



**Board Meeting **REVISED** Agenda**  
**\*to include additional items in red**

March 17, 2021, 6:30 PM

**\*\*\* VIRTUAL MEETING \*\*\***

**Public Notice:** Pursuant to Governor Inslee’s Stay Home, Stay Healthy Proclamation 20-25 and in effort to curtail the spread of the COVID-19 virus, this Board Meeting will be conducted remotely. Members of the public are encouraged to attend and participate in the meeting remotely, as described in more detail below.

**To attend the Board Meeting:**

- (1) Online: Click the link <https://us02web.zoom.us/j/89871911185> (or copy the URL and paste into a web browser)
- (2) By Telephone: Call in to the meeting by dialing +1 253-215-8782 ID: 898 7191 1185

**To provide Public Comment:**

Submit your written Public Comment before 3:00PM (day of meeting), to the Clerk of the Board at [robin.schaefer@bothellwa.gov](mailto:robin.schaefer@bothellwa.gov).

1. Call to Order – 6:30 PM
2. Minute Order # MO-21-03, Appointing a Chair and Vice-Chair of the Board
3. Public Comment – *Read Public Comments submitted. Allow up to 3 minutes/ comment.*
4. Consent Agenda (5 min)
  - A. Minutes from February 17, 2021
  - B. **\*Vouchers for invoices received from December 10, 2020 to March 12, 2021 in the amount of \$35,439.50**
5. Reports (40 min)
  - A. Capital Repairs Update
  - B. **\*NPRSA Insurance Update**
  - C. Northshore Senior Center Brief, Brooke Knight NSSC
6. Discussion Items (50 min)



- A. Consideration of Agreements # A-21-03 and # A-21-04; an Interlocal Agreement with City of Everett for Cooperative Purchasing and a Professional Services Agreement with The Gordian Group, Inc. for Job-Order Contracting Services
- B. Consideration of Minute Order # MO-21-04, Facility Upgrade Request for a Dance Studio

7. Future Meetings

8. Adjourn

PRELIMINARY AGENDA: The preceding is a preliminary agenda of the Northshore Park and Recreation Service Area Board. Other items may be added and action taken on matters which do not appear above. For additional information, please contact: Robin Schaefer at [robin.schaefer@bothellwa.gov](mailto:robin.schaefer@bothellwa.gov).

SPECIAL ACCOMMODATIONS: The Northshore Parks and Recreation Service Area strives to provide accessible meetings for people with disabilities. If special accommodations are required, please contact Kellye Mazzoli at (425) 471-8464. at least three days prior to the meeting.



**TO:** Chair McNeal and Members of the NPRSA Board

**FROM:** Kellye Mazzoli, Executive Director  
Carly Joerger, Levy Program Manager

**DATE:** March 17, 2021

**SUBJECT:** Vouchers for invoices received from December 10, 2020 – March 12, 2021 in the amount of \$35,439.50

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**ITEM CONSIDERATION:** This item asks the Board to approve vouchers for expenses invoiced between December 10, 2020 – March 12, 2021 in the amount of \$35,439.50.

**FISCAL IMPACTS:** These items are budgeted in the 2021 adopted budget.

**ATTACHMENTS:** Att-1. Voucher Packet #1  
Att-2. Voucher Packet #2

**RECOMMENDED ACTION:** Move to approve vouchers for expenses invoiced between December 10, 2020 – March 12, 2021 in the amount of \$35,439.50.

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# Special District Voucher Approval Document

**Scheduled Payment Date:** 03/19/2021  
**Total Amount:** \$35,383.50  
**Control Total:** 1  
**Payment Method:** WARRANT

**District Name:** Northshore Parks and Recreation  
**File Name:** AP\_NOSHRPRK\_APSUPINV\_20210312085907.csv  
**Fund #:** 251010010

<b>CONTACT INFORMATION</b>	
Preparer's Name: _____	Email Address: <u>carly.joerger@bothellwa.gov</u>

<b>PAYMENT CERTIFICATION</b>		RCW (42.24.080)
I, the undersigned, do hereby certify under penalty of perjury, that the materials have been furnished, the services rendered, the labor performed as described, or that any advance payment is due and payable pursuant to a contract or is available as an option for full or partial fulfillment of a contractual obligation, and that the claim(s) is(are) just, due and unpaid obligation against the above-named governmental unit, that I am authorized to authenticate and certify to said claim(s).		
<b>Authorized District Signature(s) for Payment of Claims (Auditing Officer(s) or Board Member(s)) :</b>		
_____	_____	_____
Authorized District Signature	Date	Authorized District Signature
_____	_____	_____
Authorized District Signature	Date	Authorized District Signature
_____	_____	_____
Authorized District Signature	Date	Authorized District Signature

**SUBMIT SIGNED DOCUMENT TO:**

King County Accounts Payable  
Attn: Special Districts  
401 5th Avenue, Room 323  
Seattle, WA 98104

Email: SpecialDist.AP@kingcounty.gov  
Fax: (206) 263-3767

<b>KING COUNTY FINANCE USE ONLY:</b>	
Batch Processed By:	_____
Date Processed:	_____



# Special District Voucher Approval Document

**District Name:** Northshore Parks and Recreation

**File Name:** AP\_NOSHRPRK\_APSUPINV\_20210312085907.csv

Payee (Vendor Name)	Vendor No.	Vendor Site	Invoice No.	Invoice Date	Inv. Amount	Description
JOHNSON CONTROLS INC.			00044174712	02/17/2021	\$35,383.50	HVAC BAS UPGRADE 2/1/21-2/28/21



**ORIGINAL  
INVOICE**

**Direct Inquires To:** Johnson Controls Inc.  
22745 29TH DR SE STE 100  
0N59 Seattle, WA Common Branch  
BOTHELL, WA 98021

**Federal ID#:** 39-0380010

**Bill To:** NORTHSHORE PARKS & RECREATION SERVICE AREA  
CITY OF BOTHELL  
ATTN NPRSA  
18415 101ST AVE NE  
BOTHELL, WA, 98011

**Phone:** 425-398-6900

**Fax:** 425-398-6955

**Mail Check To:** Johnson Controls  
PO Box 730068  
Dallas, TX 75373  
CORP-BBC-OTC-BT'S-SSNA-  
Remittance@jci.com

Project Name / Project Site / Tax Loc	Purchase Order / Date / Authorized By	JCI Project / CO	JCI Project Manager
Northshore Parks&Rec-Senior Ctr-NAE  WA9801100	Signed Agreement 12/01/20	1N590044 000	BARNDT, DOUGLAS A

Period Covered	Application #	Invoice Number	Invoice Date	Terms
02/01/21 - 02/28/21	1	00044174712	02/17/21	NET 30

Original Contract Amount: \$40,172.00  
 Approved Change Orders: \$0.00  
 New Contract Amount: \$40,172.00  
  
 Work Completed To Date: \$32,137.60  
 Less Retention: \$0.00  
 Total Less Retention: \$32,137.60  
 Less Invoiced To Date: \$0.00  
  
**Net Billed This Invoice: \$32,137.60**  
**Tax at 10.10%: \$3,245.90**  
**Total Amount Due This Invoice: \$35,383.50**

The Project Manager named above submits this application with knowledge, information, and belief that the work covered by this application for payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for Work for which previous applications for payment were issued and for which payments were received from the Owner and that current payment shown herein is now due.

Item	Work Description	Scheduled Value	Previous Application	Work In Place	Stored Material	Total Complete and Stored	Percent	Balance To Finish	Retention
A	B	C	D	E	F	G (D+E+F)	H (G/C)	I (C-G)	J
1	Base Contract Job Progress	\$40,172.00	\$0.00	\$32,137.60	\$0.00	\$32,137.60	80%	\$8,034.40	\$0.00
<b>Totals</b>		\$40,172.00	\$0.00	\$32,137.60	\$0.00	\$32,137.60	80%	\$8,034.40	\$0.00



PARTIAL CONDITIONAL WAIVER

We the undersigned, Johnson Controls, Inc., have been employed by:

**NORTHSHORE PARKS & RECREATION SERVICE AREA**

to furnish the system controls for the property described as:

**Northshore Parks&Rec-Senior Ctr-NAE**

Therefore, we the undersigned, upon receipt of valuable consideration in the amount of: \$35,383.50 , AND any previously submitted yet unpaid invoices, hereby waive any right to pursue a lien against the above-described premises for labor or materials furnished on or before : 02/28/21 . The right to assert lien rights for labor and materials furnished after said date on said property is expressly reserved.

JCI Invoice: 00044174712  
JCI Contract: 1N590044

Johnson Controls, Inc.

BY: 

Neri Berenice Davila Rosales  
MBC - Contract Accounting

ADDRESS: 507 E Michigan St, LD-35  
Milwaukee, WI 53201

Signed on:

17-Feb-2021





## Board Meeting Agenda

March 17, 2021, 6:30 PM

\*\*\* VIRTUAL MEETING \*\*\*

**Public Notice:** Pursuant to Governor Inslee’s Stay Home, Stay Healthy Proclamation 20-25 and in effort to curtail the spread of the COVID-19 virus, this Board Meeting will be conducted remotely. Members of the public are encouraged to attend and participate in the meeting remotely, as described in more detail below.

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B. Consideration of Minute Order # MO-21-04, Facility Upgrade Request for a Dance Studio

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PRELIMINARY AGENDA: The preceding is a preliminary agenda of the Northshore Park and Recreation Service Area Board. Other items may be added and action taken on matters which do not appear above. For additional information, please contact: Robin Schaefer at [robin.schaefer@bothellwa.gov](mailto:robin.schaefer@bothellwa.gov).

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**TO:** Chair McNeal and Members of the NPRSA Board

**FROM:** Kellye Mazzoli, Executive Director  
 Carly Joerger, Levy Program Manager (Presenter)

**DATE:** March 17, 2021

**SUBJECT:** Consideration of Minute Order # MO-21-03, Appointing a Chair and Vice-Chair of the Board

**POLICY CONSIDERATION:** This item asks the Board to select a Chair and Vice-Chair of the Board from among its Members. If approved, the two-year term for the Chair and Vice-Chair will begin April 1, 2021.

**HISTORY:**

DATE	ACTION
OCTOBER 21, 2020	NPRSA Board approved revised Board Bylaws

On October 21, 2020 the Board revised its Bylaws and made several updates to better reflect the current Board’s structure and operations. Included in these updates was a new section clarifying the number and term of Officer positions.

**DISCUSSION:** As outlined in the Board Bylaws, the Board shall have, at a minimum, a Chair and Vice-Chair who shall be elected by the Board by a majority vote. The Chair and Vice-Chair shall serve a two-year term, with no limit on the number of terms they can serve. Since Member Agencies confirm their appointments to Boards and Commissions in the first quarter of each year, the NPRSA Board selects the Chair and Vice-Chair to begin their terms starting in April. Staff recommend the Board follow the attached procedure (Att-1) to discuss, nominate, and appoint the Chair and Vice-Chair.

**FISCAL IMPACTS:** This item has no direct fiscal impact to the NPRSA.

**ATTACHMENTS:** Att-1 NPRSA Chair and Vice-Chair Appointment Procedure

**RECOMMENDED ACTION:** Move to approve # MO-21-03, Appointing the following Board Members for two years: Board Member \_\_\_\_\_ as Chair and Board Member \_\_\_\_\_ as Vice-Chair.

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## NPRSA Chair and Vice-Chair Appointment Procedure

Chair: At this time, I will now ask the Board Clerk to conduct the Appointment of the next Board Chair and Vice-Chair.

Clerk: I will now conduct the Appointment of the Chair and Vice-Chair to a two-year term. The nomination procedures are as follows:

- I will call for nominations for the Chair.
- Each member of the Board is permitted to nominate one person and nominations do not require a second.
- A nominee who wishes to decline will do so at this time.
- Once all nominations have been made, I will close the nominations.
- If there is only one nominee, the appointment will be conducted by voice vote.
- If there is more than one nominee, the Board will first discuss then the appointment will be conducted by voice vote. Ties will be determined by coin-toss.
- Once the Chair is appointed, the appointment of the Vice-Chair will follow these same procedures.

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**TO:** Chair McNeal and Members of the NPRSA Board

**FROM:** Kellye Mazzoli, Executive Director  
Robin Schaefer, NPRSA Board Clerk (Presenter)

**DATE:** March 17, 2021

**SUBJECT:** Minutes from February 17, 2021

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**ITEM CONSIDERATION:** This item asks the Board to approve minutes from NPRSA Board meetings held on February 17, 2021.

**FISCAL IMPACTS:** This item does not have any direct fiscal impact.

**ATTACHMENTS:** Att-1. Minutes from February 17, 2021

**RECOMMENDED ACTION:** Move to approve the NPRSA Board Minutes from February 17, 2021.

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## February 17, 2020 Board Meeting Minutes

\*\*\* VIRTUAL MEETING \*\*\*

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### To provide Public Comment:

Submit your written Public Comment before 3:00PM (day of meeting), email: [robin.schaefer@bothellwa.gov](mailto:robin.schaefer@bothellwa.gov)

## 1. Call to Order

*Vice-Chair Tom Agnew called the virtual meeting to order at 6:32 PM.*

### Meeting Attendees

#### Present

*NPRSA Vice-Chair Tom Agnew*

*NPRSA Board Members Joe Marshall, Jared Mead, Kathy Lambert, Rod Dembowski, and Rosemary McAuliffe (Bothell alternate for James McNeal)*

Kellye Mazzoli, NPRSA Executive Director, City of Bothell

Carly Joerger, Levy Coordinator, City of Bothell

Robin Schaefer, Board Clerk, City of Bothell

Barbara Glass, Records Specialist, City of Bothell

Brooke Knight, Northshore Senior Center, Executive Director

Zorna Kimball, Northshore Senior Center, Operations

John Dolin, Northshore Senior Center Board, President

Suzanne Greathouse, Northshore Senior Center Board, Vice President

Corey Lowell, Northshore Senior Center Board, Operations

#### Absent

*NPRSA Chair James McNeal*

*NPRSA Board Member for Woodinville (TBD)*



## 2. Public Comment

Board Clerk Robin Schaefer reported she did not receive any general public comment by the deadline for the meeting. She invited those in attendance to raise their hands if they wished to speak. There were no requests.

## 3. Consent Agenda

### A. Minutes from December 16, 2020

*Rod Dembowski moved approval of the Consent Agenda. Joe Marshall second. The motion passed 6-0 with Woodinville absent.*

## 4. Reports

### A. Records Management Program Update

*Records Specialist Barbara Glass presented an update on the new structure and implementation of the NPRSA's record management system. Board Members received the report and asked questions. No action was taken.*

### B. Capital Repairs Update (HVAC System & Water Heaters)

*Carly Joerger presented the update and entertained Board comments and questions. No action was taken.*

### C. 2020 Financial Report

*Carly Joerger presented the update and entertained Board comments and questions. No action was taken.*

### D. Northshore Senior Center Brief

*Brooke Knight updated the Board on the Center's current programs, and entertained comments and questions. No action was taken.  
The Board expressed their gratitude and thanks to Brooke for all she has done for the community during the COVID crisis.*

## 5. Discussion Items

### A. Consideration of Minute Order # MO-21-01, receiving the Northshore Senior Center's 2021 Budget Presentation

NPRSA c/o Northshore Senior Center - 10201 E. Riverside Drive, Bothell, WA 98011



Brooke Knight presented the Senior Center's 2021 Budget, and entertained Board comments and questions.

*Rod Dembowski moved approval of # MO-22-001 as presented. Kathy Lambert second. The motion passed 6-0 with Woodinville absent.*

- B. Consideration of Resolution # R 20-06-01, Amending the NPRSA Budget to Increase Expenditures for Board Insurance Coverage

Carly Joerger presented the item and entertained Board comments and questions.

*Kathy Lambert moved approval of Resolution # R 20-06-01 as presented. Rosemary McAuliffe second. The motion passed 6-0 with Woodinville absent.*

- C. Consideration of Resolution # R 21-01, Appointing an Agent to Receive Claims for Damages

Carly Joerger presented the item and entertained comments and questions.

*Joe Marshall moved approval of Resolution # R 21-01 as presented. Kathy Lambert second. The motion passed 6-0 with Woodinville absent.*

- D. Consideration of Minute Order # MO 21-02, Facility Upgrade Request – Sports Court Feasibility Study

Carly Joerger presented the item and together with Brooke Knight entertained comments and questions.

*Rosemary McAuliffe moved approval of Minute Order # MO 21-02 as presented. Kathy Lambert second. The motion passed 6-0 with Woodinville absent.*

## **6. Future Meetings**

Upcoming meetings will be March 17, 2021 and April 21, 2021



## 7. Adjourn

*Prior to adjournment and for the good of the order: Kathy Lambert reported on potential funding coming through the New Cares Act & American Rescue Plan. If passed, every city and school district will receive a direct allocation. FEMA will also be covering all vaccine costs, which may free up some King County monies.*

*Vice-Chair Tom Agnew adjourned the meeting at 8:06 PM.*

Submitted for approval on March 17, 2021  
Robin Schaefer  
Board Clerk



**TO:** Chair McNeal and Members of the NPRSA Board

**FROM:** Kellye Mazzoli, Executive Director  
Carly Joerger, Levy Program Manager

**DATE:** March 17, 2021

**SUBJECT:** Vouchers for invoices received from December 10, 2020 – March 5, 2021 in the amount of \$56.00

---

**ITEM CONSIDERATION:** This item asks the Board to approve vouchers for expenses invoiced between December 10, 2020 – March 5, 2021 in the amount of \$56.00.

**FISCAL IMPACTS:** These items are budgeted in the 2021 adopted budget.

**ATTACHMENTS:** Att-1. Voucher Packet

**RECOMMENDED ACTION:** Move to approve vouchers for expenses invoiced between December 10, 2020 – March 5, 2021 in the amount of \$56.00.

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# Special District Voucher Approval Document

**Scheduled Payment Date:** 03/19/2021  
**Total Amount:** \$56.00  
**Control Total:** 1  
**Payment Method:** WARRANT

**District Name:** Northshore Parks and Recreation  
**File Name:** AP\_NOSHRPRK\_APSUPINV\_20210305160945.csv  
**Fund #:** 251010010

<b>CONTACT INFORMATION</b>	
Preparer's Name: _____	Email Address: <u>carly.joerger@bothellwa.gov</u>

<b>PAYMENT CERTIFICATION</b>		RCW (42.24.080)
<p>I, the undersigned, do hereby certify under penalty of perjury, that the materials have been furnished, the services rendered, the labor performed as described, or that any advance payment is due and payable pursuant to a contract or is available as an option for full or partial fulfillment of a contractual obligation, and that the claim(s) is(are) just, due and unpaid obligation against the above-named governmental unit, that I am authorized to authenticate and certify to said claim(s).</p>		
<b>Authorized District Signature(s) for Payment of Claims (Auditing Officer(s) or Board Member(s)) :</b>		
_____	_____	_____
Authorized District Signature	Date	Authorized District Signature
_____	_____	_____
Authorized District Signature	Date	Authorized District Signature
_____	_____	_____
Authorized District Signature	Date	Authorized District Signature

**SUBMIT SIGNED DOCUMENT TO:**

King County Accounts Payable  
 Attn: Special Districts  
 401 5th Avenue, Room 323  
 Seattle, WA 98104

Email: SpecialDist.AP@kingcounty.gov  
 Fax: (206) 263-3767

<b>KING COUNTY FINANCE USE ONLY:</b>	
Batch Processed By:	_____
Date Processed:	_____



# Special District Voucher Approval Document

**District Name:** Northshore Parks and Recreation

**File Name:** AP\_NOSHRPRK\_APSUPINV\_20210305160945.csv

Payee (Vendor Name)	Vendor No.	Vendor Site	Invoice No.	Invoice Date	Inv. Amount	Description
SOUND PUBLISHING, INC. UNIT ATTN: A/R			EDH856514	05/11/2019	\$56.00	



**Legal Invoice**

Date: 05/11/2019

Sound Publishing, Inc.  
Unit Attn: A/R  
PO Box 930  
Everett WA 98206-0930

**Everett Daily Herald**

**Bill To:**  
Northshore Park & Recreation Service Are  
Attn Michael Tabor  
10201 E Riverside Drive  
Bothell WA 98011

**Customer Account #:** 86029525  
**Legal Description:** EDH856514

**Legal Description:** Legal Notices General

**Desc:** May 15, June 19, July 17, October 16 NSPRA  
PUBLIC MTGS

**Legal #:** EDH856514

**Ad Cost:** \$ 56.00

**Ordered By:** MICHAEL TABOR

**Published:** Everett Daily Herald

**Issues Ordered:** 1

**Start Date:** 05/11/2019 **End Date:** 05/11/2019

**Due:** \$ 56.00

**PAST DUE**

Please return this with payment. Questions? Call 1-800-485-4920

Northshore Park & Recreation Service Are  
Attn Michael Tabor  
10201 E Riverside Drive  
Bothell WA 98011

**Account #:** 86029525  
**Invoice #:** EDH856514  
**Due:** \$ 56.00

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**TO:** Chair McNeal and Members of the NPRSA Board

**FROM:** Kellye Mazzoli, Executive Director  
 Carly Joerger, Levy Program Manager (Presenter)

**DATE:** March 17, 2021

**SUBJECT:** Consideration of Agreements # A-21-03 and # A-21-04; an Interlocal Agreement with City of Everett for Cooperative Purchasing and a Professional Services Agreement with The Gordian Group, Inc. for Job-Order Contracting Services

**POLICY  
 CONSIDERATION:**

This item asks the Board to consider entering into two separate, but related agreements that would create the NPRSA’s job order contract program: an Interlocal Agreement with the City of Everett for Cooperative Purchasing and a Professional Services Agreement with The Gordian Group, Inc. for job-order contract services and use of the unit-price book.

If approved, the NPRSA may “piggyback” on the public procurement process used by the City of Everett to establish their job-order contract program. If denied, staff will utilize the NPRSA’s procurement processes to select contractors.

**HISTORY:**

DATE	ACTION
<b>AUGUST 19, 2020</b>	NPRSA Board approves Purchasing Policy
<b>NOVEMBER 18, 2020</b>	NPRSA Board amends Purchasing Policy allowing the Executive Director to authorize use of alternative procurement and contracting methods
<b>DECEMBER 16, 2020</b>	NPRSA Board authorized use of Job-Order Contracting

On August 19, 2020 the NPRSA Board adopted its first Purchasing Policy, defining the NPRSA’s procedures for procuring goods and services. On November 18, 2020 the Board amended the Purchasing Policy to include an additional provision allowing the Executive Director to authorize the use of alternative procurement and contracting methods that are allowed in state law but may not be specifically

listed in the Purchasing Policy. On December 16, 2020 the Board determined job-order contracting, an alternative public works procurement method, would provide benefit to the public and directed staff to establish a job-order contract program for the NPRSA.

**DISCUSSION:** This agenda bill begins with a summary of the job-order contract method, reviews the benefits of cooperative purchasing, then describes the two agreements attached to this item for the Board’s consideration.

**Summary: Job-order Contracting Method**

Job-order contracting is an alternative public works procurement and contracting method that staff and the Board have determined to be a fit for the nature of the facility repairs and renovations listed in the NPRSA’s Capital Repairs Plan. This method allows the NPRSA to contract with one prime contractor for the majority, if not all, of the projects the NPRSA would like to complete. Rather than soliciting bids for each individual project, the NPRSA will issue work orders to the contractor who then sub-contracts the work. To develop the work orders, the NPRSA will work with a consultant who specializes in job-order contracting and provides expertise on using the unit-price book to craft work orders that match project scope and budget.

This procurement method is authorized in state law because of the specific process by which the prime contractor is selected. The contractor submits a percentage mark-up or mark-down based on the information provided in the unit-price book. This approach allows competitive bidding, while offering some price guarantee and project flexibility to the NRPSA. Job-order contracting will save the NPRSA time in the long-run, but establishing the program up front can take a significant amount of time. To counter this, staff recommend the Board utilize cooperative purchasing to establish a job-order contract program.

**Summary: Interlocal Cooperative Purchasing Agreement**

Cooperative purchasing, or piggybacking, allows public agencies to utilize contracts another agency has in place, so long as that agency followed public procurement laws and allows cooperative purchasing. This tool is commonly used to avoid duplicating lengthy and complicated procurement processes. After consulting with neighboring agencies that utilize the job-order contract method, the City of Everett agreed to allow the NPRSA to “piggyback” off of their job-order contract. In this case, City of Everett used their public procurement

procedures to 1) contract with the Gordian Group as the consultant who creates the job-order contract program and customizes the unit-price book and 2) contract with FORMA Construction as the prime contractor. The City of Everett has had positive interactions with both contractors and has agreed to share up to \$1 million per year of job-order contract capacity with the NPRSA in 2021, with the option for annual extensions of up to three years.

**Summary: Agreements for Board Consideration**

In order for the NPRSA to work with both FORMA Construction and the Gordian Group, the NPRSA would need to enter into two separate, but related agreements presented in this agenda bill. The first is an interlocal agreement with the City of Everett for cooperative purchasing (Att-1). This agreement authorizes the NPRSA to piggyback on the City of Everett's job-order contract, which includes both its procurement of the Gordian Group and FORMA Construction. The interlocal agreement also grants the NPRSA use of up to \$1 million in job-order contract capacity with FORMA Construction for 2021.

The second agreement for the Board's consideration is a professional services agreement between the NPRSA and the Gordian Group (Att-2). Since the NPRSA is not establishing its own job-order contract program the NPRSA does not require the full scope of services that the Gordian Group provides to the City of Everett. Rather, this agreement establishes a scaled down version of the original scope of work and sets forth a fee structure where the NPRSA will pay the Gordian Group five percent of each work order that the NPRSA issues. Since the job-order contract capacity is capped at \$1 million per year for three years, the maximum amount the NPRSA would pay the Gordian Group is, therefore, no more than \$150,000 over a three-year period.

**FISCAL IMPACTS:** This item is budgeted for in the 2021 budget under capital outlay. The interlocal agreement is capped at \$1,000,000 per year, and the fee for the Gordian Group's services is five percent of the total amount of each work order issued.

**ATTACHMENTS:** Att-1 Agreement # A-21-03, Interlocal Agreement with City of Everett for Cooperative Purchasing  
Att-2 Agreement # A-21-04, with the Gordian Group for Professional Services

**NPRSA Board**  
**Agenda Bill**  
Item # 6A

**RECOMMENDED ACTION:** Move to approve Agreements # A-21-03 and # A-21-04; Interlocal Agreement with City of Everett for Cooperative Purchasing and a Professional Services Agreement with The Gordian Group, Inc. for Job-Order Contracting Services

INTERAGENCY AGREEMENT BETWEEN  
CITY OF EVERETT, WASHINGTON

AND

NORTHSHORE PARKS AND RECREATION SERVICE AREA

This Agreement is made and entered into by and between the **City of Everett**, hereinafter referred to as "City", and the **Northshore Parks and Recreation Service Area**, hereafter referred to as "Agency," each party having been duly organized and now existing under the laws of the State of Washington.

WHEREAS, the City has entered into a job order contract as authorized by Chapter 39.10 RCW with Forma Construction ("Contractor") dated on or about November 20, 2018, as amended by amendments 1-4 (the "JOC Contract"); and

WHEREAS, the JOC Contract was procured by a Request for Proposals, "Job Order Contracting – General Construction Services RFP #2018-022" dated July 12, 2018, and this Request for Proposals stated that the JOC Contract may be used by other agencies; and

WHEREAS, Amendment No. 4 to the JOC Contract provides an opportunity for other public agencies to use the terms and conditions of the JOC Contract ("JOC Amendment No. 4"); and

WHEREAS, the Agency wishes to utilize, in part, the terms and conditions of the JOC Contract to perform various Agency job order projects on Agency facilities; and

WHEREAS, the City desires to enter into this Agreement with Agency to allow the Agency to utilize the terms and conditions of the JOC Contract; and

WHEREAS, the parties hereto have determined that they have the authority to enter into this Agreement in accordance with Chapter RCW 39.34 RCW, Interlocal Cooperation Act, and their respective policies and procedures, as amended.

NOW, THEREFORE, in consideration of the above and foregoing recitals, the mutual promises and covenants herein contained, and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. STATEMENT OF WORK

Subject to the provisions of this Agreement, the Agency may issue job orders to Contractor for job order construction services. The job order construction services for such Agency job orders will be provided by Contractor directly to the Agency on the same terms and conditions as the JOC Contract, except that for such Agency job order construction services:

- (a) the City will not be a party to the job order between Agency and Contractor for such services;
- (b) the obligations owed by Contractor to the City under the terms and conditions of JOC Contract will instead be owed by Contractor to the Agency, including but not limited to obligations to provide performance and payment bonds to Agency for work performed for

the Agency and to provide insurance endorsements that name the Agency as additional insured; and

- (c) the obligations owed by the City to Contractor under the terms and conditions of JOC Contract will instead be owed by the Agency to Contractor, including but not limited to obligations to pay for construction services rendered by Contractor.

A copy of the JOC Contract, including its amendments 1-4, is attached hereto as Attachment "A". In the event that the City and Contractor further amend the JOC Contract, the terms and conditions of such amendment will apply from its effective date to job order construction services provided to Agency.

All job orders issued by Agency to Contractor shall state substantially the following: "All work described herein is provided to the Agency by Contractor in connection with Amendment No. 4 to the Job Order Contract between Forma Construction and the City of Everett. The City of Everett is not a party to, nor responsible for, performance of or payment for the work described in this job order." However, the omission of such provision from a job order shall not change any persons' rights or obligations under this Agreement or JOC Amendment No. 4.

Contractor will directly invoice the Agency for any and all such construction services provided. Prior to the issuance of any job orders by Agency, the Agency and Contractor will sign a letter agreement provided by the City, which will confirm the agreement for provision of job order construction services to the Agency.

## 2. TERMS AND CONDITIONS

The Agency and City agree that any work performed for the Agency by Contractor and its respective subcontractors under this Agreement shall be conducted in accordance with the terms and conditions of the JOC Contract as set forth in this Agreement.

## 3. PERIOD OF PERFORMANCE

The period of performance of this Agreement shall commence when this Agreement is signed by both parties and be completed no later than November 20, 2021, unless changed by Amendment to this Agreement.

## 4. COMPENSATION; PAYMENT PROCEDURE

The total value of all job orders issued by the Agency to Contractor shall not exceed \$1,000,000. Contractor shall directly invoice the Agency and the Agency shall directly pay Contractor pursuant to the payment and compensation terms identified within the JOC Contract, respectively.

## 5. RECORDS MAINTENANCE

City, Agency, Contractor and their contractors, subcontractors, sub-consultants, representatives and employees shall each maintain books, records, documents, and other evidence for six (6) years after the expiration of this Agreement (unless a longer period of time is specified in applicable records retention policies in which case such policies shall prevail). These records shall be subject to inspection, review, or audit by personnel of both parties' and other personnel duly authorized by either party, or the Washington State Auditor.

## 6. CONTRACT MANAGEMENT

- (a) Theresa Bauccio-Teschlog will be the City Representative for all communications regarding this



Agreement. The City Representative shall be responsible for monitoring the performance of this Agreement.

(b) Carly Joerger will be the Agency Representative for all communications regarding this Agreement. The Agency Representative shall be responsible for monitoring the performance of this Agreement.

(c) Rob Wettleson shall serve as the Contractor Representative for all communications regarding the job order construction services as addressed herein.

7. NO CITY RESPONSIBILITY

The Agency specifically agrees that the City shall have no liability or responsibility whatsoever for the Agency's use of the terms and conditions of the JOC Contract, the performance of Contractor, or any other matter relating to Agency job orders. The Agency, and not the City, shall have complete responsibility for paying Contractor for services related to Agency job orders. The City makes no representations or warranties of any kind, including without limitation no representations or warranties regarding contractors, performance, Contractor's insurance and bonds, or the enforceability of the terms and conditions of the JOC Contract against the Contractor. The Agency uses Contractor and uses the terms and conditions of the JOC Contract all solely at Agency's own risk.

8. INDEMNIFICATION AND RELEASE

The Agency releases and shall indemnify, defend and hold harmless the City and its officers, employees and agents (each such person, an "Indemnitee") from and against any and all claims, actions, damages, liability, costs and expenses, including attorney's fees, arising out of or relating to (a) any Agency job order to Contractor, (b) the Agency's use of the terms and conditions of the JOC Contract and (c) any work done by Contractor or its subcontractors for the Agency. The foregoing indemnity, defense, and hold harmless obligation includes without limitation indemnity, defense, and hold harmless for each Indemnitee from and against any request, claim or demand for payment by Contractor or Contractor's subcontractors or Contractor's suppliers or Contractor's employees in connection with Agency job orders. This Section is specifically and expressly intended to constitute a waiver of the Agency's immunity under Washington's Industrial Insurance Act, RCW Title 51, to the full extent necessary to provide each Indemnitee with a full and complete indemnity from claims made by the Agency and its employees, to maximum extent allowed by law. AGENCY AND CITY ACKNOWLEDGE THAT THE INDEMNIFICATION PROVISIONS OF THIS SECTION WERE SPECIFICALLY NEGOTIATED AND AGREED UPON BY THEM.

9. TERMINATION

Either party may terminate this Agreement upon thirty (30) days written notification. If this Agreement is so terminated, the terminating party shall be liable only for performance in accordance with the terms of this Agreement for performance rendered prior to the effective date of termination.

10. ALL WRITINGS CONTAINED HEREIN/AMENDMENTS

This Agreement contains all the terms and conditions agreed upon by the parties. No other understanding, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any parties hereto.

City and Agency may mutually amend this Agreement. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind the parties or their respective delegates.

**11. VENUE**

The parties shall bring any litigation arising out of or relating to this Agreement only before the Snohomish County Superior Court.

**12. COUNTERPARTS**

Original signatures transmitted and received via facsimile or other electronic transmission of a scanned document, (e.g., PDF or similar format) are true and valid signatures for all purposes hereunder and shall bind the parties to the same extent as that of an original signature. Any such facsimile or electronic mail transmission shall constitute the final agreement of the parties and conclusive proof of such agreement. This Agreement may be executed in one or more counterparts, each of which shall for all purposes be deemed to be an original and all of which shall constitute the same instrument.

**CITY OF EVERETT**

**Northshore Parks and Recreation Service Area**

**WASHINGTON**

Signature: \_\_\_\_\_

Typed/Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

By: \_\_\_\_\_

Cassie Franklin, Mayor

\_\_\_\_\_

Date

\_\_\_\_\_

Date

ATTEST:

APPROVED AS TO FORM:

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Sharon Fuller, City Clerk

---

David C. Hall, City Attorney

Date: \_\_\_\_\_

Date: \_\_\_\_\_

APPROVED AS TO FORM:

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Paul Byrne, NPRSA Attorney

Date: \_\_\_\_\_

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## PROFESSIONAL SERVICES AND LICENSE AGREEMENT

This Agreement is made this \_\_\_\_\_ day of \_\_\_\_\_, 2021 by and between Northshore Parks and Recreation Service Area, whose address is 10201 E Riverside Dr, Bothell, WA 98011 ("Owner"), and The Gordian Group, Inc., whose address is 30 Patewood Drive, Suite 350, Greenville, South Carolina 29615 ("Gordian").

### WITNESSETH

WHEREAS, the Interlocal Cooperation Act, as amended, and codified in Chapter 39.34 of the Revised Code of Washington provided for interlocal cooperation between governmental agencies;

WHEREAS, Owner has entered into Interlocal Agreement No. # A-21-03 with the City of Everett to enable the access and use Job Order Contracts ("JOC Contracts") for the purpose of procuring various construction services;

WHEREAS, Gordian's proprietary JOC system and services are required for the access and use of the JOC Contracts in accordance with the terms and conditions set forth herein;

WHEREAS, Gordian and the City of Everett are parties to a Professional Services Agreement, dated November 30, 2018 (the "Everett Contract") under which Gordian is authorized to provide its JOC system and services to the City of Everett;

WHEREAS, Owner is authorized to procure Gordian's services under the Everett Contract, and the JOC Contracts, pursuant to the Interlocal Joint Purchasing Agreement between Owner and the City of Everett enacted in accordance with Chapter 39.34 of the Revised Washington Code;

WHEREAS, Owner desires, through this Agreement, to procure certain services set forth in the Everett Contract in accordance with the pricing and other terms set forth therein which is incorporated by reference herein and included as Exhibit A, to facilitate Owner's procurement of construction services through the JOC Contracts; and

WHEREAS, the parties intend that this Agreement, including all additional terms stated in this Agreement which are not expressly stated in the Everett Contract, and the Everett Contract serve as the Agreement between the parties.

NOW, THEREFORE, in consideration of the covenants and agreements herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

**ARTICLE I  
TERM**

Owner hereby retains Gordian as Owner's JOC Services provider for the term commencing on the last date of the signatures below and thirty-six (36) months thereafter, unless terminated or extended as provided for herein. This Agreement may be extended for two additional periods of twelve (12) months each by the mutual written agreement of the parties.

**ARTICLE II  
SCOPE OF WORK**

Gordian will perform the duties and responsibilities set forth below:

1. General Description: Owner desires to engage the services of Gordian to perform services related to the support of a Job Order Contracting ("JOC") program (the "Services") in accordance with the terms and conditions set forth herein and as provided for in the Everett Contract.
2. Gordian Duties and Responsibilities: Gordian will perform the following duties and responsibilities to complete the Services:
  - 2.1 JOC System: Gordian will provide a limited license ("JOC System License") to enable Owner to procure construction services through the JOC Contracts supported by Gordian's Job Order Contracting System and other related proprietary materials (collectively referred to as "Proprietary Information"). The JOC System License terms are set forth in Article III.
  - 2.2 Job Order Development Services: Gordian will be responsible for providing Job Order Development services for each Job Order procured by Owner as described below:
    - a. In the event multiple JOC contractors are available, Gordian will assist the Owner in identifying the appropriate contractor for the project based on the type of work involved and the location of the project.
    - c. Gordian will schedule a Joint Scope Meeting at the project site to help Owner and the JOC contractor agree on the details of the work that the JOC contractor will perform.
    - d. Gordian will assist in preparing a Detailed Scope of Work that describes the work the JOC contractor will perform. Gordian will also assist with resolving issues when project plans and actual conditions vary.
    - e. After all parties are in agreement that the Detailed Scope of Work properly reflects the work to be performed, Gordian will send the Detailed Scope of Work and a Request for Proposal to the JOC contractor.
    - f. Gordian will review the Price Proposal to make sure the JOC contractor has selected the appropriate tasks and quantities and will ask the JOC contractor to make any required changes. Gordian will also obtain and review any Owner required information submitted by the JOC contractor such as a construction schedule and a

list of proposed subcontractors. Then Gordian will submit the Price Proposal and related documents to Owner.

- g. Once Owner approves of the Price Proposal and related documents, Owner is then responsible for the issuance of a purchase order to the selected JOC contractor.
- h. During construction, Owner's project managers will follow its standard internal policies and procedures for construction management and site inspections, including coordinating any required code inspections. When unforeseen conditions arise or Owner desires to change the Detailed Scope of Work, a Supplemental Job Order is developed in the same manner as the original Job Order.

### **ARTICLE III JOC SYSTEM LICENSE**

Gordian hereby grants to Owner, and Owner hereby accepts from Gordian for the term of this Agreement, a non-exclusive right, privilege and license to Gordian's Job Order Contracting System and other related proprietary materials (collectively referred to as "Proprietary Information") to be used for the sole purpose of procuring construction services through the JOC Contracts. The parties hereby agree that Proprietary Information shall include, but is not limited to, Construction Task Catalog® (also commonly referred to as a unit price book), construction cost data, training materials and other proprietary materials provided by Gordian. In the event this Agreement expires or terminates as provided herein, this JOC System License shall terminate and Owner shall return to Gordian all Proprietary Information in Owner's possession.

Owner acknowledges that the unauthorized disclosure of Proprietary Information will result in irreparable harm to Gordian for which monetary damages would be an inadequate remedy. Therefore, Owner agrees that it will give Gordian notice prior to such disclosure to enable Gordian to obtain injunctive relief in the appropriate venue. Owner further acknowledges and agrees to respect the copyrights, registrations, trade secrets and other proprietary rights of Gordian in the Proprietary Information during and after the term of this Agreement and shall at all times maintain complete confidentiality with regard to the Proprietary Information provided to Owner, subject to federal and state laws related to public records disclosure.

Upon expiration or termination of this Agreement as provided herein, Gordian shall provide to Owner all project data generated by Owner in a form accessible by a standard database program.

Gordian agrees each contractor that holds a JOC Contract shall have the right to access and use the Proprietary Information for the purpose of providing construction services to Owner, provided the JOC contractor agrees to pay Gordian's contractor license fee in effect when Owner utilizes the JOC Contracts.

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

### **ARTICLE IV COMPENSATION**

For all purchases made under the JOC Contracts by Owner, Gordian shall be compensated as follows:

1. **Owner Fees:** Owner will pay the following fees, which shall be invoiced on a monthly basis in a format acceptable to Owner and shall a list of all Job Orders or Supplemental Job Orders:
  - 1.1 In consideration for the use of Gordian’s proprietary JOC system, Owner shall pay Gordian a JOC System License Fee of 1.95% of all work procured through the JOC Contracts.
  - 1.2 In consideration for the Job Order Development Services set forth in Section Article II, Section 2.1 of this Agreement Owner shall, in addition to the JOC System License Fee, pay Gordian 3.05% of all work procured through the JOC Contracts.

## **ARTICLE V NOTICES**

Unless otherwise provided for herein, all notices and other communications required by this Agreement shall be deemed to have been given when made in writing and either (a) delivered in person, (b) delivered to an agent, such as an overnight or similar delivery service, or (c) deposited in the United States mail, postage prepaid, certified or registered, addressed as follows:

### **To the Owner:**

Bothell City Hall  
Attn: NPRSA  
18415 101<sup>st</sup> Ave. NE  
Bothell, WA 98011

Carly Joerger, Levy Program Manager  
Phone: (425-471-8949)  
Email: [carly.joerger@bothellwa.gov](mailto:carly.joerger@bothellwa.gov)

### **To Gordian**

The Gordian Group, Inc.  
Attn: Ammon T. Leshner  
30 Patewood Drive, Suite 350  
Greenville, SC 29615  
Phone: (800) 874-2291  
Email: [a.lesher@thegordiangroup.com](mailto:a.lesher@thegordiangroup.com)

## **ARTICLE VI SEVERABILITY**

The sections, paragraphs, sentences, clauses and phrases of this Agreement are severable, and if any phrase, clause, sentence, paragraph or section of this Agreement shall be declared invalid by a court of competent jurisdiction, such invalidity shall not affect any of the remaining clauses, phrases, sentences, paragraphs or sections of this Agreement.



**ARTICLE VII  
ENTIRE AGREEMENT**

This Agreement represents the entire and integrated agreement between Owner and Gordian and may be amended only by written instrument approved by both parties. In the event of any conflict between this Agreement and Exhibit A, the terms of this Agreement shall control.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

Owner

The Gordian Group, Inc.

By: \_\_\_\_\_  
Authorized Signature

By: \_\_\_\_\_  
Ammon T. Leshner

\_\_\_\_\_  
Name and Title

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

Approved as to Form

By: \_\_\_\_\_  
Authorized Signature

Paul Byrne, NPRSA Attorney

\_\_\_\_\_  
Date

**CITY OF EVERETT  
PROFESSIONAL SERVICES AGREEMENT**

**THIS AGREEMENT** made and entered into on this 30th day of November, 2018, by and between the **CITY OF EVERETT**, a municipal corporation under the laws of the State of Washington, hereinafter referred to as the "City," and The Gordian Group, Inc, whose address is 30 Patewood Drive, Suite 350, Greenville, SC 29615, hereinafter referred to as the "Service Provider."

**WHEREAS**, the City desires to engage the Service Provider to provide Job Order Contracting ("JOC") products and consulting services for the City of Everett; and

**WHEREAS**, Service Provider represented, and by entering into this Agreement now represents, that it is fully qualified to perform the work to be performed hereunder in a competent and professional manner;

**NOW, THEREFORE**, the parties herein do mutually agree as follows:

1. **Engagement of Service Provider.** The City hereby agrees to engage the Service Provider, and the Service Provider hereby agrees, to perform the work in a competent and professional manner and provide the services described in the attached "Exhibit A - Scope of Work". The Scope of Work so identified is hereafter referred to as "Work". Without a written directive of an authorized representative of the City, the Service Provider shall not perform any services that are in addition to, or beyond the scope of, the Work. If the Service Provider's proposal is attached as an exhibit, and if such proposal contains or incorporates any conditions or terms in addition to or different from the terms of this Agreement, then the Service Provider expressly agrees that such conditions or terms are neither incorporated nor included into this Agreement between the City and Service Provider. If, and to the extent, the Work includes the design of a public work or improvement, in whole or in part, Service Provider's design shall be reasonably accurate, adequate and suitable for its intended purpose.
2. **Intellectual Property Rights.** Subject to the JOC System License in Section 1.5 of Exhibit A, reports, drawings, plans, specifications and any other intangible property created in furtherance of the Work are property of the City for all purposes, whether the project for which they are made is executed or not, and may be used by the City for any purpose. Subject to the JOC System License in Section 1.5 of Exhibit A, all intellectual property rights in such documents or intangible property created pursuant to this Agreement, or for the City of Everett, belong to the City of Everett. Service Provider retains any intellectual property rights in documents and intangible property created by Service Provider prior to engagement, or not created by Service Provider for its performance of this Agreement.
3. **Time of Beginning and Completion of Performance.** This Agreement shall commence as of the date of execution of this Agreement and shall be completed 36 months after the date of execution. The City has an option to extend the term of the Agreement by two extension terms of one year each. The City exercises its option to each extension term by written notice to Service

Provider prior to expiration of the preceding term. Accordingly, if the City exercises both extension terms, the total term of this Agreement will be five years.

**4. Compensation.**

A. The City shall pay the Service Provider only for completed Work and for services actually rendered which are described herein. Such payment shall be full compensation for Work performed or services rendered, including, but not limited to, all labor, materials, supplies, equipment and incidentals necessary to complete the Work.

B. The Service Provider shall be paid such amounts and in such manner as described in Exhibit B.

C. Service Provider may receive payment as reimbursement for Eligible Expenses actually incurred. "Eligible Expenses" means those types and amounts of expenses either listed in Exhibit C or such expenses as are approved for reimbursement by the City in writing prior to the expense being incurred. If Exhibit C is either blank or not attached, expenses may not be reimbursed unless prior written approval was obtained from the City. An expense shall not be reimbursed if: (1) the expense is not identified in Exhibit C; (2) the expense exceeds the per item or cumulative limits for such expense if it is identified in Exhibit C; or (3) the expense was not approved in writing by an authorized City representative prior to the Service Provider incurring the expense. If, and to the extent, overnight lodging in western Washington is authorized, Service Provider is strongly encouraged to lodge within the corporate limits of City. When authorized, Service Provider will be reimbursed 100% of lodging expense, if lodged within the corporate limits of the City, but Service Provider will be reimbursed 50% of lodging expense when lodged outside the corporate limits of the City. If authorized, the City may (at its sole option) obtain or arrange air travel for the Service Provider.

D. Total compensation, including all services and expenses, shall not exceed a maximum of two hundred thousand Dollars (\$200,000) annually.

E. If Service Provider fails or refuses to correct its work when so directed by the City, the City may withhold from any payment otherwise due an amount that the City in good faith believes is equal to the cost to the City of correcting, re-procuring, or remedying any damage caused by Service Provider's conduct.

**5. Method of Payment.**

A. To obtain payment, the Service Provider shall (a) submit invoices to the City JOC Administrator monthly in accordance with the terms specified in Exhibit B – Compensation. Each invoice shall include a list of all Job Orders and Supplemental Job Orders issued through the Job Order program during the month that have been issued a Notice to Proceed and shall be in a format acceptable to the City; and (b) comply with all applicable provisions of this Agreement. Service Provider shall be paid no more often than once every thirty days.

B. All requests for payment should be sent to:

City of Everett  
Attn.: JOC Contract Administrator  
Purchasing Department  
3200 Cedar Street # 5  
Everett, WA 98201

6. **Submission of Reports and Other Documents.** The Service Provider shall submit all reports and other documents as and when specified in Exhibit A. Said information shall be subject to review by the City, and if found to be unacceptable, Service Provider shall correct and deliver to the City any deficient Work at Service Provider's expense with all practical dispatch. Service Provider shall abide by the City's determinations concerning acceptability of Work.

7. **Termination of Contract.** City reserves the right to terminate this Agreement at any time by sending written notice of termination to Service Provider ("Notice"). The Notice shall specify a termination date ("Termination Date") at least thirty (30) days after the date the Notice is issued. The Notice shall be effective ("Notice Date") upon the earlier of either actual receipt by Service Provider (whether by fax, mail, delivery or other method reasonably calculated to be received by Service Provider in a reasonably prompt manner) or three calendar days after issuance of the Notice. Upon the Notice Date, Service Provider shall immediately commence to end the Work in a reasonable and orderly manner. Unless terminated for Service Provider's material breach, the Service Provider shall be paid or reimbursed for (a) satisfactory work completed prior to the Termination Date in accordance with the compensation and payment provisions contained herein, less all payments previously made for such work and (b) satisfactory work completed after the Notice Date, but prior to the Termination Date, that was reasonably necessary to terminate the Work in an orderly manner. Notices under this Section 7 shall be sent by the United States Mail to Service Provider's address provided herein, postage prepaid, certified or registered mail, return receipt requested, or by delivery. In addition, Notices may also be sent by any other method reasonably believed to provide Service Provider actual notice in a timely manner, such as fax. The City does not by this Section 7 waive, release or forego any legal remedy for any violation, breach or non-performance of any of the provision of this Agreement. At its sole option, City may deduct from the final payment due the Service Provider (a) any damages, expenses or costs arising out of any such violations, breaches, or non-performance and (b) any other backcharges or credits.

8. **Changes.** The City may, from time to time, request changes to the scope of the services of the Service Provider to be performed hereunder. Such changes, including any increase or decrease in the scope of work (and resulting increase or decrease in compensation), shall: (a) be mutually agreed upon and be made only in writing and signed by an authorized representative of each party to this Agreement, (b) be explicitly identified as an amendment to this Agreement and (c) become a part of this Agreement.

9. **Subletting/Assignment of Contracts.** Service Provider shall not sublet or assign any of the Work without the express, prior written consent of the City.

10. **Indemnification.** To the extent of the Service Provider's fault, breach of this Agreement, willful misconduct, or violation of law, the Service Provider hereby agrees, except as otherwise

provided in this Section 10, to defend and indemnify the City from any and all Claims arising out or relating to the performance of this Agreement by Service Provider (or by its employees, agents, representatives or subcontractors/subconsultants), whether such Claims sound in contract, tort, or any other legal theory. The Service Provider is obligated to defend and indemnify the City pursuant to this Section 10 whether a Claim is asserted directly against the City, or whether it is asserted indirectly against the City, e.g., a Claim is asserted against someone else who then seeks contribution or indemnity from the City. The Service Provider's duty to defend and indemnify pursuant to this Section 10 is not in any way limited to, or by the extent of, insurance obtained by, obtainable by, or required of the Service Provider. The Service Provider's obligations under this Section 10 shall not apply to Claims caused by the sole negligence of the City. If (1) RCW 4.24.115 applies to a particular Claim, and (2) such Claim is caused by or results from the concurrent negligence of (a) the Service Provider, its employees, subcontractors/subconsultants or agents and (b) the City, then the Service Provider's obligations under this Section 10 shall apply only to the extent allowed by RCW 4.24.115. Solely and expressly for the purpose of its duties to indemnify and defend the City, the Service Provider specifically waives any immunity it may have under the State Industrial Insurance Law, Title 51 RCW. The Service Provider recognizes that this waiver of immunity under Title 51 RCW was specifically entered into pursuant to the provisions of RCW 4.24.115 and was the subject of mutual negotiation. As used in this Section 10: (1) "City" includes the City, the City's officers, employees, agents, and representatives and (2) "Claims" include, but is not limited to, any and all losses, penalties, fines, claims, demands, expenses (including, but not limited to, attorney's fees and litigation expenses), suits, judgments, or damages, irrespective of the type of relief sought or demanded, such as money or injunctive relief, and irrespective of whether the damage alleged is bodily injury, damage to property, economic loss, general damages, special damages, or punitive damages. If, and to the extent, Service Provider employs or engages subconsultants or subcontractors, then Service Provider shall ensure that each such subconsultant and subcontractor (and subsequent tiers of subconsultants and subcontractors) shall expressly agree to defend and indemnify the City to the extent and on the same terms and conditions as the Service Provider pursuant to this Section 10.

## 11. **Insurance.**

A. Service Provider shall comply with the following conditions and procure and keep in force during the term of this Agreement, at Service Provider's own cost and expense, the following policies of insurance with companies authorized to do business in the State of Washington, which are rated at least "A" or better and with a numerical rating of no less than seven (7), by A.M. Best Company and which are acceptable to the City.

1. Workers' Compensation Insurance as required by Washington law and Employer's Liability Insurance with limits not less than \$1,000,000 per occurrence. If the City authorizes sublet work, the Service Provider shall require each subcontractor to provide Workers' Compensation Insurance for its employees, unless the Service Provider covers such employees.

2. Commercial General Liability Insurance on an occurrence basis in an amount not less than \$1,000,000 per occurrence and at least \$2,000,000 in the annual aggregate, including but not limited to: premises/operations (including off-site operations), blanket contractual liability and broad form property damage.

3. Business Automobile Liability Insurance in an amount not less than \$1,000,000 per occurrence, extending to any automobile. A statement certifying that no vehicle will be used in accomplishing this Agreement may be substituted for this insurance requirement.

4. Professional Errors and Omissions Insurance in an amount not less than \$1,000,000 per occurrence and \$1,000,000 in the annual aggregate. Such coverage may be written on a claims made basis. If both parties agree that the Work does not warrant Service Provider providing Professional Errors and Omissions Insurance, this Section 11.A.4 may be stricken and initialed by both parties.

B. The above liability policies shall be primary as to the City and shall contain a provision that the policy shall not be canceled or materially changed without 30 days prior written notice to the City. No cancellation provision in any insurance policy shall be construed in derogation of the continuous duty of the Service Provider to furnish the required insurance during the term of this Agreement.

C. Upon written request by the City, the insurer or his/her agent will furnish, prior to or during any Work being performed, a copy of any policy cited above, certified to be a true and complete copy of the original.

D. Prior to the Service Provider performing any Work, Service Provider shall provide the City with a Certificate of Insurance acceptable to the City Attorney evidencing the required insurance. Service Provider shall provide the City with either (1) a true copy of an endorsement naming the City of Everett, its officers, employees and agents as Additional Insureds on the Commercial General Liability Insurance policy and the Business Automobile Liability Insurance policy with respect to the operations performed and services provided under this Agreement and that such insurance shall apply as primary insurance on behalf of such Additional Insureds or (2) a true copy of the blanket additional insured clause from the policies. Receipt by the City of any certificate showing less coverage than required is not a waiver of the Service Provider's obligations to fulfill the requirements.

E. If the policy listed in Section 11.A.4. above, Professional Errors and Omissions Insurance, is on a claims made policy form, the retroactive date on the policy shall be the effective date of this Agreement or prior. The retroactive date of any subsequent renewal of such policy shall be the same as the original policy provided. The extended reporting or discovery period on a claims made policy form shall not be less than 36 months following expiration of the policy. (This Section 11.E shall not apply if Section 11.A.4. above is stricken.)

F. Service Provider certifies that it is aware of the provisions of Title 51 of the Revised Code of Washington that requires every employer to be insured against liability of Workers' Compensation, or to undertake self-insurance in accordance with the provisions of that Title. Service Provider shall comply with the provisions of Title 51 of the Revised Code of Washington before commencing the performance of the Work. Service Provider shall provide the City with evidence of Workers' Compensation Insurance (or evidence of qualified self-insurance) before any Work is commenced.

G. In case of the breach of any provision of this Section 11, the City may, at its option and with no obligation to do so, provide and maintain at the expense of Service Provider, such types of insurance in the name of the Service Provider, and with such insurers, as the City may deem proper, and may deduct the cost of providing and maintaining such insurance from any sums which may be found or become due to Service Provider under this Agreement or may demand Service Provider to promptly reimburse the City for such cost.

## 12. Independent Contractor.

A. This Agreement neither constitutes nor creates an employer-employee relationship. Service Provider must provide services under this Agreement as an independent contractor. Service Provider must comply with all federal and state laws and regulations applicable to independent contractors including, but not limited to, the requirements listed in this Section 12. Service Provider agrees to indemnify and defend the City from and against any claims, valid or otherwise, made against the City because of these obligations.

B. In addition to the other requirements of this Section 12, if Service Provider is a sole proprietor, Service Provider agrees that Service Provider is not an employee or worker of the City under Chapter 51 of the Revised Code of Washington, Industrial Insurance for the service performed in accordance with this Agreement, by certifying to the following:

(1) Service Provider is free from control or direction over the performance of the service; and

(2) The service performed is outside the usual course of business for the City, or will not be performed at any place of business of the City, or Service Provider is responsible for the costs of the principal place of business from which the service is performed; and

(3) Service Provider is customarily engaged in an independently established business of the same nature as the service performed, or has a principal place of business for the service performed that is eligible for a business deduction for federal income tax purposes; and

(4) On the effective date of this Agreement, Service Provider is responsible for filing a schedule of expenses, for the next applicable filing period, with the internal revenue service for the type of service performed; and

(5) By the effective date of this Agreement or within a reasonable time thereafter, Service Provider has established an account with the department of revenue and other state agencies, where required, for the service performed for the payment of all state taxes normally paid by employers and businesses and has registered for and received a unified business identifier number from the state of Washington; and

(6) By the effective date of this Agreement, Service Provider is maintaining a separate set of records that reflect all items of income and expenses of the services performed.

C. Any and all employees of the Service Provider, while engaged in the performance of any Work, shall be considered employees of only the Service Provider and not employees of the City. The Service Provider shall be solely liable for any and all claims that may or might arise under the Worker's Compensation Act on behalf of said employees or Service Provider, while so engaged and for any and all claims made by a third party as a consequence of any negligent act or omission on the part of the Service Provider's employees, while so engaged on any of the Work

D. Service Provider shall comply with all applicable provisions of the Fair Labor Standards Act and other legislation affecting its employees and the rules and regulations issued thereunder insofar as applicable to its employees and shall at all times save the City free, clear and harmless from all actions, claims, demands and expenses arising out of said act, and rules and regulations that are or may be promulgated in connection therewith.

E. Service Provider assumes full responsibility for the payment of all payroll taxes, use, sales, income, or other form of taxes (such as state and city business and occupation taxes), fees, licenses, excises or payments required by any city, federal or state legislation which are now or may during the term of the Agreement be enacted as to all persons employed by the Service Provider and as to all duties, activities and requirements by the Service Provider in performance of the Work and Service Provider shall assume exclusive liability therefore, and meet all requirements thereunder pursuant to any rules or regulations that are now or may be promulgated in connection therewith.

**13. Employment.** The Service Provider warrants that he had not employed or retained any company or person, other than a bona fide employee working solely for the Service Provider, to solicit or secure this Agreement and that he has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the Service Provider, any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, the City shall have the right to annul this Agreement without liability or, in its discretion, to deduct from the Agreement price or consideration or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

**14. Audits and Inspections.** At any time during normal business hours and as often as the City may deem necessary, the Service Provider shall make available to the City for the City's examination all of the Service Provider's records and documents with respect to all matters covered by this Agreement and, furthermore, the Service Provider will permit the City to audit, examine and make copies, excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Agreement.

**15. City of Everett Business License.** Service Provider agrees to obtain a City of Everett business license prior to performing any work pursuant to this Agreement.

**16. State of Washington Requirements.** Service Provider agrees to register and obtain any State of Washington business licenses, Department of Revenue account and/or unified business identifier number as required by RCW 50.04.140 and 51.08.195 prior to performing any work pursuant to this Agreement.



17. **Compliance with Federal, State and Local Laws.** Service Provider shall comply with and obey all federal, state and local laws, regulations, and ordinances applicable to the operation of its business and to its performance of work hereunder.

18. **Compliance with the Washington State Public Records Act.** Service Provider acknowledges that the City is subject to the Public Records Act, chapter 42.56 RCW (the “Act”). All records owned, used or retained by the City are public records subject to disclosure unless exempt under the Act, whether or not such records are in the possession or control of the City or Service Provider. Service Provider shall cooperate with the City so that the City may comply with all of its obligations under the Act. Within ten (10) days after receipt of notice from the City, Service Provider shall deliver to the City copies of all records relating to this Agreement or relating to the Work that the City determines qualify as the City’s public records under the Act. If the City receives a public records request relating to this Agreement or relating to the Work, the City shall seek to provide notice to Service Provider at least ten (10) days before the City releases records pursuant to such public records request, but in no event will the City have any liability to Service Provider for any failure of the City to provide such notice. In addition to its other indemnification and defense obligations under this Agreement, Service Provider shall indemnify and defend the City from and against any and all losses, penalties, fines, claims, demands, expenses (including, but not limited to, attorney’s fees and litigation expenses), suits, judgments, or damage arising from or relating to any failure of Service Provider to comply with this Section 18.

19. **Compliance with Grant Terms and Conditions.** Service Provider shall comply with any and all conditions, terms and requirements of any federal, state or other grant that wholly or partially funds Service Provider’s work hereunder.

20. **Equal Employment Opportunity.** Service Provider shall not discriminate against any employee, applicant for employment, independent Service Provider, or proposed independent Service Provider, on the basis of race, color, religion, sex, age, disability, marital state, or national origin.

21. **Waiver.** Any waiver by the Service Provider or the City or the breach of any provision of this Agreement by the other party will not operate, or be construed, as a waiver of any subsequent breach by either party or prevent either party from thereafter enforcing any such provisions.

22. **Complete Agreement.** This Agreement contains the complete and integrated understanding and Agreement between the parties and supersedes any understanding, Agreement or negotiation whether oral or written not set forth herein.

23. **Modification of Agreement.** This Agreement may be modified as provided in ¶8, or by a writing explicitly identified as a modification of this Agreement that is signed by authorized representatives of the City and the Service Provider.

24. **Severability.** If any part of this Agreement is found to be in conflict with applicable laws, such part shall be inoperative, null and void, insofar as it is in conflict with said laws, and the remainder of the Agreement shall remain in full force and effect.

25. **Notices.**

A. Notices to the City of Everett shall be sent to the following address:

City of Everett  
Attn.: JOC Contract Administrator  
Purchasing Department  
3200 Cedar Street # 5  
Everett, WA 98201

B. Notices to the Service Provider shall be sent to the following address:

The Gordian Group, Inc. Attn: Ammon T. Leshner  
30 Patewood Drive, Suite 350  
Greenville, SC 29615

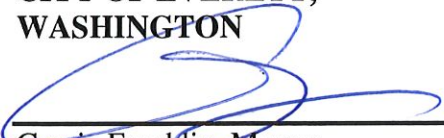
26. **Venue.** Venue for any lawsuit arising out of this Agreement shall be in the Superior Court of Snohomish County, Washington.

27. **Governing Law.** The laws of the State of Washington, without giving effect to principles of conflict of laws, govern all matters arising out of or relating to this Agreement.

28. **Signature.** At the sole discretion of the City, the City may consent to the Service Provider's signature on this Agreement being by email, fax, photocopy, pdf or other electronic means, in which case such Service Provider signature will be deemed an original signature for all purposes. The City will be deemed to have given such consent effective upon execution of this Agreement by the Mayor of the City.

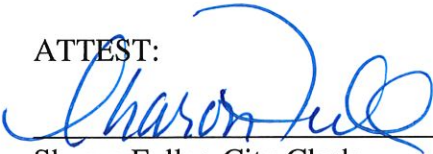
IN WITNESS WHEREOF, the City and Service Provider have executed this Agreement as of the date first above written.

**CITY OF EVERETT,  
WASHINGTON**

  
\_\_\_\_\_  
Cassie Franklin, Mayor

11/20/18  
\_\_\_\_\_  
Date

ATTEST:

  
\_\_\_\_\_  
Sharon Fuller, City Clerk


11/20/2018  
\_\_\_\_\_  
Date

APPROVED AS TO FORM:

  
\_\_\_\_\_  
James D. Iles, City Attorney

11/20/18  
\_\_\_\_\_  
Date

**SERVICE PROVIDER:** Please fill in the spaces and sign in the box appropriate for your business entity.

<b>Corporation</b>	<p>The Gordian Group, Inc. [Service Provider's Complete Legal Name]</p> <p>By:  Typed/Printed Name: Ammon T. Lesher Its: VP and General Counsel Date: 10/30/2018</p>
<b>Partnership (general)</b>	<p>[Service Provider's Complete Legal Name] a Washington general partnership</p> <p>By: _____ Typed/Printed Name: _____ General Partner Date: _____</p>
<b>Partnership (limited)</b>	<p>[Service Provider's Complete Legal Name] a Washington limited partnership</p> <p>By: _____ Typed/Printed Name: _____ General Partner Date: _____</p>
<b>Sole Proprietorship</b>	<p>Typed/Printed Name: _____</p> <p>_____</p> <p>Sole Proprietor: Date: _____</p>
<b>Limited Liability Company</b>	<p>[Service Provider's Complete Legal Name] a Washington limited liability company</p> <p>By: _____ Typed/Printed Name: _____ Managing Member Date: _____</p>

**EXHIBIT A**  
**SCOPE OF WORK**

**1. The Services**

**1.1 General Description:**

The **City of Everett** (City) desires to engage the services of **The Gordian Group** (Service Provider) to perform services related to the development, implementation and support of a Job Order Contracting (JOC) program (the Work) in accordance with the terms and conditions set forth herein.

**1.2 Designated Personnel:**

Service Provider's main point of contact at the City will be the JOC Contract Administrator; or such other personnel as the City may designate from time to time.

**1.3 Service Provider Duties and Responsibilities:**

Service Provider will perform the following duties and responsibilities to provide the following service options to the City:

**A. Option: Gordian JOC Solution™:**

- 1) Service Provider will provide experienced staff that will be responsible for the development, implementation and support of the City's JOC program. This staff will report directly to the City and will be available to assist the City with any JOC related issues.
- 2) Service Provider will be responsible for conducting the activities necessary for establishing the structure of the City's JOC program. Responsibilities include preparing City specific Execution Procedures that will be used to execute the JOC program.
- 3) Service Provider will be responsible for preparing the JOC program Contract and General Conditions, Bid Documents and Technical Specifications and for providing a customized Construction Task Catalog®. All such items are subject to City review and approval.
- 4) Service Provider will be responsible for providing an unlimited user license for the City to access Service Provider's Internet hosted JOC System, which includes Service Provider's eGordian® information management application and

Construction Task Catalog®. eGordian® will be capable of generating the JOC documents including contractor cost proposals, independent cost estimates, Job Orders and management reports and forms. The City's standard reports and forms will be incorporated into eGordian® as requested by the City.

- 5) Service Provider will be responsible for marketing the JOC program by informing internal City staff about JOC, conducting pre-bid seminars for the JOC contractors, and assisting with procurement of the JOC contracts.
- 6) Service Provider will be responsible for developing and conducting a comprehensive JOC training program for the City and JOC contractor staff, which will include different course modules that will provide specialized training to each element of the City and JOC contractor staff.
- 7) Service Provider will be responsible for providing comprehensive JOC follow-on support to the City for the term of this Agreement. Service Provider will monitor the overall program and prepare any status reports required by the City. Support services will include, but are not limited to, unlimited toll-free software support, updating for new JOC contracts the Construction Task Catalog®, Technical Specifications, Contract and General Conditions and Bid Documents, providing procurement assistance for new JOC contracts, providing training for new City and JOC contractor staff, and preparing customized forms and reports requested by the City.

**B. Option: JOC Complete Solution®:**

- 1) Service Provider will perform the duties and responsibilities specified above for the Gordian JOC Solution, except that in lieu of training City staff to develop Job Orders, Gordian will perform Job Order Development services as follows:
  - a. When a project is identified, the City will contact the Service Provider to assist with determining whether the project is appropriate for JOC.
  - b. In the event the City has multiple JOC contractors, Service Provider will assist the City in identifying the appropriate contractor for the project based on the type of work involved and the location of the project.
  - c. Service Provider will schedule a Joint Scope Meeting at the project site to help the City and the JOC contractor agree on the details of the work that the JOC contractor will perform.

- d. Service Provider will assist in preparing a Detailed Scope of Work that describes the work the JOC contractor will perform. Service Provider will also assist with resolving issues when project plans and actual conditions vary.
- e. After all parties are in agreement that the Detailed Scope of Work properly reflects the work to be performed, Service Provider will send the Detailed Scope of Work and a Request for Proposal to the JOC contractor.
- f. Service Provider will review the Price Proposal to make sure the JOC contractor has selected the appropriate tasks and quantities and will ask the JOC contractor to make any required changes. Service Provider will also obtain and review any City required information submitted by the JOC Contractor such as a construction schedule and a list of proposed subcontractors. Then Service Provider will submit the Price Proposal and related documents to the City.
- g. Once the City approves of the Price Proposal and related documents, the City is then responsible for the issuance of a purchase order to the selected JOC contractor prior to any construction work beginning.
- h. During construction, the City will follow its standard internal policies and procedures for construction management and site inspections, including coordinating any required code inspections. When unforeseen conditions arise or the City desires to change the Detailed Scope of Work, a Supplemental Job Order is developed in the same manner as the original Job Order.

**C. Option: JOC Complete Solution *Plus*<sup>TM</sup>:**

- 1) In addition to the products and services included in the JOC Complete Solution, Service Provider will perform construction management services as follows:
  - a. Conduct a pre-construction meeting with City representative(s), the JOC contractor and, if applicable, the architect or engineer. Coordinate and share any preconstruction information with the City, the JOC contractor and other appropriate parties. Assist in the coordination of the JOC contractor obtaining the necessary permits.
  - b. Monitor the JOC contractor's work in-progress. Manage the JOC contractor's compliance with the approved safety plan. Complete a report for each site visit.

- c. Provide weekly construction status reports to the City. Conduct project progress meetings with all JOC contractors and staff on a periodic basis. Coordinate any required technical and code inspections.
- d. Analyze and process any changes to the work due to unforeseen conditions or City requested changes to the scope after the work has begun.
- e. Review and approve, or direct necessary revisions to, the JOC contractor's applications for payment. Obtain the City's approval of the work. Final acceptance of the work will be the responsibility of the City. Technical and code inspections will be the responsibility of the appropriate inspection agencies (including architects and/or engineers as required).
- f. Enter all Job Order related information into the eGordian® information management application. Collect any required as-builts, warranties, etc., from the JOC contractor, and prepare the Notice of Completion documentation for processing.

#### **1.4 City Duties and Responsibilities:**

The City will assume the following duties and responsibilities:

- A. The City shall review all documentation and requests for information submitted by Service Provider in a timely manner.
- B. The City shall provide full information regarding requirements for the JOC program, including but not limited to, facilities lists, current City procedures, programs, technical specifications and bidding information.
- C. The City shall designate, in writing, a representative who shall render or obtain decisions pertaining to the JOC program in a timely manner.
- D. The City shall provide work space and access to the Internet, copiers, printers, facsimile machines, and local telephone service for use by Service Provider's on-site staff.
- E. The City shall be responsible for reproduction of the Construction Task Catalogs®, Technical Specifications, Contract and General Conditions, Instructions to Bidders and Bid Forms, including the bid packages distributed to construction contractors.



### 1.5 Job Order Contracting System License:

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

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

Service Provider acknowledges that the City is subject to the Washington Public Records Act, chapter 42.56 RCW and other Washington statutes related to open government (collectively, the "Act"). If the city receives a public records request under the Act that requests any records that may be considered Proprietary Information, then the City shall give written notice to Service Provider as provided in section 18 of the Agreement. The written notice will contain a description of the records that the City intends to disclose and the date when the disclosure will occur. If Service Provider desires that the records not be disclosed, Service Provider shall commence an action in Snohomish County Superior court before the disclosure date. **Notwithstanding anything to the contrary in this JOC System License or Exhibit A or elsewhere in the Agreement, the City has no liability whatsoever to Service Provider for the disclosure of any record when that disclosure is consistent with the Act or with an order applying the Act entered by the Snohomish County Superior Court or a Washington appellate court.**

Upon expiration or termination of this Agreement as provided herein, Service Provider shall provide to the City all project data generated by the City in a form accessible by a standard database program, such as Microsoft® Access®.

Service Provider agrees to grant a license to each JOC contractor that is awarded a JOC contract by the City, provided the JOC contractor agrees to pay Service Provider's contractor license fee in effect when the City awards the JOC contract and provided the City includes licensing language in the JOC contract similar in form to this JOC System License.

In the event of a conflict in terms and conditions between this JOC System License and any other terms and conditions of this Agreement or any purchase order or similar purchasing document issued by the City, this JOC System License (i.e., this Section 1.5) shall take precedence.

**EXHIBIT B**  
COMPENSATION

**1. JOC Solution Fees**

- a. The City shall pay Service Provider a JOC System License Fee that is inclusive of all associated costs for the JOC solution elected by the City for each job and in accordance with this Exhibit B.
  - i. As compensation for the Gordian JOC Solution™ services set forth in Exhibit A, Paragraph 1.3(A), the City shall pay Service Provider:
    - Five percent (5.00%) of the cumulative value of construction work ordered through the JOC program up to and including eight million dollars (\$8,000,000); and
    - One and ninety-five hundredths percent (1.95%) of the value of work ordered through the JOC program in excess of eight million dollars (\$8,000,000).
    - The JOC System License Fee shall be payable by the City when the Notice to Proceed has been issued on a Job Order assigned to the JOC contractor.
  - ii. As compensation for the JOC Complete Solution® services set forth in Exhibit A, Paragraph 1.3(B), the City shall pay the Service Provider the following fees:
    - A JOC System License Fee of one and ninety-five hundredths percent (1.95%) of the value of work ordered through the JOC program; and
    - A Job Order Development Fee of three and five hundredths (3.05%) percent of the value of work ordered through the JOC program.
    - The JOC System License Fee and Job Order Development Fee shall be payable by the City when the Notice to Proceed has been issued on a Job Order assigned to the JOC contractor.
  - iii. As compensation for the JOC Complete Solution *Plus*™ services set forth in Exhibit A, Paragraph 1.3(C), the City shall pay the Service Provider the following fees:

- A JOC System License Fee of one and ninety-five hundredths percent (1.95%) of the value of work ordered through the JOC program;
  - A Job Order Development Fee of three and five hundredths percent (3.05%) of the value of work ordered through the JOC program; and
  - A Construction Management Fee of five and ninety-five hundredths percent (5.95%) of the value of work ordered through the JOC program.
  - The JOC System License Fee and Job Order Development Fee shall be payable by the City when the Notice to Proceed has been issued on a Job Order assigned to the JOC contractor. The Construction Management Fee shall be payable when construction of a Job Order has been completed and accepted by the City, except at the election of Service Provider, Job Orders requiring more than sixty (60) days to complete shall be payable monthly on a percentage of completion.
- b. The City has elected to utilize the JOC Complete Solution service option and, unless otherwise directed by the City, Service Provider shall perform the services set forth in Exhibit A, Paragraph 1.3(B), and the City agrees to pay the fees provided in Paragraph 1(a)(ii) of this Exhibit B.

The JOC System License fee is subject to Washington State sales tax at the current City of Everett tax rate. The Job Order Development fee is exempt from sales tax as a professional service.

In the event the City elects to utilize an alternative JOC solution option, the City shall provide reasonable notice of its selected service option, and agrees to pay the applicable fees pursuant to the terms and conditions of Exhibit B.

- c. In consideration for Construction Cost Estimating Services and when such services are requested by the City, the City shall pay Consultant a fee of \$130 per hour. This rate will remain in effect for the life of this contract, and may be adjusted annually on the contract execution date of each subsequent year by CPI, as published by the US Bureau of Labor Statistics, for a twelve (12) month period or 3%, whichever is less.

## **2. Contractor License Fee**

- a. The City acknowledges that each JOC contractor shall be assessed a Contractor License Fee equal to one percent (1.00%) of the value of each Job Order issued to them for access to Service Provider's JOC information management application and construction cost data.
- b. The City acknowledges that Service Provider will require JOC contractors awarded a contract by the City to agree to a JOC System License similar in form to the JOC System License provided in Exhibit A, Paragraph 1.5, and to make timely payments to

Service Provider of the Contractor License Fee to access Service Provider's proprietary information and materials.

- c. Service Provider acknowledges and agrees the City shall in no manner whatsoever be responsible for any financial compensation issues regarding the assessment and collection of the Contractor License Fee.

**EXHIBIT C**  
**REIMBURSABLE EXPENSES**

<b>Type of Expense</b>	<b>Maximum Per Item</b>	<b>Cumulative Maximum</b>
Parking		
Meals		

**STATE RETIREMENT SYSTEMS FORM**  
**ATTACHMENT TO PROFESSIONAL SERVICES AGREEMENT**  
**ALL SERVICE PROVIDERS MUST COMPLETE AND SIGN THIS FORM**

1. Does Service Provider have twenty-five (25) or more employees?  Yes  No  
IF YES: SKIP QUESTION 2, SKIP QUESTION 3, AND SIGN BELOW.  
IF NO: ANSWER QUESTIONS 2 AND 3.

2. If a Service Provider employee will perform Work under this Professional Services Agreement, did that employee retire under the Public Employers' Retirement System (PERS), School Employees' Retirement System (SERS), Teachers' Retirement System (TRS), or Law Enforcement Officers and Fire Fighters plan (LEOFF)?  Yes  No

3. Answer the appropriate question below for Service Provider's business organization:

Sole Proprietor. Did Service Provider retire under the Public Employers' Retirement System (PERS), School Employees' Retirement System (SERS), Teachers' Retirement System (TRS), Law Enforcement Officers and Fire Fighters plan (LEOFF)?  Yes  No


Partnership. If a partner will perform Work under this Professional Services Agreement, did that partner retire under the Public Employers' Retirement System (PERS), School Employees' Retirement System (SERS), Teachers' Retirement System (TRS) or Law Enforcement Officers and Fire Fighters plan (LEOFF)?  Yes  No

Limited Liability Company. If a member will perform Work under this Professional Services Agreement, did that member retire under the Public Employers' Retirement System (PERS), School Employees' Retirement System (SERS), Teachers' Retirement System (TRS) or Law Enforcement Officers and Fire Fighters plan (LEOFF)?  Yes  No

Corporation. If a shareholder will perform Work under this Professional Services Agreement, did that shareholder retire under the Public Employers' Retirement System (PERS), School Employees' Retirement System (SERS), Teachers' Retirement System (TRS), or Law Enforcement Officers and Fire Fighters plan (LEOFF)?  Yes  No

**IF THERE IS A "YES" ANSWER TO ANY PART OF QUESTIONS 2 OR 3, AN ADDITIONAL QUESTIONNAIRE (AVAILABLE FROM HR OR LEGAL) MUST BE FILLED OUT AND SUBMITTED WITH THE CONTRACT.**

Service Provider Name: The Gordian Group, Inc.

Signature:  Printed Name: Ammon T. Leshner Title: VP and General Counsel







**TO:** Chair McNeal and Members of the NPRSA Board

**FROM:** Kellye Mazzoli, Executive Director  
 Carly Joerger, Levy Program Manager (Presenter)

**DATE:** March 17, 2021

**SUBJECT:** Consideration of Minute Order # MO-21-04, Facility Upgrade Request for a Dance/Exercise Studio

**POLICY CONSIDERATION:** This item asks the Board to consider if the NPRSA should approve a request from the Northshore Senior Center to convert a billiards room into a dance/exercise studio in the Northshore Senior Center.

If approved, it has the potential to impact the property the NPRSA is responsible for by allowing the tenant to make facility improvements.

**HISTORY:**

DATE	ACTION
<b>MARCH 29, 2016</b>	NPRSA Board approves contract with Northshore Senior Center

The current agreement in which the NPRSA named the Northshore Senior Center as the "Operator" of the buildings owned by the NPRSA, states the Operator may make additional improvements or alterations to the Centers, subject to prior written approval from the NPRSA Board. This stipulation only applies to improvements over \$1,000. The Operator is responsible for the cost of all improvements or alterations.

**DISCUSSION:**

The Northshore Senior Center has submitted a request to the NPRSA Board to transition the billiards room into a dance/exercise studio in the Northshore Senior Center building. In 2019, only twelve individuals signed up for use of the billiards room whereas the Senior Center has received significantly more interest in fitness classes. This request is designed to better meet the needs and interests of the population the Senior Center serves, and would also allow for increased ongoing revenue generation by offering more classes.

The upgrade is estimated to cost \$12,000 and involves removing the carpet, installing laminate flooring, installing mirrors on the walls, as well as installing a barre. The billiards table would be moved to the first floor into a new game room.

The Senior Center would like to begin this project as soon as possible and estimated the total upgrade to take no more than two months. Staff recommends the Board approve this upgrade request.

**FISCAL IMPACTS:** This item has no direct fiscal impact to the NPRSA.

**ATTACHMENTS:** This item has no attachments.

**RECOMMENDED ACTION:** Move to approve Minute Order # MO-21-04, approving a Facility Upgrade Request for a Dance/Exercise Studio.