RESOLUTION NO. 59-09

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A THREE (3) YEAR AGREEMENT COMMENCING JUNE 4, 2009 - JUNE 4, 2012 WITH WORK-FORCE ALLIANCE, INC., TO PERMIT THE CITY OF RIVIERA BEACH TO BE A HOST WORKSITE FOR THE SUMMER JOBS PROGRAM FOR YOUTH AND YOUNG ADULTS AGES 18 - 24; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Workforce Alliance, Inc. is an agency funded through Palm Beach County; and

WHEREAS, Workforce Alliance, Inc. has received funds from the American Recovery and Reinvestment Act of 2009 (ARRA) to operate a Summer Jobs Program throughout Palm Beach County for participants ages 18 - 24 for six (6) weeks during the summer months of July 6, 2009 - August 14, 2009; and

WHEREAS, the City of Riviera Beach will be a host worksite for the participants and provide supervised, safe and meaningful employment opportunities; and

WHEREAS, Workforce Alliance will pay the participants' wages and provide workers' compensation coverage.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AS FOLLOWS:

SECTION 1. That the Mayor and City Clerk be authorized to execute a three (3) year Agreement commencing June 4,2009 – June 4, 2012 with Workforce Alliance, Inc. allowing the City of Riviera Beach to be a host worksite this year for the Summer Jobs Program for youth and young adults ages 18 – 24.

SECTION 2. That Workforce Alliance will compensate the participants and provide workers' compensation coverage.

SECTION 3. That the Summer Jobs Program will commence July 6,2009 - August 14,2009.

SECTION 4. This Resolution shall take effect upon its passage and approval by the City Council.

PASSED AND APPROVED this 3 day of June, 2009.

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APPROVED:

THOMAS A. MASTERS
MAYOR

DAWN S. PARDO
CHAIRPERSON

JUDY L. DAVIS
CHAIRPERSON PRO TEM

BILLIE E. BROOKS
COUNCILPERSON

Absent

CEDRICK A. THOMAS
COUNCILPERSON

SHELBY L. LOWE
COUNCILPERSON

ATTEST:

CARRIE E. WARD
MASTER MUNICIPAL CLERK
CITY CLERK

Motioned by: J. DAVIS

Seconded by: B. BROOKS

D. Pardo AYE

J. Davis

B. Brooks AYE

C. Thomas Absent

S. Lowe AYE

REVIEWED AS TO LEGAL SUFFICIENCY

Pamala H. Ryan
City Attorney

DATE 5/27/09

AGREEMENT NO. 2008-428

BETWEEN
WORKFORCE ALLIANCE, INC.
AND
THE CITY OF RIVIERA BEACH, FL

For the Provision of a Subsidized Work Experience for Workforce Alliance, Inc., American Recovery and Reinvestment Act of 2009, Workforce Investment Act Eligible Youth and Adult Participants

This AGREEMENT, entered into this ____day of _____, 2009, by and between Workforce Alliance, Inc., hereinafter referred to as ALLIANCE, having its principal office at 315 South Dixie Highway, Suite 102, West Palm Beach, Florida 33401 AND The City of Riviera Beach, hereinafter referred to as CONTRACTOR existing. under and by virtue of the laws of the State of Florida as a Municipality (Type of Organization) having its principal office at 600 W Blue Heron Blvd., Riviera Beach, FL 33404

WHEREAS, ALLIANCE has entered into an agreement for the implementation of workforce development programs and activities; AND

WHEREAS, CONTRACTOR is desirous of providing work experience opportunities for ALLIANCE participants;

NOW THEREFORE, in consideration of the promises and the mutual covenants and obligations herein contained, and subject to the terms and conditions hereinafter stated, the Parties hereto agree and understand as follows.

1. The program to be provided shall be a work experience, wherein a youth, or adult (also referred to as participant(s) is referred to CONTRACTOR by the ALLIANCE Career Center and is given job functions to perform under the supervision of CONTRACTOR's staff in accordance with and for a time period specified in a job order completed for each participant.

   a. There shall be a job order for each participant.

   b. The job order shall state maximum number of hours per week the participant shall be engaged in a work experience.

   c. The job order shall state the total maximum number of weeks or months a participant may be employed in the work experience. Participation in a work experience activity will vary from individual to individual. The length of a youth summer work experience shall be communicated pursuant to the notice provisions in paragraph 13. of this Agreement in addition to being stated in the youth's job order.

d. The job order shall detail the duties the participant shall be expected to perform and the location or office that the participant must report to each day for the length of his/her work experience.

e. The job order must be signed by both a representative of CONTRACTOR that will serve as a work site for the participant during the tenure of his/her work experience and by the assigned ALLIANCE Program Manager/representative.

f. The completed job order shall be incorporated by reference into this Agreement as if set forth in its entirety herein.

g. CONTRACTOR agrees not to refer participants to worksites outside of their own organization.

2. ALLIANCE shall ensure payment is made to participants for the hours spent in a work experience. Payment to participants by the outside employment servicer shall be reimbursed by ALLIANCE pursuant to a separate agreement between ALLIANCE and the outside employment servicer. Each participant shall be informed by ALLIANCE prior to his/her referral to CONTRACTOR regarding the pay the outside employment servicer is to receive.

   a. CONTRACTOR shall not require participants to work hours in excess of those recorded on the job order.

   b. ALLIANCE shall be responsible for reimbursement of participants' wages only up to the hours that are set forth in the job order. Participants shall only be paid for time actually worked.

   c. ALLIANCE will not pay for overtime, holidays, vacation, sick or other leave or time off from the job. CONTRACTOR shall ensure participants do not work overtime or on holidays. There shall be no other benefits or payments due and owing to participants other than those expressly stated herein.

   d. ALLIANCE shall arrange for the picking up of participant time sheets and distributing participant paychecks.

   e. CONTRACTOR agrees to use the timesheets provided by ALLIANCE to record each participant's time and shall assure that participant time sheets are accurate and that time worked is recorded in segments of fifteen minutes.

3. ALLIANCE shall arrange for all participants to be covered by Workers Compensation Insurance.

   a. CONTRACTOR shall inform ALLIANCE or their ALLIANCE Career Center contact immediately of any problem concerning participant's performance at a worksite or in the event of an accident or injury to the participant occurring at the work site.

4. CONTRACTOR agrees to supervise all participants placed into a work experience with CONTRACTOR's company.

   a. CONTRACTOR agrees to identify a direct and alternate supervisor for each participant assigned to a work experience activity in CONTRACTOR's company.

   b. CONTRACTOR agrees to require the supervisor and hislher alternate to attend Work Site Supervisors Training that will be scheduled by ALLIANCE.

   c. Each worksite supervisor and hislher alternate shall receive a copy of the Supervisor's Handbook and the job order applicable to each participant under such supervisor's supervision, and shall assign the participant duties in accordance with the job order.

   d. The supervisor or hislher alternate shall be responsible for monitoring participant time and attendance and for signing the work experience participant(s) time sheets.

   e. CONTRACTOR agrees not to reassign participant worksites without first obtaining ALLIANCE's written consent.

   f. CONTRACTOR agrees to assign participants to worksites that are sanitary, safe and comply with OSHA and state and local worksite regulations. Participants may not be employed in the construction, operation, or maintenance of any facility currently used or intended to be used for sectarian instruction or as a place of religious worship, and may not be employed in any sectarian activities.

   g. CONTRACTOR shall allow ALLIANCE and its funding agency representatives to visit participant work sites for the purpose of monitoring the work experience program.

   h. CONTRACTOR agrees to maintain records and files pertaining to the work experience program for five (5) years and to allow ALLIANCE, the State of Florida, and the United States Departments of Labor or Health and Human Services to monitor the work experience program.

5. Compliance with Laws

   a. CONTRACTOR shall comply with all applicable federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations related to this Agreement.

   b. CONTRACTOR shall comply with Federal and State Child Labor Laws as they apply to youth participants.

6. Indemnification

   a. Applicable to Governmental Entities

CONTRACTOR is a state agency or subdivision as defined in Chapter 768.28, Florida Statutes, and agrees to be fully responsible for acts and omissions of its officers, agents, and employees to the extent permitted by law. Nothing herein is intended to serve as a waiver of sovereign immunity by CONTRACTOR to which sovereign immunity may be applicable. Nothing herein shall be construed as consent by a state agency or subdivision of the State of Florida to be sued by third parties in any matter arising out of this Agreement or any other contract.

b. Applicable to not-for profit organizations

To the extent not otherwise prohibited or limited by Florida law or Federal law or regulation, and without waiving any defense or immunity, Contractor shall be liable, and agrees to be liable for, and shall indemnify, defend and hold harmless the ALLIANCE and any Director, employee, officer or agent of ALLIANCE, and the Palm Beach County Board of County Commissioners from liability of any nature and kind, including costs, expenses, and attorney's fees, for or on account of any actions, suits or damages of any character whatsoever arising out of any negligent act or omission of the Contractor or any employee, agent, subcontractor, or representative of the Contractor.

Contractor further agrees to indemnify, save harmless and defend the Palm Beach County Board of Commissioners, its agents, servants, and employees harmless from any and all demand or cause of action, suits, judgments, or damages including court costs and attorney's fees of whatsoever kind or nature arising out of any conduct or misconduct, intentional acts, negligence, or omissions by the Contractor, or its employees or agents, in the course of the performance of this Agreement, including any claim or actions brought under Title 42 USC §1983, the Civil Rights Act and for which the Palm Beach County Board of Commissioners, its agents, servant of employees are alleged to be liable.

7. Maintenance of Effort

a. Participants may not be placed in positions previously filled by an individual who is laid off from the same or a substantially equivalent job.

b. Participants may not be placed into a position created when CONTRACTOR has terminated the employment of any regular employee or otherwise reduced its workforce with the intention of filling the vacancy created by hiring a participant or employee whose wages are subsidized by the ALLIANCE or paid for with ALLIANCE funds.

c. If a collective bargaining agreement is in force in CONTRACTOR's organization for training positions which will be filled by work experience participants, CONTRACTOR agrees to obtain written concurrence from the bargaining agent.

d. CONTRACTOR shall not permit participants to displace currently employed workers including partial displacement such as a reduction in the hours of non-overtime work, wages or employment benefits.

e. CONTRACTOR may not impair current contracts for services or collective bargaining agreements or substitute federal funds made available by this Agreement to subsidize work that would otherwise be performed by the CONTRACTOR.

f. CONTRACTOR shall not create a job for a participant or an individual employed to carry out the obligations under this Agreement, which will infringe in any way upon the promotional opportunities of a currently employed individual.

8. Employment Opportunity and Americans With Disabilities Act

a. CONTRACTOR shall comply with all federal, state, and local laws, codes, ordinances, rules, and regulations, in performing its duties, responsibilities and obligations pursuant to this Agreement.

b. CONTRACTOR shall comply with the prohibitions against discrimination in, the Age Discrimination Act of 1975, Section 504 of the Rehabilitation Act, in Title IX of the Education Amendments of 1972, and under Title VI of the Civil Rights Act of 1964 with respect to the performance of their obligations under this Agreement, and shall comply with the physical and programmatic accessibility and reasonable accommodations requirements of section 504 of the Vocational Rehabilitation Act of 1973, as amended, and the Americans with Disabilities Act of 1990 as amended.

c. CONTRACTOR understands and agrees that no qualified disabled individual shall, on the basis of disability, be excluded from participation in, be denied the benefits of, or otherwise be subject to discrimination.

d. CONTRACTOR shall not unlawfully discriminate against any person in its operations and activities in its use or expenditure of the funds or any portion of the funds provided by this Agreement and shall affirmatively comply with all applicable provisions of the Americans with Disabilities Act (ADA) in the course of providing any services funded in whole or in part by ALLIANCE, including Titles I and II of the ADA (regarding nondiscrimination on the basis of disability), and all applicable regulations, guidelines, and standards. In addition, CONTRACTOR shall take affirmative steps to ensure nondiscrimination in employment against disabled persons. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay, other forms of compensation, terms and conditions of employment, training (including apprenticeship), and accessibility.

e. CONTRACTOR's decisions regarding delivery of services under this Agreement shall be made without regard to or consideration of race, age, religion, color,

9. Insurance

a. Applicable to not-for profit organizations and for profit organizations.

i. To ensure the indemnification obligation contained in paragraph 6 above, Contractor shall, at a minimum, provide, pay for, and maintain in force at all times during the term of this Agreement, the insurance coverage's set forth in subsections iii, iv, and v, below in accordance with the terms and conditions required by this Article. Each insurance policy shall clearly identify the foregoing indemnification as insured.

ii. Such policy or policies shall be without any deductible amount unless otherwise agreed to by the Parties and shall be issued by approved companies authorized to do business in the State of Florida, and having agents upon whom service of process may be made in Palm Beach County, Florida. CONTRACTOR shall specifically protect ALLIANCE by naming ALLIANCE and the outside employment service as additional insureds under the Comprehensive General or Commercial Liability Policy only.

iii. Comprehensive General or Commercial Liability Insurance

A Comprehensive General or Commercial Liability Insurance Policy shall be provided which shall contain minimum limits of One Million Dollars ($1,000,000) per occurrence combined single limit for bodily injury liability and property damage liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Comprehensive General or Commercial Liability Policy, without restrictive endorsements, as filed by the Insurance Services Office and must include:

- Premises and/or operations.
- Independent contractors.
- Products and/or Completed Operations for contracts.
- Broad Form Contractual Coverage applicable to this specific Contract, including any hold harmless and/or indemnification agreement.
- Personal Injury Coverage with Employee and Contractual Exclusions removed, with minimum limits of coverage equal to those required for Bodily Injury Liability and Property Damage Liability.

iv. Business Automobile Liability.

If participants will be required to drive as a part of their work experience CONTRACTOR shall maintain Business Automobile Liability with minimum limits of One Million Dollars ($1,000,000) per occurrence, combined single limit for Bodily Injury Liability and Property Damage Liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Business Automobile Liability policy, without restrictive endorsements, as filed by the Insurance Services Office, and must include:

Owned Vehicles.

Hired and Non-Owned Vehicles.

- Employers' Non-Ownership.

v. CONTRACTOR shall furnish ALLIANCE in accordance with the Notice Provisions under this Agreement with certified copies of Certificates of Insurance or endorsements evidencing the insurance coverage's specified by this Article prior to the placement of participants at CONTRACTOR worksites.

vi. Coverage is not to cease and is to remain in force (subject to cancellation notice) until all performance required of CONTRACTOR is completed. All policies must be endorsed to provide ALLIANCE with at least thirty (30) days notice of cancellation and/or restriction. If any of the insurance coverage's will expire prior to the completion of the work, copies of renewal policies shall be furnished at least thirty (30) days prior to the date of their expiration.

b. Applicable to Governmental Entities.

Contractor state or municipal agencies or subdivisions defined by Section 768.28, Florida Statutes, shall furnish to ALLIANCE upon request, written verification of liability protection in accordance with State law.

10. Amendment

This Agreement may be amended by either party by submitting the proposed changes to the other party in accordance with paragraph 13., Notice, under this Agreement. No such change shall become effective until a formal amendment to this Agreement is executed by both Parties.

11. Agreement Term

This Agreement is effective upon execution by both ALLIANCE and CONTRACTOR, for a term of three (3) years ("Initial Term"); provided however, the Parties may terminate this Agreement earlier as provided for under Section 15., entitled "Termination." This Agreement may be renewed for an additional term of up to three (3) years prior to the expiration of the Initial Term through a formal amendment executed by the Parties.

12. Incorporation By Reference

The following are incorporated into and made a part of this Agreement:

a. Child Labor Laws (29 USC 203): Occupations Particularly Hazardous for the Employment of Minors Between Sixteen (16) and Eighteen (18) Years of Age or Detrimental to Their Health or Well-being (subpart E), and

b. The Assurances and Certifications Exhibit A.

13. Notice

a. Whenever any party wishes to give notice to the other party, such notice shall be in writing, sent by certified United States mail, with return receipt requested, addressed to the party for whom it is intended, at the place specified, and the place for giving of the notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, ALLIANCE and CONTRACTOR designate the following as the respective places for giving of notice, to-wit:

   Notice to ALLIANCE shall be addressed to:

   ATTN: President/CEO
   Workforce Alliance, Inc.
   315 South Dixie Highway, Suite 102, West Palm Beach, Florida 33401

   Notice to CONTRACTOR shall be addressed to:
   Doretha Perry

   2051 MLK Boulevard

   Riviera Beach, FL 33404

b. The name and address of the ALLIANCE, Career Center Contact, or the youth monitor, or the career consultant contact shall be the ALLIANCE representative named on the job order In the event that different representatives are designated by either party notice of the name and address of the new representative shall be provided in writing to the other party.

14. Assignment

Neither this Agreement nor any interest herein shall be assigned, transferred, or encumbered by CONTRACTOR.

15. Termination

This Agreement may be terminated by either party for convenience by giving the other party not less than fifteen (15) days written notice as provided for in paragraph 13.

herein. This Agreement may also be terminated by the ALLIANCE President/CEO immediately upon notice in the event the ALLIANCE President/CEO determines that termination is necessary to protect the health, safety, or the welfare of any participant or participants placed within CONTRACTOR's company.

16. Materiality and Waiver of Breach

ALLIANCE and CONTRACTOR agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and that each is, therefore, a material term hereof. ALLIANCE's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

17. Severance

In the event this Agreement or a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless ALLIANCE or CONTRACTOR elects to terminate this Agreement. The election to terminate this Agreement based upon this provision shall be made within thirty (30) days after the finding by the court becomes final.

18. Joint Preparation

The parties hereto (the "Parties") acknowledge that they have sought and received whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been a joint effort of the Parties, the language has been agreed to by Parties to express their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the Parties than the other.

19. Priority of Provisions

If there is a conflict or inconsistency between any term, statement, requirement, or provision of any exhibit attached hereto, any document or events referred to herein, or any document incorporated into this Agreement by reference and a term, statement, requirement, or provision of this Agreement, the term, statement, requirement, or provision contained in this Agreement shall prevail and be given effect.

20. Applicable Law And Venue

This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. All Parties agree and accept that jurisdiction of any controversies or legal problems arising out of this Agreement, and any action involving the enforcement or interpretation of any rights hereunder, shall be exclusively in Palm Beach County, Florida, and venue for litigation arising out of this Agreement shall be

exclusively in Palm Beach County, Florida forsaking any other jurisdiction which either party may claim by virtue of its residency or other jurisdictional device. **BY ENTERING INTO THIS AGREEMENT, ALLIANCE AND CONTRACTOR HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT.**

21. Prior Agreements

This document incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein and the Parties agree that there are no commitments, agreements .or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the Parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that no modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document utilizing the same formalities as this Agreement.

22. Third Party Beneficiaries

The Parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them based upon this Agreement. The Parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this Agreement.

23. Contract Administrator/Designated Representative

For CONTRACTOR, the Contract Administrator is Doretha Perry, Director of Human Resources or such other designee as shall have been communicated to ALLIANCE in writing and accepted by ALLIANCE in writing. For ALLIANCE, the Designated Representative is the ALLIANCE President/CEO. In the administration of this Agreement, as contrasted with matters of policy, the Parties may rely upon instructions or determinations made by CONTRACTOR'S Contract Administrator and ALLIANCE's President/CEO provided, however, that such instructions and determinations do not change the terms of this Agreement.

24. Independent Contractor

CONTRACTOR understands and agrees that it is an independent contractor within the scope of this Agreement and no provision of this Agreement shall be construed as creating any other agency or any employment relationship between ALLIANCE and CONTRACTOR or CONTRACTOR's employees.

25. Representation of Authority

Each individual executing this Agreement on behalf of a party hereto hereby represents and warrants that he or she is, on the date he or she signs this Agreement, duly authorized by all necessary and appropriate action to execute this Agreement on behalf of such party and does so with full and legal authority.

26. Monitoring

At any time and as often as Alliance, the State of Florida, United States Department of Labor, Comptroller General of the United States, the Inspector General of the United States and the State of Florida, or their designated agency or representative may deem necessary, Contractor shall make available all appropriate personnel for interviews and all financial, applicant, or participant books, documents, papers and records or other data relating to matters covered by this Agreement, for examination and/or audit, and/or for the making of excerpts or copies of such records for the purpose of auditing and monitoring activities and determining compliance with all applicable rules and regulations, and the provisions of this Agreement. The above referenced records shall be made available at the Contractor's expense, at reasonable locations as determined by ALLIANCE.

27. Multiple Originals

This Agreement may be executed in two (2) copies, each of which shall be deemed to be an original.

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IN WITNESS WHEREOF, the Parties have made and executed this Agreement For the Provision of a Subsidized Work Experience to ALLIANCE, American Recovery and Reinvestment Act of 2009 , Workforce Investment Act Eligible Youth and Adult Program Participants on the respective dates under each signature:

APPROVED BY:
WORKFORCE ALLIANCE, INC.
(Alliance)

BY: Kathryn Schmidt
Signed Alliance President/CEO,
Kathryn Schmidt

APPROVED BY:

Thomas A. Masters
Thomas A. Masters, Mayor

ATTEST:

BY: C. E. W.
Carrie E. Ward, Master Municipal Clerk
City Clerk

WITNESS: Imogene Rodriguez

DATE 6-3-09

APPROVED AS TO LEGAL SUFFICIENCY

Pamala H. Ryan
Pamala Hanna Ryan, City Attorney

DATE 6/3/09

APPROVED AS TO FUNDS AVAILABILITY

BY: _____ DATE: _____
Alliance Chief Financial Officer, Erica Scarpati

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

BY: _____ DATE: _____
Alliance General Counsel, David H. Baker

EXHIBIT A ASSURANCES AND CERTIFICATIONS

CONTRACTOR in performing their responsibilities under this Agreement hereby certifies and assures, by their signature to the Agreement that they will fully comply with the following:

A. Assurances – Non-Construction Programs (SF 424 B)

B. Debarment and Suspension Certification (29 CFR Part 98)

C. Certification Regarding Lobbying (29 CFR Part 93)

D. Drug Free Workplace Certification (29 CFR Part 98)

E. Nondiscrimination & Equal Opportunity Assurance (29 CFR Part 37)

A. ASSURANCES – NON-CONSTRUCTION PROGRAMS. NOTE: Certain of these Assurances may not be applicable to the project or program.

CONTRACTOR agrees to:

1. Give the U.S. Departments of Agriculture, Health and Human Services and the Labor, the Comptroller General of the United States, and if appropriate, the State of Florida, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to this Agreement; and will establish a proper accounting system in accordance with generally accepted accounting standards or state directives.

2. Comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. 1681-1683, and 1685-1686), which prohibits discrimination on the basis of handicaps; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. '794), which prohibits discrimination on the basis of handicaps: (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255) as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616) as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) Sections 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd.3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights act of 1968 (42 U.S.C. 3601 et seq.) as amended, relating to nondiscrimination in the sale, rental or financing of housing; (I) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the

requirements of any other non-discrimination statute(s) which may apply to the application.

3. Comply with the provisions of the Hatch Act (U.S.C. 1501-1508 and 7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

4. Comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. 276a to 276a7), the Copeland Act (40 U.S.C. 276c and 18 U.S.C. 874, and the Contract Work Hours and Safety Standards Act (40.327-333), regarding labor standards for federally assisted construction subagreements.

5. Comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in flood plains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et. seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).

6. Perform annual financial and compliance audits in accordance with the single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."

7. Comply with all applicable requirements of all other Federal laws, executive order, regulations and policies governing this program.

B. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS – PRIMARY COVERED TRANSACTION.

The Parties certify to the best of their knowledge and belief, that each party and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

2. Within a three-year period preceding this proposal, have not been convicted nor have had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft,

forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

3. Are not presently indicted or otherwise criminally or civilly charged by a government entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and,

4. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause of default.

C. CERTIFICATION REGARDING LOBBYING – Certification for Contracts, Grants, Loans, and Cooperative Agreements.

The Parties certify, to the best of their knowledge and belief, that:

No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan or cooperative agreement. If any funds other than Federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employees of Congress, or employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the Parties shall complete and submit Standard Form – LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S.C. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

D. CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS.

Pursuant to the Drug-Free Workplace Act of 1988 and its implementing regulations codified at 29 C.F.R Section 98, Subpart F. I, the Parties, attest and certify that they will provide a drug-free workplace by taking the following actions.

1. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition.

2. Establishing an ongoing drug-free awareness program to inform employees concerning:

a. The dangers of drug abuse in the workplace.
b. The policy of maintaining a drug-free workplace.
c. Any available drug counseling, rehabilitation and employee assistance programs.
d. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

3. Making it a requirement that each employee to be engaged in the performance of the contract be given a copy of the statement required by paragraph 1.

4. Notifying the employee in the statement required by paragraph 1 that, as a condition of employment under the contract, the employee shall:

   a. Abide by the terms of the statement.

   b. Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five *(5)* calendar days after such conviction.

5. Notifying the State Agency for Workforce Innovation in writing ten (10) calendar days after receiving notice under subparagraph 4.b. from an employee or otherwise receiving actual notice of such conviction.

6. Taking one of the following actions, within thirty (30) calendar days of receiving notice under subparagraph 4.b., with respect to any employee who is so convicted.

   a. Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973 as amended.

   b. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local, health, law enforcement or other appropriate agency.

7. Making a good faith effort to continue to maintain a drug-free workplace through implementation of this entire certification.

Although it is not required that either party provide the workplace address under the contract, as of the date of final execution of the Agreement into which this document is incorporated the specific sites are known and the Parties shall provide the specific addresses of such sites. Provided, however, if any of the identified places change during the performance of the contract, ALLIANCE shall be informed of such changes. The following are the sites for the performance of work done in connection with the specific contract including street address, city, county, state and zip code: —

_____

_____

Check ( ) if there are workplaces on file that are not identified here.

Check ( ) if an additional page was required for the listing of the workplaces.

E. NONDISCRIMINATION & EQUAL OPPORTUNITY ASSURANCE:

The Parties agree they will comply fully with the nondiscrimination and equal opportunity provisions of the following laws:

1) Section 188 of the Workforce Investment Act of 1998 (WIA) which prohibits discrimination against all individuals in the United States on the basis of race, color, religion, sex national origin, age disability, political affiliation, or belief, and against beneficiaries on the basis of either citizenship/status as a lawfully admitted immigrant authorized to work in the United States or participation in any WIA Title I B financially assisted program or activity;

2) Title VI of the Civil Rights Act of 1964, as amended, which prohibits discrimination on the basis of race, color and national origin;

3) Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination against qualified individuals with disabilities;

4) The Age Discrimination Act of 1975, as amended, which prohibits discrimination on the basis of age; and

5) Title IX of the Education Amendments of 1972, as amended, which prohibits discrimination on the basis of sex in educational programs. The Parties also assure that they will comply with 29 C.F.R. Part 37 and all other regulations implementing the laws listed above. This assurance applies to operation of the WIA Title I – financially assisted program or activity, and to all agreements the made to carry out the WIA Title I – financially assisted program or activity. It is understood that the Agency for Workforce Innovation and the United States have the right to seek judicial enforcement of such assurances.

RESOLUTION NO. 60-09

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF **RIVIERA** BEACH, PALM BEACH COUNTY, FLORIDA, APPROVING A TWO YEAR EMPLOYMENT AGREEMENT **WITH** RUTH C. JONES AS CITY MANAGER, **SAID** EMPLOYMENT TO BEGIN ON JUNE 22,2009 THROUGH JUNE 21, 2011; AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council conducted a nationwide search for a city manager and held public interviews of several finalists; and

WHEREAS, the City Council, after deliberation, voted on May 5, 2009, to offer candidate Ruth C. Jones, the position of City Manager; and

WHEREAS, the parties have negotiated an employment agreement which outlines the terms and conditions of Ms. Jones' employment.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF **RIVIERA** BEACH, PALM BEACH COUNTY, FLORIDA, as follows:

SECTION **1.** That the City Council hereby approves a two year employment agreement with Ruth C. Jones as City Manager of the City of Riviera Beach, said employment to begin on June 22, 2009.

SECTION 2. That the Mayor and City Clerk are authorized to execute the Employment Agreement, attached hereto.

SECTION 3. That the Finance Director is authorized to make payment as contemplated by the Agreement from the appropriate budgetary accounts.

SECTION 4. That this resolution shall take effect immediately upon its passage and approval by City Council.

PASSED and APPROVED this 3 day of June 2009.

RESOLUTION NO. 60-09
PAGE 2
APPROVED:

THOMAS A. MASTERS
MAYOR

DAWN S. PARDO
CHAIRPERSON

ATTEST:

CARRIE E. WARD
MASTER MUNICIPAL CLERK
CITY CLERK

JUDY L. DAVIS
CHAIR PRO TEM

BILLIE E. BROOKS
COUNCILPERSON

absent

CEDRICK A. THOMAS
COUNCILPERSON

SHELBY L. LOWE
COUNCILPERSON

MOTIONED BY: S. LOWE

SECONDED BY: J. DAVIS

D. PARDO NAY

J. DAVIS AYE

B. BROOKS AYE

C. THOMAS absent

S. LOWE AYE

REVIEWED AS TO LEGAL SUFFICIENCY

PAMALA HANNA RYAN, CITY ATTORNEY

DATE: 5/27/09

PHR:syj:05/27/09

EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT (hereinafter referred to as "Agreement"), made and entered into this 3 day of June, 2009, by and between the City of Riviera Beach, Florida, a Florida municipal corporation (hereinafter referred to as "The City"), and Ruth C. Jones (hereinafter referred to by name or as "City Manager").

W I T N E S S E T H :

WHEREAS, the City of Riviera Beach desires to employ Ruth C. Jones as City Manager of the City of Riviera Beach, Florida, as provided for in Article II, Section 20 of the Charter of the City of Riviera Beach; and

WHEREAS, the City of Riviera Beach, through its City Council, desires to provide for certain benefits and compensation for the City Manager and to establish conditions of employment applicable to the City Manager; and

WHEREAS, Ruth C. Jones desires to accept employment as City Manager of the City of Riviera Beach, Florida under the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual promises as set forth in this Agreement, the parties agree as follows:

Section 1. Employment.

A. The City of Riviera Beach hereby hires and appoints Ruth C. Jones as its City Manager, under the terms established herein, to perform the duties and functions specified in the City Charter and the City's Code of Ordinances and to perform such other legally permissible and proper duties and functions as the City Council shall from time to time assign.

B. The City's employment of Ruth C. Jones as City Manager shall be effective June 22, 2009. The term of this Agreement shall be for two years, ending on June 21, 2011. The City Manager understands and agrees that a pre-employment physical must be successfully completed before the Agreement becomes effective.

C. This Agreement shall remain in effect until terminated by the City Council or by the City Manager as provided herein.

Section 2. Salary and Evaluation.

A. For the performance of services under this Agreement, the City agrees to pay the City Manager an annual base salary of $150,000, payable in equal installments pursuant to the City's normal payroll practices. The City Manager's annual base salary shall increase by 7% to $160,500, effective upon satisfactory completion of a 180 day evaluation, said evaluation to be completed by City Council.

B. In addition, the City agrees to increase said base salary and/or other benefits of the City Manager in such amounts and to such an extent as the City Council may determine desirable on the basis of an annual performance evaluation of the City Manager. Such evaluation shall be in such form as the City Council deems appropriate using benchmarks established by City Council and City Manager within thirty (30) days of the City Manager's employment; said benchmarks to be amended by the parties as necessary. An initial evaluation shall take place at the end of 180 days of employment, and annually thereafter.

C. Nothing in this Section shall require the City to increase the base salary or other benefits of the City Manager. However, the City Manager shall be entitled to receive across the board/cost-of-living increases that may be granted to department directors from time to time. Furthermore, the City's failure to conduct the scheduled evaluation shall not constitute non-compliance with a material provision of this Agreement.

Section 3. Duties and Obligations.

A. The City Manager shall have the duties, responsibilities and powers of said office under the Charter and Ordinances of the City of Riviera Beach. The City Manager agrees to perform all duties and responsibilities faithfully, industriously, and to the best of her ability in a professional and competent manner.

B. The City Manager shall remain in the exclusive employ of the City and shall devote all such time, attention, knowledge and skills necessary to diligently perform her duties under this Agreement. The City Manager may, however, engage in educational and professional activities and other employment activities upon receipt of approval by the City Council, provided that such activities shall not interfere with her primary obligation to the City as its City Manager. The City Manager shall dedicate no less than an average of forty (40) hours per week in the performance of her duties hereunder.

C. In the event the City Manager shall serve on any appointed boards or elected boards of any professional organization, or serve on any committees related to her professional activities, in the event any monies are paid, or gifts received, by the City Manager related to such service, such money or property shall be paid over to or delivered to the City, unless otherwise provided by the City Council.

Section 4. Automobile Allowance and Communications Equipment.

The City Manager is required to be on call for twenty-four (24) hour service. In recognition thereof:

A. The City shall grant to the City Manager an automobile allowance of $500 per month, and the City Manager shall purchase, maintain and insure said vehicle. The City Manager shall not seek, and is not entitled to reimbursement for vehicular travel within 150 miles of the City. The City agrees to reimburse the City Manager for mileage for travel outside of 150 miles of the City associated with business of the City pursuant to the City's normal reimbursement policy.

B. The City shall provide the City Manager with cellular telephone capacity in accordance with City policy.

Section 5. Dues and Subscriptions.

The City agrees to pay the City Manager's professional dues for membership in the International City/County Management Association (ICMA), and the Florida City and County Management Association. The City shall pay other dues and subscriptions on behalf of the City Manager as are approved in the City's annual budget (on a line item basis) or as authorized separately by the City Council.

Section 6. Professional Development.

To the extent provided for and approved in the City's adopted budget, the City agrees to pay reasonable and customary travel and subsistence expenses for the City Manager's travel to and attendance at the International City/County Management Association's (ICMA) annual conference, the Florida City and County Management Association's annual conference and the Florida League of Cities, and such other national, regional, state, and local governmental groups and committees thereof which City Manager serves as a member. The City may choose to pay for the City Manager's attendance at other seminars, conferences, and committee meetings as it deems appropriate and approves by Council action.

Section 7. Community Involvement.

The City recognizes the desirability of representation in and before local civic and other organizations, and encourages the City Manager to participate in these organizations to foster a continuing awareness of the City's activities as well as the community's attitudes and ideas.

Section 8. Personal Time Off.

At the commencement of her employment, the City Manager shall be entitled to twenty (20) days paid vacation, accrued and available on the first day of the Agreement. Thereafter, vacation benefits shall accrue at the rate established under standard City personnel policies. Any unused vacation days shall accrue to the City Manager in accordance with City policy. Upon termination of this Agreement by either party, the City Manager shall be paid for each vacation day accrued at her then current salary. Payment for said vacation days shall be made to the City Manager regardless of the manner of termination.

Section 9. Holidays.

The City Manager shall be entitled to observe the same paid legal holidays as other City employees.

Section 10. Sick Leave.

At the commencement of her employment, the City Manager shall be entitled to twelve (12) sick days per year, accrued and available on the first day of the Agreement. Thereafter, sick leave shall accrue at the rate established under standard City personnel policies. Payment for all unused sick days shall be made to the City Manager regardless of the manner of termination.

Section 11. Health, Dental, Life and Disability Insurance.

Beginning June 22, 2009, and continuing thereafter during the City Manager's employment with the City, the City agrees to pay the full premium costs of health, dental and disability insurance under the terms of the City's group policies for an individual plan, subject to any standard City applicable co-pay obligation.

The City agrees to pay for life insurance on the Manager's life, with the City's group life underwriter, in the amount of $160,000. Other insurance shall be available to the Manager during the Manager's employment with the City, on equal terms as is available to other full-time employees.

Section 12. Retirement.

The City agrees to pay, on an annual basis, deferred compensation in an amount equal to the maximum permitted by law. Said deferred compensation shall be paid to the Manager's ICMA retirement Corporation 457 Plan or other qualified 457 designated retirement fund designated by the City Manager. The Deferred Compensation Retirement program shall not exceed the limit established by federal statute and/or regulation. Such payments shall be payable in installments at the same time as other retirement benefits are paid for other employees of the City. The City Manager shall not participate in the City of Riviera Beach General Employee's Pension Plan.

Section 13. Termination by the City and Severance Pay.

A. Without Cause

Should a majority of the entire Council (three members) vote to terminate the services of the City Manager "without cause", then within thirty (30) business days following such vote, the City Council shall cause the City Manager to be paid any accrued and unpaid salary and benefits earned (including personal time off, holiday time and insurance) prior to the date of termination based on a forty (40) hour work week and six month's base salary as severance. As consideration for such payment, the City Manager shall, prior to receipt thereof, execute and deliver to the City a general release of the City and its Council members and its officers, agents, and employees for all acts and actions (whether accrued or subsequently accruing) from the beginning of time until the date of release, said release to be prepared by the City Attorney. The termination without cause is not conditioned upon the City Manager's acceptance of the terms and conditions of the general release.

B. With Cause

In the event the City Manager is terminated for "just cause," the City shall be obligated to pay only the City Manager's compensation, if any, earned up to the last date of employment and any earned but unused vacation leave and sick leave. For purposes of this Agreement, "just cause" is defined and limited for purposes of this Agreement to any of the following:

1. Misfeasance, malfeasance and/or nonfeasance in performance of the City Manager's duties and responsibilities.

2. Conviction or a plea of guilty or no contest to a misdemeanor or felony crime, whether or not adjudication is withheld.

3. Neglect of duty, including the inability or unwillingness to properly discharge the responsibilities of office.

4. Violation of any substantive City policy, rule, or regulation, which would subject any other City employee to termination.

5. The commission of any fraudulent act against the interest of the City.

6. The commission of any act which involves moral turpitude, or which causes the City disrepute.

7. Violation of the International City/County Management Association Code of Ethics.

8. Any other act of a similar nature of the same or greater seriousness.

C. In the event the Council, at any time during the employment term, reduces the salary or other benefits of the City Manager, as identified herein, in a greater percentage than an equivalent across-the-board reduction for all full-time City employees, or in the event the City allegedly refuses to comply with any other material provision of this Agreement benefiting the City Manager, the City Manager shall notify the Council in writing of the alleged violation. The Council shall have forty-five (45) days from such notice within which to cure the violation, otherwise, the City Manager may at her option, consider such violation as termination "without cause" as of the date of such alleged reduction or refusal, and the severance pay provision and other termination provisions contained herein shall become applicable at the annual salary and benefit level in effect prior to the reduction or refusal.

Section 14. Termination by the City Manager.

The City Manager may terminate this Agreement at any time by delivering to the City Council a written notice of termination not later than sixty (60) days prior to the effective date of the termination. If the City Manager terminates this Agreement, then the severance provisions of Section 13, Paragraph A above, shall not apply. If the City Manager voluntarily resigns pursuant

to this Section, the City shall pay to the City Manager all accrued compensation due the City Manager up to the City Manager's final day of employment, including any accrued personal time off. The City shall have no further financial obligation to Employee pursuant to this Agreement. This subsection shall not prevent the City Manager from collecting any money earned as a result of participation in the City's deferred compensation retirement program.

Section 15. Relocation Expenses.

A. In accordance with the City Charter, Article II, section 21, the City Manager agrees to establish residency within the corporate limits of the City within 120 days of employment and to maintain residence within the corporate limits of the City throughout the term of this Agreement.

B. The City agrees to pay the manager a flat sum of $15,000, written *"payable immediately"* upon request of the City Manager for the costs associated with her relocation. Both the City and the City Manager realize this sum may not cover the full cost of relocation. This money shall be spent at the City Manager's discretion but is expected to cover the cost of temporary and permanent lodging, meals, transportation, moving, storage, replacing furniture, and trips to search for housing in Riviera Beach, et cetera.

Section 16. Disability.

If the City Manager becomes permanently disabled or is otherwise unable to perform her duties because of sickness, accident, injury, mental incapacity or health for a period of four consecutive weeks beyond any accrued leave, the City shall have the option to terminate this Agreement, subject to the severance pay provision outlined in Section 13, Paragraph A of this Agreement, as offset by any disability benefits the City Manager receives from or through the City.

Where necessary, to determine whether to continue the services of the City Manager due to her disability, the City reserves the right to require a physical or psychiatric examination by a qualified physician or psychiatrist to be chosen by the City Manager from a list of at least three doctors approved by the City. In the event such an examination is required, the City will pay all costs of said examination.

Section 17. Indemnification.

A. The City agrees, pursuant to Section 111.07, Florida Statutes to defend, save harmless, and indemnify the City Manager against any action for any injury or damage suffered as a result of any act, event, or omission of action that the City Manager reasonably believes to be in the scope of her duties or function, unless she acted in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property. The City will compromise and settle any such claim or suit and pay the amount of any settlement or judgment rendered thereon. The City shall not be liable for the acts or omissions of the City Manager committed while acting outside the course and scope of her agreed duties or committed in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property. In such instance, the City Manager shall reimburse the City

for any legal fees and expenses the City has incurred or otherwise paid, for or on her behalf, in connection with the charged conduct.

B. Said indemnification shall extend beyond the termination of employment and the expiration of this Agreement to provide protection for any such acts undertaken or committed in her capacity as City Manager, regardless of whether the notice of claim or filing of a lawsuit occurs during or following employment with the City.

Section 18. Bonding.

The City agrees to bear the full cost of any fidelity or other bonds required of the City Manager under any policy, regulation, ordinance or law.

Section 19. Code of Ethics.

Inasmuch as the City Manager is an active full member of the International City/County Management Association (ICMA), the "Code of Ethics" promulgated by ICMA is incorporated herein, and by this reference made a part hereof, Said "Code of Ethics" shall furnish principles to govern the City Manager's conduct and actions as City Manager of the City.

Section 20. Attorney's Fees.

If any litigation is commenced between the parties concerning any provision of this Agreement or the rights and duties of any person in relation thereto, each party agrees to bear its own attorney's fees and costs up to and including trial and appellate proceedings.

Section 21. General Terms and Conditions.

A. If any provision, or any portion thereof, contained in this Agreement is held by a court of competent jurisdiction to be unconstitutional, illegal, invalid or unenforceable, the remainder of this Agreement, or portion thereof, shall not be affected and shall remain in full force and effect.

B. The waiver by either party of a breach of any provision of this Agreement by the other shall not operate or be construed as a waiver of any subsequent breach by that party.

C. This Agreement shall be binding upon and inure to the benefit of the heirs at law or personal representative of City Manager.

D. This Agreement contains the entire Agreement of the parties. It may not be changed verbally, but only by an Agreement in writing signed by the parties.

E. Florida law shall govern this Agreement and any litigation that may arise from this Agreement, shall be filed and litigated in Palm Beach County, Florida.

F. Upon City Manager's death, the City's obligations under this Agreement shall terminate except for the following and the City agrees to:

1. Transfer of ownership of retirement funds, if any, to the City Manager's designated beneficiaries;

2. Payment of accrued leave balances in accordance with this Agreement;

3. Payment of all outstanding hospitalization, medical and dental bills in accordance with the City's insurance policies or plans; and

4. Payment of all life insurance benefits in accordance with the City's insurance policies or plans.

***G*.** The parties acknowledge that each has shared equally in the drafting and preparation of this Agreement and, accordingly, no court construing this Agreement shall construe it more strictly against one party that the other and every covenant, term and provision of this Agreement shall be construed simply according to its fair meaning.

H. This Agreement may be executed in duplicate or counterparts, each of which shall be deemed an original and all of which together shall be deemed one and the same instrument. No term, condition or covenant of this Agreement shall be binding on either party until both parties have signed it.

I. The effective date of this Agreement shall be the last date it is executed by either of the parties to this Agreement.

[THE REST OF THIS PAGE HAS BEEN LEFT BLANK INTENTIONALLY]

IN WITNESS WHEREOF, the parties have caused this Employment Agreement to be made and entered into the day and year first written above.

CITY OF RIVIERA BEACH, FLORIDA

By: _____
Thomas A. Masters
Mayor

By: _____
Dawn S. Pardo
Chairperson

ATTEST:

By: _____
Carrie E. Ward
City Clerk

By: _____
Ruth C. Jones

As to form and legal sufficiency:

By: _____ 5/3/09
Pamala H. Ryan
City Attorney

RESOLUTION NO. 61-09

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AUTHORIZING THE PURCHASE OF FURNITURE FOR LIBRARY COMPUTER LAB FROM JC WHITE QUALITY OFFICE FURNITURE IN THE AMOUNT OF $12,396.28, AND FOR WIRING INSTALLATION OF CAT5E DONE BY BURG & CJ COMMUNICATIONS OF RIVIERA BEACH, FLORIDA IN THE AMOUNT OF $4,979.28 AND CMI CUSTOM MECHANICAL, INC. OF LAKE PARK, FLORIDA TO RELOCATE 8 RECEPTACLES CIRCUITS IN THE AMOUNT OF $630.00; PAYMENT TO BE MADE FROM LIBRARY IMPACT FEES; ACCOUNT NO. 303-00-271013 AUTHORIZING THE PURCHASE OF ADDITIONAL COMPUTERS AS NEEDED IN AN AMOUNT NOT TO EXCEED $17,000.00 AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Riviera Beach Public Library's computers and furniture in the conference room area are in need of replacing;

WHEREAS, JC White Quality Office Furniture is the seller of this type of office furniture and Burg & CJ Communications are electricians as well as CMI Custom Mechanical, Inc. in the State of Florida; and

WHEREAS, the City Council approved funding for new computer lab furniture and equipment in the current budget.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AS FOLLOWS:

SECTION 1: That the City Council authorizes staff to purchase (12) Custom Laminate 5' X '2 Fixed Leg Tables/Electric and (24) Armless Poly Leg Chairs in the amount of $12,396.28 from JC White Quality Office Furniture by piggybacking the State of Florida Contract # 425-001-06-1 and Burg & CJ Communications to do the wiring in the amount of $4,979.28 along with CMI Custom Mechanical, Inc. to relocate receptacles in the amount of $630.00.

SECTION 2: That the City Council authorizes the Mayor and Finance Director to pay this amount from the Library Impact Fee Account No. 303-00-271013.

SECTION 3: That the City Council authorizes the purchase of additional computers as needed in an amount not to exceed $17,000.00.

SECTION 4: This Resolution shall take effect immediately upon its approval.

PASSED and **APPROVED** this 3 day of June, 2009.

RESOLUTION NO. 61-09
PAGE 3

APPROVED:

THOMAS A. MASTERS
MAYOR

DAWN S. PARDO
CHAIRPERSON

ATTEST:

CARRIE E. WARD
MASTER MUNICIPAL CLERK
CITY CLERK

JUDY L. DAVIS
CHAIR PRO TEM

BILLIE E. BROOKS
COUNCILPERSON

Absent

CEDRICK A. THOMAS
COUNCILPERSON

SHELBY L. LOWE
COUNCILPERSON

MOTIONED BY: Lowe

SECONDED BY: Davis

C. THOMAS Absent

D. PARDO Aye

J. DAVIS Aye

B. BROOKS Aye

S. LOWE Aye

REVIEWED AS TO LEGAL SUFFICIENCY

PAMALA HANNA RYAN, d I ATTORNEY

DATE: 5/27/09

RESOLUTION NO. 62-09

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AWARDING THE CONTRACT FOR THE UPGRADE OF THE EXISTING TRAK FUEL MANAGEMENT SYSTEM AT THE PUBLIC WORKS-VEHICLE MAINTENANCE FACILITY TO TRAK ENGINEERING, INC OF TALLAHASSEE, FLORIDA BEING A SOLE SOURCE PROVIDER OF THE SYSTEM IN THE AMOUNT OF $50,858.75; AUTHORIZING THE CITY MANAGER TO MAKE AND INITIATE CHANGE ORDERS UP TO TEN PERCENT (10%); AUTHORIZING THE MAYOR AND THE CITY CLERK TO EXECUTE THE CONTRACT WITH TRAK ENGINEERING, INC.; AUTHORIZING THE FINANCE DIRECTOR TO MAKE PAYMENT FROM ACCOUNT #308-1129-519-0-6405; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City's Public Works-Vehicle Maintenance Department requires a higher level of fuel consumption accountability; and

WHEREAS, the existing fuel management system does not offer the necessary level of accountability needed by the city; and

WHEREAS, updating the current fuel management software and operating system at the Public Works Vehicle Maintenance Facility will allow for more efficient fuel monitoring and reporting; and

WHEREAS, the City has found Trak Engineering, Inc. to be the sole source provider and installer of the system.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA as follows:

SECTION 1. That City Council hereby awards the contract to upgrade the uel management system at Public Works-Vehicle Maintenance to Trak Engineering, nc. in an amount not to exceed $50,858.75.

SECTION 2. The Mayor and City Clerk are authorized to execute the contract with Trak Engineering Inc.

SECTION 3. That the Finance Director is authorized to make payment for the upgrade of the fuel management system at the Public Works-Vehicle Maintenance Facility in an amount not to exceed $50,858.75 from account #308-1129-519-0-6405.

SECTION 4. That the City Manager is authorized to approve change orders not to exceed ten percent (10%) of the contracted amount.

SECTION 5. That the Resolution take effect upon its passage and approval by City Council.

PASSED and APPROVED this 3 day of June, 2009.

RESOLUTION NO. 62-09
PAGE 3

APPROVED:

THOMAS A. MASTERS
MAYOR

DAWN S. PARDO
CHAIRPERSON

ATTEST:

CARRIE E. WARD
MASTER MUNICIPAL CLERK
CITY CLERK

JUDY L. DAVIS
CHAIR PRO TEM

BILLIE E. BROOKS
COUNCILPERSON

Absent

CEDRICK A. THOMAS
COUNCILPERSON

SHELBY L. LOWE
COUNCILPERSON

MOTIONED BY:	Davis
SECONDED BY:	Brooks
C. THOMAS	Absent
D. PARDO	Aye
J. DAVIS	Aye
B. BROOKS	Aye
S. LOWE	Aye

REVIEWED AS TO LEGAL SUFFICIENCY

PAMALA HANNA RYAN, CITY ATTORNEY

DATE: 5/28/09

MATERIALS AND SERVICES CONTRACT

THIS CONTFUCT made and entered into this 3 day of June, 2009 by and between **TRAK ENGINEERING, INC.,** hereinafter referred to as **"Independent Contractor,"** whose mailing address is 2901 Crescent Drive, Tallahassee, Florida, 32301 and the **CITY OF RIVIERA BEACH, FLORIDA,** a municipal corporation, hereinafter referred to as **"City",** whose address is 600 West Blue Heron Boulevard, Riviera Beach, Florida. 33404.

In consideration of the mutual covenants and promises set forth herein, the parties to this contract do hereby agree as follows:

1. That the City does hereby retain the services of the Independent Contractor for the purpose of installing of wiring and equipment in all City owned vehicles and equipment that will be compatible to software to be installed, ("hereinafter "Services") and associated supplies for the City's upgrade of the Public Works Department Vehicle Maintenance fuel management system. The scope is set forth more fully in Exhibit "A" attached hereto and incorporated herein by reference.

   a. Services shall include providing modules and wiring and hard wiring Two Hundred and Thirty (230) City owned vehicles and equipment with the SMARTag Radio Frequency (RF) Vehicle ID modules. Services shall also include onsite training on the installation process of the SMARTag system to be demonstrated on ten (10) City owned vehicles.
   b. Supplies shall include any necessary system software, hose controls (includes: pump control module and pulse power unit), SMARTag programmer and RF modules.

2. The City agrees to compensate the Independent Contractor in an amount not to exceed $50,858.75 as more particularly outlined in the fee proposal as set forth in Exhibit "A". The total and cumulative amount of this Agreement shall not exceed the amount of funds annually budgeted for these services. The City shall not reimburse the Independent Contractor for any travel costs incurred as a direct result of the Independent Contractor providing deliverables to the City in pursuance of the scope of work contained in Exhibit "A". The Independent Contractor shall submit an application for payment to the City once per month for all work completed prior to the submission of the application. The City shall make partial payments on the account of the Contract Price to the Independent Contractor upon confirmation of work performed or services rendered. The contractor, as an option, may submit one application for payment for the entire contract price upon fulfilling all obligations contained in the contract.

3. Independent Contractor hereby represents that it has complied and shall continue to comply with all applicable Federal and State statutes and local ordinances. Further, Independent Contractor shall be solely responsible for obtaining and complying with all necessary permits, approvals and authorizations, required for the work to be performed pursuant to the terms of this Agreement from any federal, state, regional, county, or city agency.

4. The Independent Contractor represents that it has, or will secure at its own expense, all necessary personnel, equipment and materials required to perform the services under this Agreement. Such personnel shall not be employees of or have any contractual relationship with the City.

5. All of the services required hereunder shall be performed by the Independent Contractor or under its supervision, and all personnel engaged in performing the services shall be filly qualified and, if required, authorized or permitted under state and local law to perform such services.

6. The Ludependent Contractor agrees that that it is filly responsible to the City for the acts and omissions of subcontractors and of persons either directly or indirectly employed by the Independent Contractor. Nothing contained herein shall create any contractual relationship between any subcontractor and the City.

7. All of the Independent Contractor's personnel (and all Subcontractors) while on City premises will comply with all City requirements governing conduct, safety and security.

PHZ 6/3/09

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

9. Prior to execution of this Agreement by the City the Independent Contractor shall provide certificates evidencing insurance coverages as required hereunder. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida. The Certificates shall clearly indicate that the Independent Contractor has obtained insurance of the type, amount, and classification as required for strict compliance with this ARTICLE and that no material change or cancellation of the insurance shall be effective without thirty (30) days prior written notice to the City's representative. Compliance with the foregoing requirements shall not relieve the Independent Contractor of its liability and obligations under this Agreement.

10. The Independent Contractor shall maintain, during the life of this Agreement, commercial general liability, including contractual liability insurance in the amount of $500,000 per occurrence to protect the Independent Contractor fiom claims for damages for bodily and personal injury, including wrongful death, as well as from claims of property damages which may arise from any operations under this Agreement, whether such operations be by the Independent Contractor or by anyone directly employed by or contracting with the Independent Contractor.

1I. The Independent Contractor shall maintain, during the life of this Agreement, comprehensive automobile liability insurance in the minimum amount of $500,000 combined single limit for bodily injury and property damages liability to protect the Independent Contractor fiom claims for damages for bodily and personal injury, including death, as well as from claims for property damage, which may arise from the ownership, use, or maintenance of owned and non-owed automobiles, including rented automobiles whether such operations be by the Independent Contractor or by anyone directly or indirectly employed by the Independent Contractor.

12. The Independent Contractor shall carry Workers' Compensation Insurance and Employer's Liability Insurance for all employees as required by Florida Statutes. In the event that a party does not carry Workers' Compensation Insurance and chooses not to obtain same, then such party shall. in accordance with Section 440.05, Florida Statutes, apply for and obtain an exemption authorized by the Department of Insurance and shall provide a copy of such exemption to the CITY.

13. The Independent Contractor shall indemnify and save harmless and defend the City, its agents, servants, and employees fiom and against any and all claims, liability, losses, and/or causes of action which may arise from any negligent act or omission of the Independent Contractor, its agents, servants, or employees in the performance of services under this Agreement.

14. The Independent Contractor further agrees to indemnify, save harmless and defend the City, its agents, servants and employees from and against any claim, demand or cause of action of whatsoever kind or nature arising out of any conduct or misconduct of the Independent Contractor not included in the paragraph above and for which the City, its agents, servants or employees are alleged to be liable. Nothing contained in this provision shall be construed or interpreted as consent by the City to be sued, nor as a waiver of sovereign immunity beyond the waiver provided in Section 768.28, Florida Statutes.

15. The Independent Contractor does not have the power or authority to bind the City in any promise, agreement or representation other than as specifically provided for in this Agreement.

16. This Agreement and any dispute, disagreement, or issue of construction or interpretation arising hereunder whether relating to its execution, its validity, the obligations provided herein, performance or breach shall be governed and interpreted according to laws of the State of Florida. Any and all legal action necessary to enforce the Agreement will be held in Palm Beach County.

17. 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 or by statute or otherwise. No single or partial exercise by any party of

PHL 6/3/09

any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

18. If any action, whether in law, equity or otherwise, is brought for any dispute, disagreement, or issue of construction, declaration or interpretation arising hereunder whether relating to the Agreement's execution, validity, the obligations provided therein, or performance of this Agreement, or because of an alleged breach, default or misrepresentation in connection with any provisions of this Agreement, the successful or prevailing party or parties shall be entitled to recover reasonable attorney's fees, court costs and all expenses (including taxes) even if not taxable as court costs (including, without limitation, all such fees, costs and expenses incident to appeals), incurred in that action or proceeding, in addition to any other relief to which such party or parties may be entitled.

19. Failure of the City to enforce or exercise any right(s) under this Agreement shall not be deemed a waiver of City's right to enforce or exercise said right(s) at any time thereafter.

20. If any term or provision of this Agreement, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement, or the application of such terms or provisions, 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 Agreement shall be deemed valid and enforceable to the extent permitted by law.

PHR 6/3/09

AGREEMENT WITH THE CITY OF RIVIERA BEACH

IN WITNESS WHEREOF, the Parties unto this Agreement have set their hands and seals on the day and date first written above.

CITY OF RIVIERA BEACH

BY: Thomas A. Masters
THOMAS A. MASTERS
MAYOR

INDEPENDENT CONTRACTOR

BY: Katherine Blyth
Katherine Blyth
Director of Sales

ATTEST:

CARRIE E. WARD, MMC
CITY CLERK

BY: _____

(SEAL)

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

BY: Pamela H. R
PAMALA H. RYAN
CITY ATTORNEY

APPROVED AS TO TERMS AND
CONDITIONS

BY: _____
Vincent Akhimie
Director of Public Works

DATE: 6/3/09

RESOLUTION NO. 63-09

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AN AGREEMENT WITH THE GORDIAN GROUP INC. OF MAULDIN, SOUTH CAROLINA FOR SCOPE DEVELOPMENT AND CONSTRUCTION ESTIMATING SERVICES AND LICENSING FEES FOR USE OF ITS PROPRIETARY JOB ORDER CONTRACTING (JOC) DATABASE FOR SELECTED PROPERTY MAINTENANCE AND CAPITAL CONSTRUCTION PROJECTS BY PIGGYBACKING TERMS AND CONDITIONS FROM PALM BEACH COUNTY CONTRACT # R2005 1489; AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE THE CONTRACT COMMENCING JUNE 3,2009 AND TERMINATING SEPTEMBER 30,2010; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Palm Beach County has given the City consent to piggyback contracts related to its Job Order Contracting (JOC) program; and

WHEREAS, the County's JOC program uses a proprietary Construction Task Database to define required scopes of work, calculate the price and verify the cost of construction services under the Job Order Contracting system; and

WHEREAS, the City is required to pay the Gordian Group of Mauldin, South Carolina a license and consulting fee equal to 5% of the construction cost for projects completed under the JOC program as compensation for use of their proprietary Construction Task database and related professional services as part of the piggyback arrangement; and

WHEREAS, the establishment and use of a Job Order Contracting System which uses contractors currently under contract with Palm Beach County will provide a cost-effective procurement tool for accelerating the delivery of selected capital improvement and maintenance repair projects.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, FLORIDA THAT:

SECTION 1. The Mayor and City Clerk are authorized to execute the contract for consulting services with the Gordian Group of Mauldin, South Carolina for license fees and professional services related to the use of a Job Order Contracting system currently in place with Palm Beach County Contract #R2005 1489 as a piggyback.

SECTION 2. This Resolution shall take effect upon its passage and approval by the City Council.

PASSED AND APPROVED this 3 day of June, 2009

RESOLUTION NO. 63-09
PAGE3.

PASSED AND APPROVED this 3 day of JUNE, 2009

APPROVED:

THOMAS A. MASTERS
MAYOR

DAWN S. PARDO
CHAIRPERSON

ATTEST:

CARRIE E. WARD,
MASTER MUNICIPAL CLERK
CITY CLERK

JUDY L. DAVIS
CHAIR PRO TEM

Absent

CEDRICK A. THOMAS
COUNCILPERSON

SHELBY L. LOWE
COUNCILPERSON

BILLIE E. BROOKS
COUNCILPERSON

MOTIONED BY: Brooks

SECONDED BY: Lowe

D. PARDO: AYE

J. DAVIS: AYE

C. THOMAS: Absent

S. LOWE: AYE

B. BROOKS: AYE

REVIEWED AS TO LEGAL SUFFICIENCY

PAMALA HANNA RYAN, CITY ATTORNEY

DATE: 3/05/09

CITY OF RIVIERA BEACH
CONTRACT FOR CONSULTING/PROFESSIONAL SERVICES

This Contract is made as of this 3 day of June, **2009** by and between the City of Riviera Beach, Palm Beach County, Florida a Political Subdivision of the State of Florida, by and through its City Council, hereinafter referred to as the CITY, and **The Gordian Group,** a Georgia Corporation authorized to do business in the State of Florida, hereinafter referred to as the CONSULTANT, whose Federal I.D. number is **58-1900371.**

WHEREAS, Palm Beach County has given the City consent to piggyback contracts related to its Job Order Contracting (JOC) program; and

WHEREAS, the County's JOC program uses a proprietary Construction Task Database to define required scopes of work, calculate the price and verify the cost of construction services under the Job Order Contracting system; and

WHEREAS, the establishment and use of a Job Order Contracting System which uses contractors currently under contract with Palm Beach County will provide a cost-effective procurement tool for accelerating the delivery of selected capital improvement and maintenance repair projects; and

WHEREAS, The Gordian Group of Mauldin, South Carolina has a contract for JOC consulting services with Palm Beach County which the City wishes to piggyback.

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

ARTICLE 1 - SERVICES

The CONSULTANT'S responsibility under this Contract is to provide job order contracting (JOC) consulting services and a license to its proprietary JOC system under the terms and conditions as set forth in its contract NO. R2005 1489 with Palm Beach County which is herein referred to as Exhibit "B", attached hereto and incorporated herein by reference and with its proposal dated April 24, 2009 which is herein referred to as Exhibit "A", attached hereto and incorporated herein by reference.

The CITY'S representative/liaison during the performance of this Contract shall be **Benjamin Guy,** telephone number **(561) 845-4180.**

ARTICLE 2 - TERM

Cw 6/03/09

The term of this contract shall be for ~~three (3) years beginning on the date set forth above.~~ Commence, June 3, 2009 and terminate, September 30, 2010.

ARTICLE 3 - PAYMENTS TO CONSULTANT

A. Generally - The CITY agrees to compensate the CONSULTANT as follows:

- Five percent (5%) of the value of purchase orders awarded to JOC contractors under the JOC system for the first five million dollars ($5,000,000), and *[Identical to terms of the 1993 County Contract for their initial $5 million]*

- One and one half percent (1.5%) of the value of purchase orders awarded to JOC contractors under the JOC system in excess of five million dollars ($5,000,000). *[Identical to terms of current County Contract (2005) for their continued volume in excess of the original $5 million]*

The City shall not be obliged to make any payment to consultant unless a JOC project is approved by City Council.

B. Invoices received from the CONSULTANT pursuant to this Contract will be reviewed and approved by the CITY'S representative, indicating that services have been rendered in conformity with the Contract and then will be sent to the Finance Department for payment. Invoices will normally be paid within thirty (30) days following the CITY representative's approval.

C. 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 CITY. This certifies that all services have been properly performed and all charges and costs have been invoiced to the CITY of Riviera Beach. Since this account will thereupon be closed, any and other further charges, if not properly included in this final invoice, are waived by the CONSULTANT and the CITY shall have no obligations for any other costs or expenses thereafter.

ARTICLE 4 – (INTENTIONALLY DELETED)

ARTICLE 5 - TERMINATION

This Contract may be cancelled by the CONSULTANT upon thirty (30) days prior written notice to the CITY'S representative in the event of substantial failure by the CITY to perform in accordance with the terms of this Contract through no fault of the CONSULTANT; provided the CITY fails to cure same within that thirty (30) day period. It may also be terminated, in whole or in part, by the CITY, 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 CITY'S satisfaction through the date of termination. After receipt of a Termination Notice and except as otherwise directed by the CITY 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 progress, completed work, and other materials related to the terminated work to the CITY.

D. Continue and complete all parts of the work that have not been terminated.

ARTICLE 6 - PERSONNEL

The CONSULTANT represents that it has, or will secure at its own expense, all necessary personnel required to perform the services under this Contract. Such personnel shall not be employees of or have any contractual relationship with the CITY.

All of the services required hereunder shall be performed by the CONSULTANT or under its supervision, and all personnel engaged in performing the services shall be fully qualified and, if required, authorized or permitted under state and local law to perform such services.

The CONSULTANT warrants that all services shall be performed by skilled and competent personnel in accordance with the applicable standard of care in the field for which CONSULANT is consulting with the CITY.

The CONSULTANT agrees that it is fully responsible to the CITY for the negligent acts and omissions of subcontractors and of persons either directly or indirectly employed by the CONSULTANT. Nothing contained herein shall create any contractual relationship between any subcontractor and the CITY.

All of the CONSULTANT'S personnel (and all Subcontractors) while on CITY premises, will comply with all CITY requirements governing conduct, safety, and security.

ARTICLE 7 – (INTENTIONALLY DELETED)

ARTICLE 8 – (INTENTIONALLY DELETED)

ARTICLE 9 - FEDERAL AND STATE TAX

The CITY is exempt from payment of Florida State Sales and Use Tax. The CITY 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 fill contractual obligations with the CITY, nor is the CONSULTANT authorized to use the CITY'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 10 - AVAILABILITY OF FUNDS

The CITY'S performance and obligation to pay under this Contract is contingent upon an annual appropriation for its purpose by the CITY OF RIVIERA BEACH CITY COUNCIL.

ARTICLE 11 - INSURANCE

A. Prior to execution of this Contract by the CITY, the CONSULTANT shall provide certificates evidencing insurance coverage as required hereunder. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida. The Certificates shall clearly indicate that the CONSULTANT has obtained insurance of the type, amount, and classification as required for strict compliance with the ARTICLE and that no material change or cancellation of the insurance shall be effective without thirty (30) days prior written notice to the CITY'S representative. Compliance with the foregoing requirements shall not relieve the CONSULTANT of its liability and obligations under this Contract.

B. The CONSULTANT shall maintain during the term of this Contract, standard Professional Liability Insurance in the minimum amount of $1,000,000.00 per occurrence.

C. The CONSULTANT shall maintain, during the life of this Contract, commercial general liability, including contractual liability insurance in the amount of $500,000.00 per occurrence to protect the CONSULTANT from claims for damages for bodily and personal injury, including wrongful death, as well as from claims of property damages which may arise from any operations under this Contract, whether such operations be by the CONSULTANT or by anyone directly or indirectly employed by or contracting with the CONSULTANT.

D. The CONSULTANT shall maintain, during the life of this Contract, comprehensive automobile liability insurance in the minimum amount of $500,000.00 combined single limit for bodily injury and property damages

liability to protect the CONSULTANT from claims for damages for bodily and personal injury, including death, as well as from claims for property damage, which may arise from the ownership, use, or maintenance of owned and non-owned automobiles, including, but not limited to, leased and rented automobiles whether such operations be by the CONSULTANT or by anyone, directly or indirectly, employed by the CONSULTANT.

E. The parties to this Contract shall carry Workers' Compensation Insurance and Employer's Liability Insurance for all employees as required by Florida Statutes. In the event that a party does not carry Workers' Compensation Insurance and chooses not to obtain same, then such party shall in accordance with Section 440.05, Florida Statutes, apply for and obtain an exemption authorized by the Department of Insurance and shall provide a copy of such exemption to the CITY.

F. All insurance, other than Professional Liability and Workers' Compensation, to be maintained by the CONSULTANT shall specifically include the CITY as an "Additional Insured".

ARTICLE 12 - INDEMNIFICATION

To the extent allowed by Florida Statutes, the CONSULTANT shall indemnify and hold harmless the CITY, its agents, officers, and employees from and against any and all claims, liabilities, losses, costs, and/or causes of action which may arise from any negligent act, recklessness, or intentional wrongful conduct of the CONSULTANT, its agents, officers, or employees in the performance of services under this Contract.

The CONSULTANT further agrees to indemnify and hold harmless the CITY, its agents, officers, and employees from and against any claim, demand or cause of action of whatsoever kind or nature arising out of any conduct or misconduct of the CONSULTANT not included in the paragraph above and for which the CITY, its agents, officers or employees are alleged to be liable.

The CONSULTANT shall pay all claims, losses, liens, fines, settlements or judgments of any nature whatsoever in connection with the foregoing indemnifications including, but not limited to, all costs, expert witness fees, reasonable attorney's fees, and court and/or arbitration costs. These indemnifications shall survive the term of this Contract or any renewal thereof.

Nothing contained in this Article shall be construed or interpreted as consent by the CITY to be sued, nor as a waiver of sovereign immunity beyond the waiver provided in Section 768.28, Florida Statutes.

ARTICLE 13 - SUCCESSORS AND ASSIGNS

The CITY and the CONSULTANT each binds itself and its partners, successors, executors, administrators, and assigns to the other party of this Contract 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 CITY nor the CONSULTANT shall assign, sublet, convey or transfer its interest in this Contract without the 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 CITY which may be a party hereto, nor shall it be construed as giving any rights or benefits hereunder to anyone other than the CITY and the CONSULTANT.

ARTICLE 14 - VENUE

This Contract and any dispute, disagreement, or issue of construction or interpretation arising hereunder whether relating to its execution, its validity, the obligations provided therein, performance or breach shall be governed and interpreted according to laws of the State of Florida. Venue for any and all legal action necessary to enforce the Contract will be held in Palm Beach County.

ARTICLE 15 - REMEDIES

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 or 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 16 - 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 or services required hereunder, as provided for in Florida Statutes, Section 112.311. The CONSULTANT further represents that no person having any such conflicting interest shall be employed for said performance.

The CONSULTANT shall promptly notify the CITY'S representative, in writing, by certified mail, of all potential conflicts of interest for any prospective business association, interest or other circumstance which may influence or appear to influence the CONSULTANT'S judgment 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 CITY as to whether the association, interest or circumstance would, in the opinion of the CITY, constitute a conflict of interest if entered into by the CONSULTANT.

The CITY 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 CITY, the prospective business association, interest or circumstance would not constitute a conflict of interest by the CONSULTANT, the CITY 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 CITY by the CONSULTANT under the terms of this Contract.

Further, please be advised, in accordance with section 112.313, Florida Statutes, and pertinent Opinions of the Florida Commission on Ethics, that if you are a member of a city board, including an advisory board, you may be ineligible to enter into a contractlagreement with the City. If you are a member of a city board, including an advisory board, prior to executing this contract, please contact the Florida Commission on Ethics at (850) 488-7864 to secure an informal advisory opinion regarding your eligibility to enter into this contractlagreement.

ARTICLE 17 – DELAYS AND EXTENSION OF TIME

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; natural or public health emergencies; labor disputes; freight embargoes; and abnormally severe and unusual weather conditions.

Upon the CONSULTANT'S request, the CITY 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 CITY'S rights to change, terminate, or stop any or all of the work at any time.

If the CONSULTANT is delayed at any time in the process of the work by any act or neglect of the CITY or its employees, or by any other consultant employed by the CITY, or by changes ordered by the CITY or in an unusual delay in transportation, unavoidable casualties, or any causes beyond the CONSULTANT'S control, or by delay authorized by the CITY pending negotiation or by any cause which the CITY shall decide justifies the delay, then the time of completion shall be extended for any reasonable time the CITY may decide. No extension shall be made for delay occurring more than seven (7) days before claim therefore is made in writing to the CITY. In the case of continuing cause of delay, only one (1) claim is necessary.

This Article does not exclude the recovery of damages for delay by either party under other provisions in the Contract.

ARTICLE 18 - INDEBTEDNESS

The CONSULTANT shall not pledge the CITY'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 19 - DISCLOSURE AND OWNERSHIP OF DOCUMENTS

The CONSULTANT shall deliver to the CITY'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 CITY under this Contract.

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 CITY 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 CITY'S prior written consent unless required by a lawful order.

All drawings, maps, sketches, programs, data base, reports and other data developed, or purchased, under this Contract for or at the CITY'S expense, except for CONSULTANT'S proprietary information, shall be and remain the CITY'S property and may be reproduced and reused at the discretion of the CITY. The CITY acknowledges and agrees to respect the copyright, trademarks and other rights of the CONSULTANT'S proprietary information during and after the term of this agreement and shall at all times maintain complete confidentiality with regard to such proprietary information provided to the CITY.

The CITY and the CONSULTANT shall comply with the provisions of Chapter 119, Florida Statutes (Public Records Law).

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 20 - 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 CITY. 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 CITY shall be that of an Independent Contractor and not as employees or agents of the CITY.

The CONSULTANT does not have the power or authority to bind the CITY in any promise, agreement or representation other than as specifically provided for in this Contract.

ARTICLE 21 - CONTINGENT FEES

The CONSULTANT warrants that it is 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 22 - 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 of this Contract. The CITY 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 23 - 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, political affiliation, marital status, handicap, or sexual orientation. Further, CONSULTANT shall not discriminate or permit discrimination against any employee or an applicant for employment on the basis of race, color, sex, religion, political affiliation, natural origin, ancestry, marital status, sexual orientation or handicap.

ARTICLE 24 - ENFORCEMENT COSTS

If any legal action or other proceeding, including but not limited to arbitration and/or mediation, is brought for any dispute, disagreement, or issue of construction, declaration or interpretation arising hereunder whether relating to the Contract's execution, validity, the obligations provided therein, or performance of this Contract, or because of an alleged breach, default or misrepresentation in connection with any provisions of this Contract, the successful or prevailing party or parties shall be entitled to recover reasonable attorney's fees, court costs and all expenses (including taxes) even if not taxable as court costs (including, without limitation, all such fees, costs and expenses

incident to appeals), incurred in that action or proceeding, in addition to any other relief to which such party or parties may be entitled.

ARTICLE 25 - 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 CITY'S representative upon request.

The CONSULTANT shall be solely responsible for obtaining and complying with all necessary permits, licenses, approvals and authorizations required for any work done pursuant to this Contract from any federal, state, regional, county or city agency.

ARTICLE 26 - 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 provisions, 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 27 - 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 thirty-six (36) months immediately preceding the date hereof. This notice is required by F.S. 287.133(3)(a).

ARTICLE 28 - MODIFICATIONS OF WORK

The CITY reserves the right to make changes in the Scope of Work, including alterations, reductions therein or additions thereto. Upon receipt by the CONSULTANT of the CITY'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 CITY of any estimated change in the completion date, and (3) advise the CITY if the contemplated change shall affect the CONSULTANT'S ability to meet the completion dates or schedules of this Contract.

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

If the CITY elects to make the change, the CITY 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 by the CITY COUNCIL FOR THE CITY OF RIVIERA BEACH or its designated representative.

ARTICLE 29 - NOTICE

All notices required in this Contract shall be sent by certified mail, return receipt requested, and if sent to the CITY shall be mailed to:

City of Riviera Beach Purchasing Department
2391 Avenue L
Riviera Beach, FL 33404

and if sent to the CONSULTANT shall be mailed to:

The Gordian Group
140 Bridges Rd., Suite E
Mauldin, SC 29662

ARTICLE 30 - ENTIRETY OF CONTRACTUAL AGREEMENT

The CITY and the CONSULTANT agree that this Contract and any attachments hereto or other documents as referenced in the 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 28- Modifications of Work.

ARTICLE 31 – (INTENTIONALLY DELETED)

ARTICLE 32 – TIME

Time is of the essence in all respects under this Contract.

ARTICLE 33 - TERMINOLOGY AND CAPTIONS

All pronouns, singular, plural, masculine, feminine or neuter, shall mean and include the person, entity, firm or corporation to which they relate as the context may require. Wherever the context may require, the singular shall mean and include the plural and the plural shall mean and include the singular. The term "Contract" as used herein, as well as the terms "herein", "hereof', "hereunder", "hereinafter" and the like mean this Contract in its entirety and all exhibits, amendments and addenda attached hereto and made a part hereof.

The captions and paragraph headings are for reference and convenience only and do not enter into or become a part of the context of this Contract, nor shall such headings affect the meaning or interpretation of this Contract.

ARTICLE 34 - WAIVER

Failure of the CITY to enforce or exercise any right(s) under this Contract shall not be deemed a waiver of CITY'S right to enforce or exercise said right(s) at any time thereafter.

ARTICLE 35 - PREPARATION

This Contract shall not be construed more strongly against either party regardless of who was more responsible for its preparation.

ARTICLE 36 - MATERIALITY

All provisions of the Contract shall be deemed material, in the event CONSULTANT fails to comply with any of the provisions contained in this Contract or exhibits, amendments and addenda attached hereto, said failure shall be deemed a material breach of this Contract and CITY may at its option and without notice terminate this Contract.

ARTICLE 37 - REPRESENTATIONS/BINDING AUTHORITY

CONSULTANT has full power, authority and legal right to execute and deliver this Contract and perform all of its obligations under this Contract. By signing this Contract, **David Mahler** hereby represents to the CITY that he/she has the authority and full legal power to execute this Contract and any and all documents necessary to effectuate and implement the terms of this Contract on behalf of the party for whom he or she is signing and to bind and obligate such party with respect to all provisions contained in this Contract.

ARTICLE 38 - EXHIBITS

Each exhibit referred to in this Contract forms an essential part of this Contract. The exhibits, if not physically attached, should be treated as part of this Contract and are incorporated herein by reference.

ARTICLE 39 - CONTRACT DOCUMENTS AND CONTROLLING PROVISIONS

This Contract consists of this agreement and Exhibits "A" & “B”. The CONSULTANT agrees to be bound by all the terms and conditions set forth in this Contract and Exhibits "A" & “B”. To the extent that there exist a conflict between this Contract and the provisions of Palm Beach County Contract No. R2005 1489 (Exhibit "B") the terms, conditions, covenants, and/or provisions of this Contract shall prevail.

Wherever possible, the provisions of such documents shall be construed in such a manner as to avoid conflicts between provisions of the various documents.

ARTICLE 40 - LEGAL EFFECT

This Contract shall not become binding and effective until approved by the CITY COUNCIL OF THE CITY OF RIVIERA BEACH or its designated representative.

ARTICLE 41 - NOTICE OF COMPLAINTS OK SUITS

Each party will promptly notify the other of any complaint, claim, suit or cause of action threatened or commenced against it which arises out of or relates, in any manner, to the performance of this Contract. Each party agrees to cooperate with the other in any investigation either may conduct, the defense of any claim or suit in which either party is named, and shall do nothing to impair or invalidate any applicable insurance coverage.

ARTICLE 42 – SURVIVABILITY

Any provision of this Contract which is of a continuing nature or imposes an obligation which extends beyond the term of this Contract shall survive its expiration or earlier termination.

ARTICLE 43 - DEFAULT

Notwithstanding anything contained in this Contract to the contrary, the parties agree that the occurrence of any of the following shall be deemed a material event of default and shall be grounds for termination:

a. The filing of any judgment lien against the assets of the CONSULTANT related to the performance of this Contract which is not satisfied, discharged or contested in a court of law within thirty (30) days from the date of notice to the CONSULTANT; or

b. The filing of a petition by or against the CONSULTANT for relief under the Bankruptcy Code, or for its reorganization or for the appointment of a receiver or trustee of the CONSULTANT or the CONSULTANT'S property; or an assignment by the CONSULTANT for the benefit of creditors; or the taking possession of the property of the CONSULTANT by any governmental officer or agency pursuant to statutory authority for the dissolution or liquidation of the CONSULTANT; or if a temporary or permanent receiver or trustee shall be appointed for the CONSULTANT or for the CONSULTANT'S property and such temporary or permanent receiver or Trustee shall not be discharged within thirty (30) days from the date of appointment.

The CONSULTANT shall provide written notice to the CITY of the occurrence of any event of default within ten (10) days of the CONSULTANT'S receipt of notice of any such default.

ARTICLE 44 - WAIVER OF SUBROGATION

The CONSULTANT hereby waives any and all rights to Subrogation against the CITY, 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 the 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 the CONSULTANT enter into such an agreement on a pre-loss basis.

ARTICLE 45 - RIGHT TO REVIEW

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

CONTRACT WITH THE CITY OF RIVIERA BEACH

IN WITNESS WHEREOF, the Parties unto this Contract have set their hands and seals on the day and date first written above.

CITY OF RIVIERA BEACH

BY: Thomas A. Masters
THOMAS A. MASTERS
MAYOR

CONSULTANT: THE GORDIAN GROUP

BY: David L. Mahler
DAVID L. MAHLER
VICE PRESIDENT OF FINANCE

ATTEST:

BY: _____
CARRIE E. WARD
CITY CLERK
MASTER MUNICIPAL CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

BY: Pamela H. Ryan
PAMALA H. RYAN
CITY ATTORNEY

DATE: 6/3/09

APPROVED AS TO TERMS AND CONDITIONS

BY: _____
BENJAMIN GUY
PURCHASING DIRECTOR

EXHIBIT A

THE GORDIAN GROUP®

April 24, 2009

Mr. Benjamin Guy
City of Riviera Beach, Florida
Director of Purchasing
2391 Avenue "L"
Riviera Beach, FL 33404

Re: Piggyback on Palm Beach County JOC Contract

Dear Mr. Guy:

The Gordian Group, Inc. ("Gordian") agrees to provide Job Order Contracting ("JOC") consulting services and a license to our proprietary JOC system to the City of Riviera Beach (the "City") under terms and conditions identical to our contract with Palm Beach County (the "County").

For your records, we have enclosed a copy of our original contract with the County and our current contract with the County and all Amendments thereto.

The City will be utilizing JOC contractor(s) previously procured by the County using Gordian's proprietary JOC system; therefore, the Gordian license fee structure charged to the City (covering use of the licensed software, documents and associated consulting services) shall be identical to the license fee structure charged to the County, as follows:

- five percent (5%) of the value of purchase orders awarded to JOC contractors under the JOC system for the first five million dollars ($5,000,000), and
  [Identical to terms of the 1993 County Contract for their initial $5 million]

- One and one half percent (1.5%) of the value of purchase orders awarded to JOC contractors under the JOC system in excess of five million dollars ($5,000,000).
  [Identical to terms of current County Contract (2005) for their continued volume in excess of the original $5 million]

Gordian's associated consulting services to be provided to the City, as requested by the City, shall include: project procurement planning and scheduling, assistance with contractor selection, detailed scope of work development (excluding actual design and engineering), price proposal review, change order scope development and any related price proposal review, any technical assistance required by the JOC contractors as it relates to price proposal preparation or use of the JOC system, and other miscellaneous services related to use of the JOC system.

Gordian shall submit an invoice for each project upon the City's issuance of a purchase order to a JOC contractor.

140 BRIDGES ROAD, SUITE E . MAULDIN, SOUTH CAROLINA 29662 . 800/874-2291 . FAX 864/233-9100

Upon notification by the City we will provide an insurance certificate evidencing coversges as required in the ccntract and with the City named as an additional insured.

We look forward to working with the City of Riviera Beach. Please contact me if you have any questions or if I can be of further assistance.

Sincerely,

Ed Snow
Southeast Region Manager

cc: Mr. Dave Mahler, Gordian
Mr. Michael Ledford Gordian
Mr. Chauncey Taylor II, PBC

CITY OF RIVIERA BEACH
EXHIBIT B

R 2005 1489 AUG 16 2005

CONTRACT FOR CONSULTING/PROFESSIONAL SERVICES

This Contract is made as of by and between PALM BEACH COUNN, a Political Subdivision of the State of Florida, by and through its Board of Commissioners, hereinafter referred to as the COUNT'Y, and THE GORDIAN GROUP, a corporation authorized to do business in the State of Florida, hereinafter referred to as the CONSULTANT, whose Federal I D. number is 58-1900371

In consideration of the mutual promises contained herein, the COUNTY and the CONSUL.TANT agree as follows:

SECTION I -- BASIC SERVICES OF CONSULTANT

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 Chauncey 'Taylor II, Director, Facilities Services, telephone No. (561) 233-0221.

SECTION 2 – PERIODS OF SERVICE

The CONSULTANT shall commence services on the effective date of this agreement identified above and extends for a two year period or until the maximum payment identified in Section 3 5 is reached, whichever occurs first Reports or other deliverables shall be provided by the Consultant per a mutually agreed upon schedule determined on a deliverable by deliverable basis throughout the term of the contract

SECTION 3 – PAYMENTS 'TO CONSULTANT

3.1 'The total amount to be paid by the COUNTY under ihis Contract, for all services and materials including, if applicable, "out of pockei" expenses (specified in paragraph 3.3 below) shall be 1.5 percent of the value of work orders awarded under the JOC System The Consultant will bill the COUNTY on a monthly basis. Where incremental billings for partially completed items is permitted, the total billings shall not exceed the estimated percentage of completion as of the billing date

3 2 Invoices received from the CONSULT'ANT pursuant to this Contract will be reviewed and approved by the COUNTY's representative, indicating that services have been rendered in conformity with the CONTRACT and then will be sent to the Finance Department for payment Invoices will be paid within thirty (30) days following the C O U N N representative's approval, which will not be unreasonably withheld

3 3 No "Out-of-pocket" expenses are eligible for reimbursement under the terms of this Contract. All "outof-pocket" expenses are the responsibility of the CONSULTANT

3.4 In order for both parties to close their books and records, the CONSULTANT will clearly state "**Final**" 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 COUNTY. Since this account will thereupon be closed, any and other further charges, if not properly included on this final invoice, are waived by the CONSULTANT.

3 5 At no time during the performance of this Contract shall the total amount of fees payable under this Agreement exceed the $175,000 limit established for the initial term of two (2) years.

SECTION **4** -- RENEWAL AND 'TERMINAT'ION

The COUNTY may elect to renew the terms and conditions of this Contract twice, with or without modifications as mutually agreed, for a period of one year duration and a maximum of $90,000 each. Each renewal period shall commence upon execution of a renewal agreement by the Board of County Commissioners

This Contract may be canceled by the CONSULTANT upon sixty (60) days prior written notice to the COUNTY in the event of 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. In no event, whether termination is with or without cause, shall the COUNTY be liable for any lost profits, lost opportunity damage,, or consequential damages. After receipt of a Termination Notice and except as otherwise directed by the COUNT'Y the CONSULTANT shall:

a Stop work on the date and to the extent specified
b Terminate and settle all orders and subcontracts reiaiing 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

The COUNTY agrees to a Licensing Period with the CONSULTANT that is concurrent with the term of this Agreement If the COUNTY elects not to exercise the renewal options and is unsuccessful in negotiating an alternate agreement, the COUNTY will abandon use of the CONSULTANT's proprietary System

SECTION 5 – TRUTH-IN-NEGOTIATION CERTIFICATE

Signature of this Contract by the CONSULTANT shall act as the execution of a truth-in.-negotiation certificate certifying that the wage rates and costs used to determine the compensation provided for in this Ccntract 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 non-current wage rates or due to inaccurate representations of fees paid to outside consultants. T'he COUNTY shall exercise its rights under this "Certificate" within one (1) year following final payment. County has the authority and right to audit CONSULTANT'S records under' this provision

SECTION 6 -- PERSONNEL

The CONSULTANT represents that it has, or will secure at its own expense, all necessary personnel required to perform the services under this Contract. Such personnel shall not be employees of or have any conflicting relationship with the COUNTY.

All of the services required herein shall be performed by the CONSULTANT or under its supervision, and all personnel engaged in performing the services shall be fully qualified and, if required, authorized or permitted under state and local law to perform such services

Any changes or substitutions in the CONSULTANT'S key personnel or subconsultants must be made known to the COUNTY'S representative and written approval must be granted by the COUNTY before said change or substitution can become effective

The CONSULTANT represents that all services shall be performed by skilled and competent personnel to the professional standard of care set forth above.

SECTION 7 --. SUBCONSULTANTS

The COUNTY reserves the right to accept the use of a sub-consultant, or to reject the selection of a particular sub-consultant and to inspect all facilities of any sub-consultant in order to make a determination as to the capability of the sub-consultant to perform properly under this Contract The CONSULTANT is encouraged to seek small business enterprises for participation in subcontractirig opportunities..

If a sub consultant fails to perform or make progress, as required by this Contract, and it is necessary to replace the sub-consultant to complete the work in a timely fashion, the CONSULTANT shall promptly do so, subject to the right of the COUNTY to reject the new sub consultant

Section 8 -- NON-DISCRIMINATION

The CONSULTANT warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, physical handicap, sex, sexual orientation, age or national origin.

Section 9 -- INDEPENDENDENT **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, sub-consultarits and suppliers 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 other than specifically provided for in this Contract

The CONSULTANT represents that all sub-consultant agreements entered into shall incorporate by reference the terms and conditions of this Contract, and further warrants that the COUNTY is an intended express third party beneficiary of any such subcontract.

Section 10 --**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, fit, or any other consideration contingent upon or resulting from the award of marking of this Contract.

Section 11 – **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 upon request

Section 12 -- **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 The CONSULTANT is not authorized to use the COUNTY'S Tax Exempticn 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

Section 13 -- AVAILABILI'TY OF **FUNDS**

The COUNTY'S performance and obligation to pay under this contract is contingent upon an annual appropriation for its purpose by the Board of County Commissioners

Section 14 -- INSURANCE

CONSULTANT' shall, at its sole expense, agree to maintain in full force and effect at all times during the life of this Contract, insurance coverage and limits (including endorsements), as described herein 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 liabllities and obligations assumed by CONSULTANT under the contract

Commercial General Liability CONSULTANT shall agree to maintain Commercial General Liability at a limit of liability not less than $1,000,000 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 Occurrence 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 CONSUL'TANT 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 Countv 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 a Certificate(s) of Insurance evidencing that all types and amounts of irisurance coverage required by this Contract have been obtained and are in full force arid, effect. Such Certificate(s) of Insurance shall include a minimum thirty (30) day endeavor to notify due to cancellation or non-renewal of coverage. Certificates shall be addressed to Palm Beach County Board of County Commissioners, c/o Capital Improvements Division, 3323 Belvedere Rd., Bldg 503, West Palm Beach, FL 33406

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 COUN'TY, 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 legaiiy

Section 15 – **DISCLOSURE** AND OWNERSHIP OF DOCUMENTS

The CONSULTANT shall deliver to the COUNTY, for 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

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 order. All drawings, maps, sketches, programs, data base, reports and other data developed, utilized, or purchased under this Contract for a COUNTY

project or at the COUNTY'S expense, except for CONSULTANT'S proprietary information, shall be and remain the COUNTY'S property and may be reproduced and reused at the discretion of the COUNTY The County acknowledges and agrees to respect the copyright, trademarks and other rights of TGG's proprietary information during and after the term of this Agreement and shall at all times maintain complete confidentiality with regard to such proprietary information provided to the County

The COUNTY and the CONSULTANT shall comply with the provisions of Chapter 119, Florida Statutes (Public Records Law)

All covenants, agreements, representations and warranties made herein, or otherwise made in writing by any party pursuant hereto, including but not limited to any representation 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

Section 16 -- REMEDIES

This Contract shall be governed by the laws of the State of Florida. Any and all 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 or by stature 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

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, agents. The CONSULTANT's duty to indemnify the COUNTY, its officers and employees shaii continue even if COUNTY is contributorily 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

Section 17 – 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 Florida Statutes

112 311 The CONSULTANT further represents that no person having any interest shall be employed for said performance

The CONSULTANT shall promptly notify the COUNTY in writing by certified mail of all potential conflicts of interest for any prospective business association, interest or other circumstance which may influence or appear to influence the CONSULTANT'S judgment 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. 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.

Section 18 – **EXCUSABLE DELAYS**

The CONSULTANT shall not be considered in default by reason of any failure in performance if such failure arises out of causes beyond the control of the CONSULTANT or its sub-consultants and without their fault or negligence. Such causes may include, under relevant circumstances: acts of God; natural or public health emergencies; strikes not within CONSULTANT'S work force, company or agent's thereof; 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 in the opinion of the County the CONSULTANT'S failure to perform was without it or its sub-consultants fault or negligence, the 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

Section 19 – **ARREARS**

The CONSULTANT shall not pledge the COUNTY'S credit or make it a guarantor of payment of 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.

Section 20 – **MODIFICATIONS** OF WORK

The COUNTY reserves the right to make changes in the 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 promptly, (1) provide an 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 in writing 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 Work affected by a contemplated change, pending the COUNTY'S decision to proceed with the change If COUNTY elects to make the change, the COUNTY will issue an amendment to the applicable SERVICE AUTHORIZATION and the CONSULTANT shall not commence work on any such change until such written amendment has been issued

Section 21 – NOTICE

All notices required in this Contract if sent to the COUNTY shall be mailed to:

Chauncey Taylor II, Director
PBC Facilities Services Division
3200 Belvedere Road, Building 1169
West Palm Beach, FL 33406

with copy to:

Audrey Wolf, Director
PBC Facilities Development and Operations
3200 Belvedere Road, Building 1169
West Palm Beach, FL 33406

and if sent to the CONSULTANT shall be mailed to:

The Gordian Group
140 Bridges Road, Suite E
Mauldin, SC 29662
ATTN: David Mahler, Contracts Administrator

If any term or provision of this Contract, or the application thereof to any person or circumstances shall, to any extent, be held invaiid or unenforceable, to 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.

Section 22 – ENTIRETY OF CONTRACTUAL AGREEMENT'

T'he 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.

This Contract includes the following exhibits, which are attached hereto and made a part hereof:

Exhibit A	-	Scope of Services
Exhibit B	-	Proposal to Provide JOC Consulting Services
Exhibit C	-	Insurance Certificates

Section 23 -- SUCCESSORS AND **ASSIGNS**

The COUN'TY and the CONSULTANT each binds itself and its partners, successors, executors, administrators and assigns to the other party of this Contract 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 of transfer its interest in this Contract without the written consent of the other. Nothing herein shall be construed as giving any rights or benefits hereunder to anyone other than the COUNTY and the CONSUL'TANT.

Section 24 – PUBLIC ENTI'TY 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)

Exhibit A

JOC Maintenance and Support
Scope of Services

Program Support

1 Provide strategic guidance to the Project Team
2 Monitor program performance, as requested
3 Integrate successful experiences from other agencies using JOC
4 Identify and consult on major program issues
5 Provide guidance and interpretations on procedures
6 Provide guidance on use of emergency procedures
7 Assist with interpretation of the Construction Task Catalog® including:
   a Resolve Construction Task Catalog® issues.
   b Manage revisions to the Construction Task Catalog®
8 Conduct annual on-site reviews of the JOC Program.
9 Prepare and issue program evaluations, as requested.
10 Provide CCI index calculations for new adjustment factors to the JOC contracts
11. Assist in the development of critical projects

Document Maintenance & Procurement Support (On-Site)

1. Provide assistance with modifications to the Instructions to Bidders.
2 Provide assistance with modifications to the General Conditions
3 Conduct research to identify recurring use of non-prepriced tasks.
4. Manage and coordinate preparation of updated Construction Task catalogs[w]
5 Manage and coordinate preparation of updated T'echnical Specifications.
6 Conduct informational seminars for local groups, as requested.
7 Conduct outreach to local contractors making them aware of JOC bidding opportunities.
8 Assist with bidding new JOC contracts including:
   a Conduct pre-bid meetings with potential contractors.
   b Assist with bid review and contractor selection, as requested

Document Maintenance & Procurement Support (Off-Site)

1 Develop and enhance the Construction Task Catalog® including:
   a. Maintain the integrity of the CSI numbering system
   b. Improve task descriptions
   c Develop new tasks for recurring non-prepriced tasks
   d. Monitor local area pricing
   e Incorporate current construction practices and materials.
   f Publish Construction T'ask catalogs[a] for additional solicitations
2 Develop and enhance the Technical Specifications including:
   a Develop new specifications for recurring non-prepriced tasks.
   b. Incorporate current construction practices, standards and materials.
   c Publish T'echnical Specifications for additional solicitations.

JOC Maintenance and Support
Scope of Services

Training Support

1. Ccnduct refresher training on procedures for current Client and Contractcr personnel
2. Conduct JOC procedures training for new Client and Contractor personnel
3. Provide hands-on training for new Client and Contractor personnel in the areas of:
   - a Project identification and development
   - b Joint scope meetings
   - c Project scope development
   - d Proposal development and preparation
   - e Proposal review and variance resolution
4. Conduct PROGEN® software training including
   - a Provide on-site PROGEN" assistance to the Client and Contractor
   - b Provide training for new releases of PROGEN®
   - c Conduct refresher training for current Client and Contractor personnel
   - d. Provide hands-on training for new Client and Contractor personnel.

Software Support

1. Provide on-site technical support, including:
   - a Set-up PROGEN® access for new Client and Contractor personnel
   - b Install new releases of PROGEN" software.
   - c Provide systems support in connection with PROGEN®
2. Write, iest and finalize modifications to existing PROGEN® reports, as requested
3. Write, test and finalize new PROGEN" reports, as requested
4. Provide toll free telephone support for PROGEN® software.

Exhibit B

THE GORDIAN GROUP®

June 7, 2005

Mr Allan Dupee
Palm Beach County
3323 Belvedere Koad
West Palm Beach, FL 33406

Re: Proposal to Provide JOC Consulting Services

Dear Mr Dupee:

The Gordian Group (TGG) is excited about the opportunity to provide continuing consulting services for the Palm Beach County (County) Job Order Contracting (JOC) program We propose to provide our services for another four year period for a fee of 1 5% of the construction work ordered with our JOC System This fee remains unchanged from the fee currently paid by the County The proposed fee represents a significant discount horn the standard fee charged to many of our other clients who have recently renewed our contract for maintenance and support services

TGG's standard fee for maintenance and support services is 1 95% This fee is based upon the typical level of service that is required to maintain a JOC program in a manner that delivers maximum benefit to the facility owner Discounts to this fee are generally only provided to clients that exceed $10 Million in construction per year This standard fee also includes the costs associated with the research, design, development, maintenance and technical support of our new Internet based software, PROGEN® 5 0 This software was recently provided to the County

TGG will continue to provide all of the maintenance and support services you are accustomed to receiving, such as preparing updated Contract Documents, Construction Task Catalogs® and Technical Specifications for each new contractor.solicitation, assisting with bidding new contracts, continual upgrading of our PROGEN® software, preparing and revising system reports, providing day-to-day technical support services, and providing all training necessary for the proper utilization of the JOC program by both the County and the contractors. A detailed list of our maintenance and support services is attached for your review.

TGG commits a considerable amount of time toward research and development to ensure that our products and services are the very best We remain the only firm that provides one-stop shopping for all of the services and products necessary to develop, implement and support JOC programs. Our PROGEN® software, Construction Task Catalogs®, Technical Specifications and other related materials are prepared by full-time TGG employees. We do

120 BRIDGES ROAD SUITE E · MAULDIN SOUTH CAROLINA 29662 · 800/872 2291 · FAX 864/233 9100

not rely on third parties and we will never place the blame on someone else when you have a problem We are fully accountable for the performance of the JOC System we provide to our clients

TGG expends a significant amount of time, effort and cost to market our services and obtain new contracts A complete procurement cycle from the initial contact to an executed contract can take from one to two years A sole source award from the County will save thrs cost We propose to pass these savings to the County by holding our fee at 1 5%

As in the past, the fees TGG charges generally represent a small portion of'the total savings the County realizes by using JOC Numerous facility owners have told us that their savings range from 8-15%, resulting in a net savings to the owner. Furthermore, our approach is performance based If we fail to do our job properly, the County uses our system less, and we earn less We believe this type of compensation structure places TGG and the County in a non-adversarial relationship, wherein it is in both parties' best interest for TGG to provide all of the services and products necessary for.the successful utilization of' JOC. Time and again this preferred service/compensation structure has proven to be most successful..

Thank you for the opportunity to present this proposal Please contact me at (800) 874-2291 if you have any questions or if you need any additional information

Sincerely,

David L. Mahler

David L. Mahler
Contracts Administrator

Enclosure

cc: Keith Greene

Exhibit C

ACORD CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 07/08/2005

PRODUCER (864)271-6336 FAX (864)233-9291
Rosenfeld Einstein
116 South Pleasantburg Drive
P 0 Box 5145
Greenville, SC 29606

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURED The Gordian Group, Inc
140 Bridges Road
Suite E
Mauldin, SC 29662

INSURERS AFFORDING COVERAGE	NAIC #
INSURER A Twin City Fire Ins Co	29459
INSURER B. Hartford Casualty	29424
INSURER C Hartford Underwriters	30104
INSURER 3	
INSURER E	

COVERAGES

M E POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PER OD NC CATED. NOTWITHSTANDING ANY REQUIREMENT. TERM OR CONDITION OF ANY CONTRACT OR OMER DOCUMENT WITH R ESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HERE IN IS SUBJECT TO ALL THE TERMS EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID C LAIMS.

INSR LTR	ADD'L INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
A		GENERAL LIABILITY	22UUNBE6340	01/03/2005	01/03/2006	EACH OCCURRENCE	$ 1,000,000
		X COMMERCIAL GENERAL LIABILITY				DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 300,000
		CLAIMS MADE X OCCUR				MED EXP (Any one person)	$ 10,000
						PERSONAL & ADV INJURY	$ 1,000,000
						GENERAL AGGREGATE	$ 3,000,000
		GENL AGGREGATE LIMIT APPLIES PER				PRODUCTS - COMP/OP AGG	$ 2,000,000
		POLICY PRO-JECT LOC					
A		AUTOMOBILE LIABILITY	22UUNBE6340	01/03/2005	01/03/2006	COMBINED SINGLE LIMIT (Ea accident)	$ 1,000,000
		X ANY AUTO					
		ALL OWNED AUTOS				BODLY INJURY (Per person)	$
		SCHEDUED AUTOS					
		X HIRED AUTOS				BODLY INJURY (Per accident)	$
		X NON-OWNED AUTOS					
						PROPERTY DAMAGE (Per accident)	$
		GARAGE LIABILITY				AUTO ONLY - EA ACCIDENT	$
		ANY AUTO				OTHER THAN AUTO ONY: EA ACC	$
						AGG	$
B		EXCESS/UMBRELLA LIABILITY	22RHUBF0000	01/03/2005	01/03/2006	EACH OCCURRENCE	$ 5,000,000
		X OCCUR CLAIMS MADE				AGGREGATE	$
							$ 5,000,000
		OEWCTIBLE					$
		X RETENTION 1 10,000					$
C		ORKERS COMPENSATION AND MPLOYERS LIABILITY	22WECE2422	01/03/2005	01/03/2006	X WC STATU TORY LIMITS OTH ER	
		W PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED?				E L EACH ACCIDENT	$ 1,000,000
		If yes, describe under SPECIAL PROVISIONS below				E L DISEASE EA EMPLOYEE	$ 1,000,000
						E L DISEASE POLKY LIMIT	$ 1,000,000
		OTHER					

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISION

Palrn Beach County Board of County Commissioners, a Political Subdivision of the State of Flordia, its Officers, Employees and Agents are additional insureds. Policy provides blanket additional insure 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

CERTIFICATE HOLDER

Palm Beach County Board of
County Commissioners
c/o Capital Improvements Division
3323 Belvedere Rd
Bldg 503
West Palm Beach , FL 33406

CANCELLATION

SHOULD RNY OF THE ABOVE DESCRIBED POLICIES BE CANCELLEO BEFORE THE EXPIRATION DATEMEREOF THE ISSUING INSURER WILL ENDEAVORTO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDCR NAMED TO THE LEFT BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON ME INSURER, ITS AGENTS OR REPRESENTATIVES

AUTHORIZED REPRESENTATIVE
Connie Callaham/CSC Connie S Callaham

©ACORD CORPORATION 1988

IMPORTANT

If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed A statement on this certificate dces not confer rights to the certificate holder in lieu of such endorsement(s)

If SUBROGATION IS WAIVED, subject to the terms and conditions cf 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)

DISCLAIMER

The Certificate of Insurance on the reverse side of this form does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon

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.

R 2005 1489

ATTEST:
SHARON R. BOCK, Clerk & Comptroller

By: _____
Deputy Clerk

PALM BEACH COUNTY AUG 16 2005
BOARD OF COUNTY COMMISSIONERS

By: _____
Tony Masilotti, Chairman

BOARD OF COUNTY COMMISSIONERS PALM BEACH COUNTY FLORIDA

APPROVED AT TO TERMS AND CONDIT'IONS

By: _____
Director, FD&O

#PROVED AS TO FORM AND LEGAL SUFFICIENCY

By: _____
County Attorney

CONSULTANT:

WITNESS:

_____
Signature

Mona R. Kramer
Name (type or print)

_____
Signature

David L. Mahler
Name (type or print)

Secretary
Title

R2006 2649 DEC 05 2006

AMENDMENT #1 TO CONTRACT FOR CONSULTING/PROFESSIONAL SERVICES

This agreement amends the contract between Palm Beach County (County) and The Gordian Group. Inc , (Consultant) authorized pursuant to Palm Beach County Resolution (R-2005-1489)

The original contract provided that Contractor would provide professional consultant services for the continuation of the Job Order Contracting (JOC) system from August 16, 2005 to August 15, 2007 or until the amount of fees paid total $175,000, whichever occurred first. That contract also provides that it could be extended for two additional one-year terms, for a maximum of $90,000each This amendment exercises the first option to the contract, increasing the overall limit to $265,000

The County is extending the contract for a period of twelve (12) months based on pending work which would exceed the value assigned to the contract Pursuant to the provisions of the existing contract, the parties agree that Consultant will continue to provide professional consulting services until December 4, 2007, or until the amount of fees paid total $265,000, whichever occurs first.

Except as amended herein, all provisions of the existing contract shall remain in full force and effect

ATTEST:
Sharon R Bock, Clerk & Comptroller

Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
PALM BEACH COUNTY FLORIDA

BOARD OF COUNTY COMMISSIONERS

Addie L Greene, Chairperson

Witness:

David L. Mahler
Printed Name

David L. Mahler
Signature

The Gordian Group, Inc.

Signature

President
Title

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

County Atto

APPROVED AS TO TERMS
AND CONDITIONS

Audrey Wolf, Director
Facilities Development & Operations

R2007 1504

SEP 11 2007

AMENDMENT #2 TO CONTRACT FOR CONSULTING/PROFESSIONAL SERVICES

This agreement amends the contract between Palm Beach County (County) and The Gordian Group, Inc , (Consultant) authorized pursuant to Palm Beach County Resolution (R-2005-1489)

The original contract provided that Contractor would provide professional consultant services for the continuation of the Job Order Contracting (JOC) system from August 16, 2005 to August 15, 2007 or until the amount of fees paid total $175,000, whichever occurred first That contract also provides that it could be extended for' two additional one-year terms, for a maximum of $90,000 each The contract was previously amended on December 5, 2006 'This amendment exercises the second and final option to the contract, increasing the overall limit to $355,000..

T'he County is extending the contract for a period of twelve (12) months based on pending work which would exceed the value assigned to the contract Pursuant to the provisions of the existing contract, the parties agree that Consultant will continue to provide professional consulting services until September 10, 2008, or until the amount of fees paid total $355,000, whichever' occurs first.

Except as amended herein, all provisions of the existing contract shall remain in full force and effect

ATTEST:
Sharon R.. Bock, Clerk & Comptroller

Deputy Clerk

BOARD OF COUNTY COMMISSIONERS

Addie L Greene, Chairperson

Witness:

David L. Mahler
Printed Name

David L. Mahler
Signature

The Gordian Group, Inc.

Signature

President
Title

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

County Attorney

APPROVED AS TO TERMS
AND CONDITIONS

Audrey Wolf, Director
Facilities Development & Operations

R2008 0963
JUN 0 3 2008

AMENDMENT #3 TO CONTRACT **FOR** CONSUL.TING/PROFESSIONAL SERVICES

This agreement amends the contract between Palm Beach County (County) and The Gordian Group, Inc , (Consultant) authorized pursuant to Palm Beach County Resolution (R-20051489)

The original contract provided that Contractor would provide professional consultant services for the continuation of the Job Order Contracting (JOC) system from August 16,2005 to August 15,2007 or until the amount of fees paid total $175,000, whichever occurred first. That contract also provides that it wuld be extended for two additional one-year terms, for a maximum of $90,000 each The contract was previously amended on December 5, 2006 and September 11, 2007 Phis amendment is a revision to the previous amendment #2 dated September 11, 2007

The County is increasing the total dollar value for the second term by $149,000, from $355,000 to $504,000, and extending the contract until August 15, 2009. This will provide for the originally intended iour year contract period and provide adequate funding based on the historical volume of work experienced which has exceeded the annual values assigned to the contract. Pursuant to the provisions of the axisting contract, the parties agree that Consultant will continue to provide professional consulting services until August 15, 2009, or until the amount of fees paid total $504,000, whichever occurs first

Except as amended herein, all provisions of the axisting contract shall remain in full force and effect

ATTEST:
Sharon R Bock, Clerk & Comptroller

Deputy Clerk

BOARD OF COUNTY COMMISSIONERS

Addie L. Greene

Addie L Greene, Chairperson

Witness:

'The Gor'dian Group, Inc

Christina J. L. Sandefur
Printed Name

David L. Mahler
Signature

Signature

Vice President of Finance
Title

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

County Attorney

APPROVED AS TO TERMS
AND CONDITIONS

Audrey Wolf, Director
Facilities Development & Operations