Signature

Christina J.L. Sandefur
Name (type or print)

David L. Mahler
Name (type or print)

Vice President of Finance
Title



**THE
GORDIAN
GROUP®**

Exhibit A

Scope of Work

June 24, 2011

Darrell Lange
Palm Beach County
3323 Belvedere Road
West Palm Beach, FL 33406

Re: Proposal to Provide JOC Services

Dear Mr. Lange:

Please accept this letter from The Gordian Group as a proposal to continue providing Job Order Contracting (JOC) products and services to Palm Beach County (County). We believe that the County's use of our JOC system during the past 17 years has been a mutually rewarding experience for both parties and we would welcome the opportunity to continue our relationship. We propose to continue this beneficial relationship as follows:

Term

The Gordian Group proposes to provide services to the County's JOC program for a term of five (5) years.

Scope of Services

The Gordian Group provides a comprehensive Scope of Services to our clients receiving JOC maintenance and support services, which includes updating the contract documents, Construction Task Catalog® and Technical Specifications, assisting with bidding new JOC contracts, providing access for all updates to the PROGEN® online software, preparing and revising reports, providing day-to-day technical support services to both County and JOC contractor staff, and providing refresher training as needed. A detailed list of the JOC Program Maintenance and Support Scope of Services we provide to our clients is attached for your review. We propose utilizing this scope of services for a new contract.

JOC System License Fee

The Gordian Group's standard license fee to provide maintenance and support services to our clients is 1.95%. This fee was implemented in 2004 with the introduction of our new Internet based PROGEN® Online software, which greatly reduced the IT related efforts and problems our clients were facing. With PROGEN® Online, The Gordian Group incurs all host server and software access costs, and the problems experienced with electronic communication to and from the contractors were eliminated.

In the past, we did not increase the County's License Fee due to your continued loyalty and the ease at which the contract has been renewed. As discussed with the County in the past, our costs have continued to increase and it will be necessary to increase the County's License Fee to 1.95% for the new contract. The License Fee shall be payable by the County when each Job Order is issued to the JOC contractor.

JOC System License

As in the past, the County will have unlimited user access to our JOC System for your JOC program. We use a standard JOC System License to protect the proprietary nature of this

Darrell Lange
June 24, 2011
Page 2

system and other associated proprietary products and materials. Our proposed fee is submitted on the basis that the County agrees to incorporate into any agreement between the County and The Gordian Group the following JOC System License:

The Gordian Group hereby grants to the County, and the County hereby accepts from The Gordian Group for the term of this Agreement, a non-exclusive right, privilege and license to The Gordian Group's Job Order Contracting System and other related proprietary materials (collectively referred to as "Proprietary Information") to be used for the sole purpose of operating the Palm Beach County Job Order Contracting program. The parties hereby agree that Proprietary Information shall include, but is not limited to, The Gordian Group's PROGEN[®] software and support documentation, Construction Task Catalog[®] (also commonly referred to as a unit price book), training materials and other proprietary materials provided by The Gordian Group. In the event this Agreement expires or terminates as provided herein, this JOC System License shall terminate and the County shall return to The Gordian Group all Proprietary Information in the County's possession.

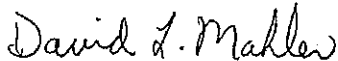
The County acknowledges that disclosure of Proprietary Information will result in irreparable harm to The Gordian Group for which monetary damages would be an inadequate remedy and agrees that no such disclosure shall be made to anyone without first receiving the written consent of The Gordian Group. The County further acknowledges and agrees to respect the copyrights, registrations, trade secrets and other proprietary rights of The Gordian Group in the Proprietary Information during and after the term of this Agreement and shall at all times maintain complete confidentiality with regard to the Proprietary Information provided to the County, subject to federal and state laws related to public records disclosure.

Upon the expiration or termination of this Agreement as provided herein, The Gordian Group shall provide all data generated by the County in a form accessible by a standard database program, such as Microsoft[®] Access[®].

In the event of a conflict in terms and conditions between this JOC System License and any other terms and conditions of this Agreement or any purchase order or similar purchasing document issued by the County, this JOC System License shall take precedence.

We would welcome the opportunity to continue providing JOC services to Palm Beach County. Please contact me at (800) 874-2291 or d.mahler@thegordiangroup.com if you need any additional information or if you would like to discuss this proposal in more detail.

Sincerely,



David L. Mahler
Vice President of Finance

Attachment

JOC Program Maintenance & Support Scope of Services

Program Support

- Provide strategic guidance to the project team
- Monitor program performance, as requested
- Integrate successful experiences from other agencies using JOC
- Identify and consult on major program issues
- Update the Execution Procedures
- Provide guidance and interpretations on procedures
- Assist with interpretation of the Construction Task Catalog® including:
 - Resolve Construction Task Catalog® issues
 - Manage revisions to the Construction Task Catalog®
- Conduct annual on-site reviews of the JOC Program, as requested
- Prepare program evaluations, as requested

Procurement & Document Maintenance Support (On-Site)

- Provide assistance with modifications to the Contract and General Conditions
- Provide assistance with modifications to the Instructions to Bidders
- Conduct research to identify recurring use of non-prepriced tasks
- Coordinate preparation of updated Construction Task Catalog®
- Coordinate preparation of updated Technical Specifications
- Conduct informational seminars for local groups, as requested
- Assist with bidding new JOC contracts including:
 - Conduct pre-bid meetings with potential contractors
 - Assist with bid review and JOC contractor selection, as requested

Procurement & Document Maintenance Support (Off-Site)

- Update and enhance the customized Construction Task Catalog® including:
 - Maintain the integrity of the CSI numbering system
 - Improve task descriptions
 - Develop new tasks for recurring non-prepriced tasks
 - Remove outdated tasks that are no longer used or available
 - Monitor local area pricing
 - Incorporate current construction practices and materials
 - Publish a new Construction Task Catalog® for each additional solicitation
- Update and enhance the customized Technical Specifications including:
 - Develop new specifications for recurring non-prepriced tasks
 - Incorporate current construction practices, standards and materials
 - Publish new Technical Specifications for each additional solicitation

Training Support

- Update the Training Manual to reflect any changes in procedures
- Conduct refresher training on procedures for current Client and JOC contractor staff, as requested
- Conduct JOC procedures training for new Client and JOC contractor staff
- Provide hands-on training for new Client and JOC contractor staff in the areas of:
 - Project identification and development
 - Joint scope meetings
 - Project scope development
 - Proposal development and preparation
 - Proposal review and variance resolution
- Conduct PROGEN[®] software training including:
 - Provide on-site PROGEN[®] assistance for the Client, as needed or requested
 - Provide refresher training for current Client and JOC contractor staff
 - Provide on-site/Internet based training for new releases of PROGEN[®]
 - Provide on-site/ Internet based training for all new Client staff
 - Provide Internet based training for current and new JOC contractor staff

Software Support

- Provide access to PROGEN[®] for an unlimited number of Client and JOC contractor users
- Provide software technical support, including:
 - Set-up PROGEN[®] access for new Client and JOC contractor staff
 - Set-up PROGEN[®] access for new JOC contractors
 - Provide systems support in connection with PROGEN[®]
- Provide access to all new releases of PROGEN[®] software
- Write, test and finalize modifications to existing PROGEN[®] reports, as requested
- Write, test and finalize new PROGEN[®] reports, as requested
- Provide toll free 24/7 telephone support for PROGEN[®] software



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
11/15/2010

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

| PRODUCER Wells Fargo Insurance Services USA, Inc. 330 Madison Avenue 7th Floor New York, New York 10017 | CONTACT NAME: PHONE (A/C, No, Ext): _____ FAX (A/C, No): _____ E-MAIL ADDRESS: _____ PRODUCER CUSTOMER ID #: GORDGRO | | | | | | | | | | | | | | | | | | | | | |
|--|--|-------------------------------|--|--------|------------|--|-------|------------|---------------------------|-------|------------|--|--|------------|--|--|------------|--|--|------------|--|--|
| INSURED The Gordian Group, Inc. TGG Group, LLC 140 Bridges Road, Suite E Mauldin, SC 29662 | <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th colspan="2">INSURER(S) AFFORDING COVERAGE</th> <th>NAIC #</th> </tr> </thead> <tbody> <tr> <td>INSURER A:</td> <td>Great Northern Insurance Company (Chubb)</td> <td>20303</td> </tr> <tr> <td>INSURER B:</td> <td>Federal Insurance Company</td> <td>20281</td> </tr> <tr> <td>INSURER C:</td> <td></td> <td></td> </tr> <tr> <td>INSURER D:</td> <td></td> <td></td> </tr> <tr> <td>INSURER E:</td> <td></td> <td></td> </tr> <tr> <td>INSURER F:</td> <td></td> <td></td> </tr> </tbody> </table> | INSURER(S) AFFORDING COVERAGE | | NAIC # | INSURER A: | Great Northern Insurance Company (Chubb) | 20303 | INSURER B: | Federal Insurance Company | 20281 | INSURER C: | | | INSURER D: | | | INSURER E: | | | INSURER F: | | |
| INSURER(S) AFFORDING COVERAGE | | NAIC # | | | | | | | | | | | | | | | | | | | | |
| INSURER A: | Great Northern Insurance Company (Chubb) | 20303 | | | | | | | | | | | | | | | | | | | | |
| INSURER B: | Federal Insurance Company | 20281 | | | | | | | | | | | | | | | | | | | | |
| INSURER C: | | | | | | | | | | | | | | | | | | | | | | |
| INSURER D: | | | | | | | | | | | | | | | | | | | | | | |
| INSURER E: | | | | | | | | | | | | | | | | | | | | | | |
| INSURER F: | | | | | | | | | | | | | | | | | | | | | | |

COVERAGES **CERTIFICATE NUMBER: 2034413** **REVISION NUMBER: See below**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

| INSR LTR | TYPE OF INSURANCE | ADDL INSR | SUBR WVD | POLICY NUMBER | POLICY EFF (MM/DD/YYYY) | POLICY EXP (MM/DD/YYYY) | LIMITS |
|----------|---|-----------|----------|----------------------|--------------------------|--------------------------|---|
| A | GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC | | | 3589-02-76 | 12/11/2010 | 12/11/2011 | EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 1,000,000 \$ |
| A | AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS <input checked="" type="checkbox"/> Comp. Ded. \$1,000 | | | 73550270 73556982 | 12/11/2010 12/11/2010 | 12/11/2011 12/11/2011 | COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$ Coll. Ded. \$1,000 \$ |
| B | UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DEDUCTIBLE \$ RETENTION \$ | | | 7983-69-96 | 12/11/2010 | 12/11/2011 | EACH OCCURRENCE \$ 10,000,000 AGGREGATE \$ 10,000,000 \$ \$ |
| B | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y/N If yes, describe under DESCRIPTION OF OPERATIONS below | | N/A | 71736473 | 12/11/2010 | 12/11/2011 | <input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000 |

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
 Palm Beach County Board of County Commissioners, a Political Subdivision of the State of Florida, its Officers, Employees and Agents are additional insureds. Policy provides blanket additional insured coverage as required per written contract. Coverage is primary. Waiver of Subrogation is also provided on a blanket basis. Umbrella is a follow form basis policy. 30 days notice of cancellation/10 days notice for non-payment per policy provisions.

| | |
|---|--|
| CERTIFICATE HOLDER Palm Beach County c/o Facilities Services Attn: Louise Feldkamp 2633 Vista Parkway West Palm Beach FL 33411 | CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE |
|---|--|

Liability Insurance

Endorsement

Policy Period 12/11/2010 - 12/11/2011

Effective Date 12/11/2010

Policy Number 3589-02-76

Insured The Gordian Group

Name of Company Federal Insurance Company

Date Issued 07/28/2011

This Endorsement applies to the following forms:

Under Who Is an Insured, the following provision is added.

Who Is An Insured

*Scheduled Person
Or Organization*

Subject to all of the terms and conditions of this insurance, any person or organization shown in the schedule, acting pursuant to a written contact or agreement between you and such person or organization, is an **insured**; but they are **insureds** only with respect to liability arising out of your operations, or your premises, if you are obligated, pursuant to such contact or agreement, to provide them with such insurance as is afforded by this policy.

However, no such person or organization is an **insured** with respect to any:

- Assumption of liability by term in a contract or agreement. This limitation does not apply to the liability for damages for injury or damage, to which this insurance applies, that the person or organization would have in the absence of such contact or agreement.
- Damages arising out of their sole negligence.

Schedule

Palm Beach County Board of County Commissioners, a Political Subdivision of the State of Florida, its Officers, Employees and Agents are listed as additional insured in regards to the General Liability policy.



All other terms and conditions remain unchanged.

Authorized Representative

POLICYNUMBER: (08) 7355-02-70

COMMERCIAL AUTO
CA 20 48 02 99

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.
DESIGNATED INSURED

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM
GARAGE COVERAGE FORM
MOTOR CARRIER COVERAGE FORM
TRUCKERS COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by this endorsement.

This endorsement identifies person(s) or organization(s) who are "insureds" under the Who Is An Insured Provision of the Coverage Form. This endorsement does not alter coverage provided in the Coverage Form.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

| | |
|--|-----------------------------|
| Endorsement Effective: <i>12/11/2010</i> | Countersigned By: |
| Named Insured: The Gordian Group, Inc. | (Authorized Representative) |

SCHEDULE

Name of Person(s) or Organization(s):

Palm Beach County Board of County Commissioners, a Political Subdivision of the State of Florida, its Officers, Employees and Agents are listed as additional insureds in regards to the Automobile Policy.

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to the endorsement.)

Each person or organization shown in the Schedule is an "insured" for Liability Coverage, but only to the extent that person or organization qualifies as an "insured" under the Who Is An Insured Provision contained in Section II of the Coverage Form.

The Gordian Group Inc.
Policy No.: 3589-02-76
Great Northern Insurance co.
Policy Period: 12/11/10-11

Conditions

(continued)

**Transfer Or Waiver Of
Rights Of Recovery
Against Others**

We will waive the right of recovery we would otherwise have had against another person or organization, for loss to which this insurance applies, provided the **insured** has waived their rights of recovery against such person or organization in a contract or agreement that is executed before such loss.

To the extent that the **insured's** rights to recover all or part of any payment made under this insurance have not been waived, those rights are transferred to us. The **insured** must do nothing after loss to impair them. At our request, the **insured** will bring suit or transfer those rights to us and help us enforce them.

This condition does not apply to **medical expenses**.

WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY INSURANCE POLICY

WC 124
(4-84)

WC 00 03 13

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

This endorsement changes the policy to which it is attached effective on the inception date of the policy unless a different date is indicated below.

(The following "attaching clause" need be completed only when this endorsement is issued subsequent to preparation of the policy.)

This endorsement, effective on 01/18/11 at 12:01 A. M. standard time, forms a part of
(DATE)

Policy No. (11)7173-64-73 of the FEDERAL INSURANCE COMPANY
(NAME OF INSURANCE COMPANY)

issued to THE GORDIAN GROUP, INC.

Endorsement No.

Authorized Representative

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.*

This agreement shall not operate directly or indirectly to benefit any one not named in the Schedule.

Schedule

Palm Beach County
c/o Facilities Development
& Operations
Capital Improvement Division
2633 Vista Parkway
West Palm Beach, FL 33411

DISCLOSURE OF OWNERSHIP INTERESTS

TO: PALM BEACH COUNTY CHIEF OFFICER,
OR HIS OR HER OFFICIALLY DESIGNATED REPRESENTATIVE

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

BEFORE ME, the undersigned authority, this day personally appeared David L. Mahler, hereinafter referred to as "Affiant," who being by me first duly sworn, under oath, deposes and states as follows:

1. Affiant appears herein as:
 an individual *or*

the Vice President of Finance of The Gordian Group, Inc.
[position—e.g., sole proprietor, president, partner, etc.] [name & type of entity—e.g., ABC Corp., XYZ Ltd. Partnership, etc.]
The Affiant or the entity the Affiant represents herein seeks to do business with Palm Beach County through its Board of County Commissioners.

2. Affiant's address is: 140 Bridges Road, Suite E, Mauldin, SC 29662.

3. Attached hereto as Exhibit "A" is a complete listing of the names and addresses of every person or entity having a five percent (5%) or greater interest in the Affiant's corporation, partnership, or other principal. Disclosure does not apply to nonprofit corporations, government agencies, or to an individual's or entity's interest in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, Florida Statutes, whose interest is for sale to the general public.

4. Affiant acknowledges that this Affidavit is given to comply with Palm Beach County policy, and will be relied upon by Palm Beach County and the Board of County Commissioners. Affiant further acknowledges that he or she is authorized to execute this document on behalf of the entity identified in paragraph one, if any.

5. Affiant further states that Affiant is familiar with the nature of an oath and with the penalties provided by the laws of the State of Florida for falsely swearing to statements under oath.

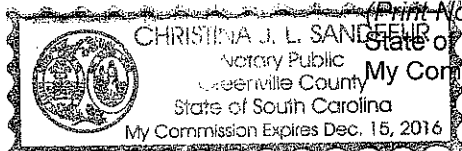
6. Under penalty of perjury, Affiant declares that Affiant has examined this Affidavit and to the best of Affiant's knowledge and belief it is true, correct and complete.

FURTHER AFFIANT SAYETH NAUGHT.

David L. Mahler
David L. Mahler, Affiant
(Print Affiant Name)

The foregoing instrument was acknowledged before me this 2nd day of August, 2011, by David L. Mahler,
 who is personally known to me or who has produced _____
as identification and who did take an oath.

Christina J. Sandefur
Notary Public
CHRISTINA J. L. Sandefur
(Print Notary Name)



State of Florida at Large
My Commission Expires: 12/15/16

EXHIBIT "A"

DISCLOSURE OF OWNERSHIP INTERESTS IN AFFIANT

Affiant must identify all entities and individuals owning five percent (5%) or more ownership interest in Affiant's corporation, partnership or other principal, if any. Affiant must identify individual owners. For example, if Affiant's principal is wholly or partially owned by another entity, such as a corporation, Affiant must identify the other entity, its address, and the individual owners of the other entity. Disclosure does not apply to any nonprofit corporation, government agency, or to an individual's or entity's interest in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, Florida Statutes, whose interest is for sale to the general public.

Name

Address

Owner of The Gordian Group, Inc.:

TGG Sub, Inc. -100% (holding company) 140 Bridges Rd, Suite E, Mauldin, SC 29662

Owner of TGG Sub, Inc.:

Gordian Manager, LLC 405 Park Avenue, New York, NY 10022



**THE
GORDIAN
GROUP®**

RECEIVED
CAPITAL IMPROVEMENTS DIVISION

00 2011

August 2, 2011

John Chesher
Director
Palm Beach County
Capital Improvements Division
2633 Vista Parkway
West Palm Beach, FL 33411

Re: Contract for JOC Services

Dear Mr. Chesher:

Enclosed are three (3) executed originals of a revised Disclosure of Ownership Form. Please note that no individuals own 5% or more of the entities identified on the disclosure and the corporation is not registered with the Securities Exchange Commission.

Also enclosed, is a copy of an updated insurance certificate, which includes all of the required endorsements. The original will be mailed to you by our agent.

Please contact me if you need any additional information.

Sincerely,

David L. Mahler
Vice President of Finance

Enclosures