

**ADDENDUM BY AND BETWEEN
THE GORDIAN GROUP AND
NATIVIDAD MEDICAL CENTER**

This Addendum is by and between is made by and between the County of Monterey, a political subdivision of the State of California (hereinafter, "the County"), on behalf of Natividad Medical Center ("NMC"), a general acute care teaching hospital wholly owned and operated by the County, and The Gordian Group ("Gordian").

WHEREAS, the National Joint Powers Alliance ("NJPA") is a public agency operating under the enabling authority outlined in Minnesota Statute 123A.21, which allows participating nationwide government and education agencies ("Members") to reduce the cost of purchasing by leveraging their combined national purchasing power through cooperative efforts.

WHEREAS, NJPA released RFP #071415 for Indefinite Quantity Construction Contracting Systems and Related Services on July 15, 2015; and

WHEREAS, Gordian was awarded NJPA Contract #071415-GGI ("NJPA Contract"), effective September 15, 2015, as a responsive Proposer to RFP #071415;and

WHEREAS, the County of Monterey is a member of NJPA and as such, and as per the terms of the RFP #071415 which allows all public agencies within the U.S. to procure off of the contract awarded from RFP #071415, NMC intends to procure such services from Gordian piggybacking off the NJPA Contract; and

WHEREAS, NMC and Gordian agree to additional terms and conditions relevant specifically to work for Natividad Medical Center as defined herein this Addendum.

NOW, THEREFORE, the Parties agree to amend the Agreement as follows:

1. NMC and Gordian agree that Gordian shall provide administrative services for the County's Job Order Contracting (JOC) program for NMC, assuming the obligations set forth within EXHIBIT A DESCRIPTION OF SERVICES/PAYMENT PROVISIONS attached to this Addendum.

2. Gordian agrees to adhere the following insurance requirements:

a. Evidence of Coverage:

Prior to commencement of this Agreement, Gordian shall provide a "Certificate of Insurance" certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate. In addition, Gordian upon request shall provide a certified copy of the policy or policies.

This verification of coverage shall be sent to NMC's Contracts/Purchasing Department, unless otherwise directed. GORDIAN shall not receive a "Notice to Proceed" with the work under this Agreement until it has obtained all insurance required and NMC has approved such insurance. This approval of insurance shall neither relieve nor decrease the liability of Gordian.

b. Qualifying Insurers: All coverage's, except surety, shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than A-VII, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by NMC's Contracts/Purchasing Director.

- c. Insurance Coverage Requirements: Without limiting Gordian's duty to indemnify, Gordian shall maintain in effect throughout the term of this Agreement a policy or policies of insurance with the following minimum limits of liability:

Commercial general liability insurance, including but not limited to premises and operations, including coverage for Bodily Injury and Property Damage, Personal Injury, Contractual Liability, Broad form Property Damage, Independent Contractors, Products and Completed Operations, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

Business automobile liability insurance, covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this Agreement, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

Workers' Compensation Insurance, If Gordian employs others in the performance of this Agreement, in accordance with California Labor Code section 3700 and with Employer's Liability limits not less than \$1,000,000 each person, \$1,000,000 each accident and \$1,000,000 each disease.

Professional liability insurance, if required for the professional services being provided, (e.g., those persons authorized by a license to engage in a business or profession regulated by the California Business and Professions Code), in the amount of not less than \$1,000,000 per claim and \$2,000,000 in the aggregate, to cover liability for malpractice or errors or omissions made in the course of rendering professional services. If professional liability insurance is written on a "claims-made" basis rather than an occurrence basis, Gordian shall, upon the expiration or earlier termination of this Agreement, obtain extended reporting coverage ("tail coverage") with the same liability limits. Any such tail coverage shall continue for at least three years following the expiration or earlier termination of this Agreement.

- d. Other Requirements:

All insurance required by this Agreement shall be with a company acceptable to NMC and issued and executed by an admitted insurer authorized to transact insurance business in the State of California. Unless otherwise specified by this Agreement, all such insurance shall be written on an occurrence basis, or, if the policy is not written on an occurrence basis, such policy with the coverage required herein shall continue in effect for a period of three years following the date Gordian completes its performance of services under this Agreement.

Each liability policy shall provide that NMC shall be given notice in writing at least thirty days in advance of any endorsed reduction in coverage or limit, cancellation, or intended non-renewal thereof. Each policy shall provide coverage for Gordian and additional insured with respect to claims arising from each subcontractor, if any, performing work under this Agreement, or be accompanied by a certificate of insurance from each subcontractor showing each subcontractor has identical insurance coverage to the above requirements.

Commercial general liability and automobile liability policies shall provide an endorsement naming the County of Monterey, its officers, agents, and employees as Additional insureds with respect to liability arising out of the Gordian's work, including ongoing and completed operations, and shall further provide that such insurance is primary insurance to any


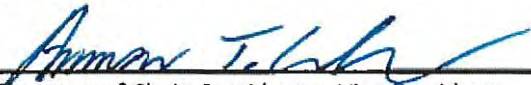
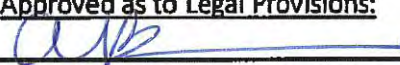

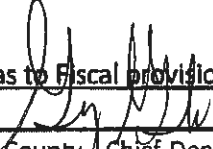
insurance or self-insurance maintained by the County and that the insurance of the Additional Insureds shall not be called upon to contribute to a loss covered by the Gordian's insurance. The required endorsement from for Commercial General Liability Additional Insured is ISO Form CG 20 10 11-85 or CG 20 10 10 01 in tandem with CG 20 37 10 01 (2000). The required endorsement from for Automobile Additional Insured Endorsement is ISO Form CA 20 48 02 99.

Prior to the execution of this Agreement by NMC, Gordian shall file certificates of insurance with NMC's Contracts/Purchasing Department, showing that Gordian has in effect the insurance required by this Agreement. Gordian shall file a new or amended certificate of insurance within five (5) calendar days after any change is made in any insurance policy, which would alter the information on the certificate then on file. Acceptance or approval of insurance shall in no way modify or change the indemnification clause in this Agreement, which shall continue in full force and effect.

Gordian shall at all times during the term of this Agreement maintain in force the insurance coverage required under this Agreement and shall send, without demand by NMC, annual certificates to NMC's Contracts/Purchasing Department. If the certificate is not received by the expiration date, NMC shall notify Gordian and Gordian shall have five calendar days to send in the certificate, evidencing no lapse in coverage during the interim. Failure by Gordian to maintain such insurance is a default of this Agreement, which entitles NMC, at its sole discretion, to terminate the Agreement immediately.

2. NMC and Gordian agree to the following Indemnification clause:
 - a. Gordian shall indemnify, defend, and hold harmless the County of Monterey, including NMC (hereinafter County), its officers, agents and employees from any and all claims, liability and losses whatsoever (including damages to property and injuries to or death of persons, court costs, and reasonable attorneys' fees) occurring or resulting to any and all persons, firms or corporations furnishing or supplying work, services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims, liabilities, and losses occurring or resulting to any person, firm, or corporation for damage, injury, or death arising out of or connected with Gordian's performance of this Agreement, unless such claims, liabilities, or losses arise out of the sole negligence or willful misconduct of County. "Gordian's performance" includes Gordian's action or inaction and the action or inaction of Gordian's officers, employees, agents and subcontractors.
3. NMC agrees to the terms and conditions stated within EXHIBIT B JOC SYSTEM LICENSE attached hereto this Addendum.
4. This Addendum shall be effective retroactive to April 1, 2018.
5. NMC and Gordian agree that services shall be rendered during the term of the NJPA Contract only which is between September 15, 2015 through September 14, 2019 with an option for NJPA and Gordian to extend for one additional year.
6. The total amount for services described herein shall not exceed \$100,000.

IN WITNESS WHEREOF, the Parties hereto are in agreement with this Addendum on the basis set forth in this document and have executed this Addendum on the day and year set forth herein.

<p><u>Natividad Medical Center</u></p> 	<p><u>The Gordian Group</u></p> 
<p>for Gary R. Gray, DO, CEO 4-25-18</p>	<p>Signature of Chair, President or Vice-President Ammon T. Leshner, VP and General Counsel</p>
<p>Date 4-23-18</p>	<p>Printed Name and Title April 23, 2018</p>
<p><u>Approved as to Legal Provisions:</u>  Monterey County Deputy County Counsel</p>	<p>Date  Signature of Secretary, Asst. Secretary, CFO, Treasurer or Asst. Treasurer Roy E. Kemper, Chief Financial Officer</p>
<p>Date</p>	<p>Printed Name and Title April 23, 2018</p>
<p><u>Approved as to Fiscal provisions:</u>  Monterey County Chief-Deputy Auditor-Controller 4/23/18</p>	<p>Date</p>
<p>Date</p>	<p><u>Signature Instructions</u> For a corporation; including limited liability and non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two specified officers (two signatures required).</p>

IN WITNESS WHEREOF, the Parties hereto are in agreement with this Addendum on the basis set forth in this document and have executed this Addendum on the day and year set forth herein.



<u>Natividad Medical Center</u>	<u>The Gordian Group</u>
Gary R. Gray, DO, CEO	 Signature of Chair, President or Vice-President Ammon T. Leshner, VP and General Counsel
Date	Printed Name and Title April 23, 2018
<u>Approved as to Legal Provisions:</u>	Date
Monterey County Deputy County Counsel	 Signature of Secretary, Asst. Secretary, CFO, Treasurer or Asst. Treasurer
Date	Roy E. Kemper, Chief Financial Officer
<u>Approved as to Fiscal provisions:</u>	Printed Name and Title April 23, 2018
Monterey County Chief-Deputy Auditor-Controller	Date
Date	<u>Signature Instructions</u> For a corporation, including limited liability and non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two specified officers (two signatures required).

EXHIBIT A TO ADDENDUM - DESCRIPTION OF SERVICES/PAYMENT PROVISIONS

A.1 JOC Complete Solution®

The JOC Complete Solution is a turnkey procurement approach that tailors Job Order Contracting components to form a unique, comprehensive and high-performing “complete” JOC program. The JOC Complete Solution includes all of the products and services provided by the Gordian JOC Solution and, **in addition, Gordian will provide account managers to assist with developing Job Orders from project identification to issuing the Job Order.**

Developing the Job Order is the most critical step in the JOC process for controlling costs because this is the step where it is determined that NMC is paying for the correct quantity at the correct competitively bid price for each project. It is very important that experienced, qualified project managers develop each and every Job Order. The JOC Complete Solution will bring the most economic benefit to NMC with long term cost savings. A detailed list of the steps required to develop each Job Order are as follows:

- a. **Project Identification** – When a project is identified, Gordian’s account managers shall work with the County and assist with determining whether the project is appropriate for JOC.
 - b. **Contractor Identification** – In the event the County has multiple JOC contractors, we will assist NMC with identifying the appropriate JOC contractor for the project based on the type of work involved, location of the project, and other factors such as remaining contract capacity, work on hand, and contractor performance.
 - c. **Joint Scope Meeting** – After identification of the JOC Contractor a Gordian account manager shall promptly schedule a Joint Scope Meeting at the project site to help NMC and the JOC contractor agree on the details of the work that the JOC contractor will perform. The scoping process allows the JOC contractor to inspect the site and ask questions before submitting a Price Proposal. This upfront open communication eliminates the misunderstandings and mistakes that lead to most change orders and often results in more cost-effective collaborative solutions.
 - d. **Develop Detailed Scope of Work** – Next, the Gordian account manager shall assist in preparing a Detailed Scope of Work that describes the work the JOC contractor will perform. Gordian shall also assist with resolving issues when project plans and actual conditions vary.
 - e. **Request for Price Proposal** – After all parties are in agreement that the Detailed Scope of Work properly reflects the work to be performed, the Gordian account manager shall send the Detailed Scope of Work and a Request for Proposal to the JOC contractor.
 - f. **Prepare the Price Proposal** – Next, the JOC contractor prepares and submits a Price Proposal by selecting the appropriate tasks from the Construction Task Catalog. Gordian’s JOC software will automatically calculate the total cost for each line item by multiplying the unit price of the task by the required quantities and the JOC contractor’s competitively bid Adjustment Factor. The JOC contractor will also prepare additional NMC required information (e.g., construction schedule, list of proposed local subcontractors, etc.).
 - g. **Price Proposal Review** – Then, the Gordian account manager shall review the Price Proposal to make sure the JOC contractor has selected the appropriate tasks and quantities and shall ask
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the JOC contractor to make any required changes. Gordian shall also obtain and review any NMC required information submitted by the JOC contractor such as a construction schedule and list of proposed subcontractors. Then the Gordian account manager shall submit the Price Proposal and related documents to NMC.

- h. Issue Job Order** – Once NMC is 100% satisfied with the Price Proposal and related documents, and decides to move forward with the project, NMC simply issues a purchase order to the contractor.
- i. Construction Management** – During construction, NMC’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 NMC desires to change the Detailed Scope of Work, a supplemental Job Order is developed in the same manner as the original Job Order. With JOC, changes to the work are pre-priced.

A1.1 JOC Complete Solution® FEES

The License Fees for the JOC Complete Solution consist of a client paid license fee (“NMC License Fee”) and Job Order Development Fee paid by NMC, and a contractor paid license fee (“Contractor License Fee”) paid by the JOC contractor as follows:

- NMC License Fee:** 1.95% of the value of the work ordered; and
- Job Order Development Fee:** 3.05% of the value of the work ordered; and
- Contractor License Fee:** 1.00% of the value of the work ordered.

(Totals (6%) of the value of the work ordered)

JOC Complete Solution Fees are payable when a Job Order is issued to the JOC contractor. NMC License Fee and Job Order Development Fee will be payable upon the issuance of a Job Order, purchase order, or similar purchasing document to the JOC contractor by NMC. The Contractor License Fee shall be invoiced to the JOC contractor and is not a cost assessed to NMC. JOC Complete Solution services can be provided as part of a comprehensive JOC solution, or can be provided on a project-by-project basis, with the Job Order Development Fee being assessed only when these services are requested by NMC.

A.2 JOC Complete Solution *Plus* (Construction Management Services)- Gordian agrees to provide its JOC Complete Solution *Plus*TM services on a project-by- project basis through its contract with the National Joint Powers Alliance. Utilizing our JOC Complete Solution *Plus* services option which includes construction management services will allow NMC to manage Job Orders from Job Order issuance to Job Order close-out. Whether due to peak volumes, staff shortages, or new strategic staff directives, Gordian's JOC Complete Solution *Plus* services shall provide on-site construction management experts, using Gordian's proven methods, to carry out day-to-day JOC operations and relieve NMC's project workload burden. A detailed list of Gordian's standard construction management services, which we modify as necessary to meet the needs of NMC, is as follows:

- a. **Preconstruction** – First, a Gordian construction manager shall conduct a pre-construction meeting with NMC representative(s), the JOC contractor and, if applicable, the architect or engineer. The construction manager will coordinate and share any preconstruction information with NMC, the JOC contractor and other appropriate parties, and will assist in the coordination of the JOC contractor obtaining the necessary permits.
- b. **Site Visit** – During construction, the Gordian construction manager shall monitor the JOC contractor's work in- progress, manage the JOC contractor's compliance with the approved safety plan and complete a report for each site visit
- c. **Communicate** – The Gordian construction manager shall provide weekly construction status reports to the County, conduct project progress meetings with all JOC contractors and staff on a periodic basis, and coordinate any required technical and code inspections.
- d. **Supplemental Job Orders** – In the event there are unforeseen conditions or NMC requests changes to the scope after the work has begun, the Gordian construction manager will analyze and process a supplemental Job Order by utilizing the procedures used to develop the initial Job Order.
- e. **Approvals** – The Gordian construction manager shall review and approve, or direct necessary revisions to, the JOC contractor's applications for payment and obtain NMC's approval of the work. Final acceptance of the work will be the responsibility of NMC. Technical and code inspections will be the responsibility of the appropriate inspection agencies.
- f. **Project Close-out** – As the final step in the process, the Gordian construction manager shall enter all Job Order related information into the eGordian[®] information management system and collect any required as-builts, warranties, etc., from the JOC contractor.

A2.1 JOC Complete Solution *Plus*TM FEES

Gordian's fee to provide the JOC Complete Solution *Plus* level of services consists of the Construction Management Fee below, in addition to the fees set forth above:

Construction Management Fee: Five and ninety-five hundredths percent (5.95%) of the value of the work ordered.

The Construction Management Fee is payable when construction of the Job Order has been completed and accepted by the County, and will only apply when the JOC Complete Solution *Plus* services are requested by the County on a project- by-project basis. The JOC Complete

Solution *Plus* services can be provided on a project-by-project basis, at the County's discretion.

A3 JOC System License

Gordian's JOC solutions are subject to Gordina's standard JOC System License. A copy of the JOC System License is attached to this Addendum as EXHIBIT B.

A4 REPORTS

Gordian shall submit written reports as requested by NMC. Format for the content of such reports shall be determined by NMC. The reports, including any copies, shall be submitted on recycled paper and printed on double-sided pages to the maximum extent possible.

A5 NMC LIAISON

In performing the services described herein, Gordian's liaison with NMC will be:

**Natividad Medical Center
Brian Griffin, Project Manager
1441 Constitution Blvd
Salinas, CA 93906
Phone: 831-783-2605
Email: GriffinB@natividad.com**

B1 OTHER PAYMENT PROVISIONS:

- a. No charges shall be incurred under this Addendum nor shall any payments become due to Gordian until reports, services, or both required as per this Addendum are received from Gordian and approved by NMC as being in accordance with this Addendum. In no event shall NMC be liable for interest or late charges for any late payments.
- b. Gordian shall submit invoices once monthly at the completion of services and not later than 30 days after completion of services. The invoice shall set forth the amounts claimed by Gordian for the previous period, together with an itemized basis for the amounts claimed, and such other information pertinent to the invoice. NMC shall certify the invoice, either in the requested amount or in such other amount as NMC approves in conformity with this Agreement, and shall promptly submit such invoice to the County Auditor-Controller for payment. The County Auditor-Controller shall pay the amount certified within 30 days of receiving the certified invoice.
- c. Unless approved otherwise by the NMC, Gordian shall, within three (3) days after receipt of payment by NMC specified in this Exhibit pay to all of its immediate subcontractors (or their respective assignees) the amounts to which they are entitled, after deducting any prior payments and any amounts due and payable to the Gordian by those subcontractors.
- d. Such invoices shall be at a minimum, (i) mechanically accurate, (ii) substantially and properly supported with supporting documents and (iii) in compliance with Gordian's and subcontractors' generally accepted accounting principles.
- e. NMC reserves the right to withhold payment(s) otherwise due Gordian in the event of Gordian's material non-compliance with any of the provisions of this Addendum and may continue the withholding until Gordian has provided evidence of compliance which is acceptable to NMC.
- f. NMC and Gordian agree that there shall be no travel nor expense reimbursement.

EXHIBIT B TO ADDENDUM

JOC SYSTEM LICENSE

The Gordian Group, Inc. ("Gordian") hereby grants to the County of Monterey (hereinafter, County), and the County 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 operating the County Resource Management Agency's (hereinafter, RMA) Job Order Contracting program. The parties hereby agree that Proprietary Information shall include, but is not limited to, Gordian's PROGEN[®] and/or eGordian[®] applications and support documentation, Construction Task Catalog[®] (also commonly referred to as a unit price book), 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 the County shall return to Gordian all Proprietary Information in the County's possession.

The County acknowledges that disclosure of Proprietary Information will result in irreparable harm to Gordian 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 Gordian. The County 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 the County, subject to federal and state laws related to public records disclosure.

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

Gordian agrees to grant a license to each contractor that is awarded a JOC contract by the County, provided the JOC contractor agrees to pay Gordian's contractor license fee in effect when the County awards the contract and provided the County 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 County, this JOC System License shall take precedence.