

JOC MASTER ENABLING AGREEMENT (9/08/06f)

This AGREEMENT is made and entered into this **1st day of February, 2011** pursuant to the Public Contract Code 10700 *et seq.*, by and between the Trustees of The California State University on behalf of

University California State University, Office of the Chancellor	Agreement No: 80246	Amendment No: 1	Project No: 80246	Project Name: Systemwide JOC
hereafter referred to as Trustees, and Service Provider, The Gordian Group	CSU Vendor ID No. 711		Federal ID No:	License No:
Address of Service Provider 140 Bridges Road, Suite E, Mauldin, South Carolina 29662			Telephone No: 800-874-2291	Fax No: 864-915-4584

WITNESSETH: That the Service Provider in consideration of the covenants, conditions and agreements of the Trustees herein contained, does hereby agree to furnish all labor, materials, and equipment and to perform all work necessary to complete, in a skillful manner, the following:

The original Agreement No. 80246 dated February 23, 2009 is hereby amended as follows:

1. Add Rider A-1, JOC and Immediate Response JOC Master Enabling Agreement Scope of Work and Payment Schedule, effective February 1, 2011, consisting of five (5) pages.

Except as previously amended and as amended herein, all other terms and conditions of this Agreement shall continue in full force and effect.

IN WITNESS WHEREOF, this agreement has been executed by the parties hereto, upon date first above written.

THE TRUSTEES OF THE CALIFORNIA STATE UNIVERSITY					SERVICE PROVIDER							
Campus California State University, Office of the Chancellor					Full Legal Name of Service Provider The Gordian Group							
By (Trustees' Authorized Signature)					By (Service Provider's Authorized Signature)							
Printed Name and Title of Person Signing for Trustees Melody A. Kojima, Assistant Director, Purchasing					Printed Name and Title of Person Signing for Service Provider							
Contract Services and Procurement 401 Golden Shore, Long Beach, California 90802					Check appropriate box below that best describes Service Provider: <input type="checkbox"/> Sole Proprietorship <input type="checkbox"/> Partnership <input type="checkbox"/> Corporation <input type="checkbox"/> Limited Liability Co. <input type="checkbox"/> Other (specify) _____							
SCO Account Data:		Fund	Sub Fund	Agency	Yr	Ref/Item	Category	Program Element	Component	Chapter	Fiscal Yr	Legal Reference
Fund Name <i>Funds assigned on "Job Order Notice to Proceed"</i>		PS Account		PS Fund	PS Dept ID	PS Program	PS Class	PS Project/Grant				
Amount Encumbered \$0	<i>I hereby certify upon my own personal knowledge that budgeted funds are available for the period and purpose of the expenditures stated above.</i>											
Amount of Increase \$0	"Funds assigned on Job Order Notice to Proceed"											Date
Amount of Decrease \$0	<i>I hereby certify that I have examined the written Agreement and find the same to be in accordance with the requirements of the California State University Contract Law.</i> CHRISTINE HELWICK, General Counsel.											
Total Amount Encumbered \$0	By Attorney:											Date

Rider A - JOC and Immediate Response JOC Master Enabling Agreement
Scope of Service and Payment Schedule
(Changes are italicized)

The Service Provider shall furnish the Trustees a fully functional Job Order Contract (JOC) System complete with all documents including plans and specifications by which the provisions of Public Contract Code Section 10710 are satisfied and the benefits to the Trustees under the statute are fully realized. The Service Provider shall work closely with CSU Office of the Chancellor staff to implement an acceptable CSU JOC System. The JOC System shall be adaptable and easily converted for application throughout the diverse, multi-campus CSU system. The service provided shall consist of, but is not limited to the following elements:

1. The Service Provider shall provide experienced staff that shall be responsible for the implementation of the CSU JOC *and Immediate Response JOC (IR JOC)* programs. This staff shall report directly to the Trustees at the CSU Office of the Chancellor and shall be available to assist the CSU multi-campus system with any JOC related issues.

The IR JOC program shall consist of two (2) statewide IR JOC contracts to be utilized by the following campuses:

1. *Bakersfield*
 2. *Channel Islands*
 3. *Fullerton*
 4. *Long Beach*
 5. *Los Angeles*
 6. *Northridge*
 7. *San Diego*
 8. *San Marcos*
 9. *Chancellor's Office*
 10. *Humboldt*
 11. *Monterey Bay*
 12. *Sacramento*
 13. *San Francisco*
 14. *San Luis Obispo*
2. The Service Provider shall be responsible for the development of JOC *and IR JOC* documents including the unit price book, technical specifications, contract terms and conditions and bid documents. The Service Provider shall develop and deliver the following items to CSU Office of the Chancellor:
 - a. Catalog of Construction tasks.
 - b. Standard set of technical specifications.
 - c. Contractual terms and conditions for a Job Order Contract *and Immediate Response Job Order Contract*.
 - d. Job Order Contract *and Immediate Job Order Contract* execution procedures and policies.
 - e. Job Order Contract Management Software package.

3. The Service Provider hereby grants to the Trustees and the Trustees hereby accepts a non-exclusive right, license, and privilege to use *JOC and IR JOC* and other related Proprietary Information in connection with the terms and conditions set forth in this Agreement.
4. The Service Provider acknowledges that Trustees as the State of California acting in a higher education capacity is governed by the Public Records Act. Consequently, all contract documents and building standards, plans and specifications employed by the Trustees in the repair or improving its campuses are public records discloseable under the Act. To the extent that the Public Records Act allows, the Service Provider and the Trustees mutually agree that "Proprietary Information" shall include, but is not limited to, the Service Provider's PROGEN[®] software and support documentation, Construction Task Catalogs[®] (also commonly referred to as unit price books), training materials and other proprietary materials provided by the Service Provider. The Trustees acknowledges that disclosure of Proprietary Information to unauthorized third parties will result in irreparable harm to the 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 the Service Provider. **Notwithstanding the foregoing, the Trustees shall be allowed to distribute materials as required for the proper performance of JOC.**
5. The Service Provider shall be responsible for providing an unlimited user license for the Trustees, *JOC, and IR JOC* construction contractors to access the Service Provider's Internet hosted *JOC and IR JOC* information management system, which includes the Service Provider's PROGEN[®] information management software and Construction Task Catalogs[®].
6. In the Contract Development Phase, Service Provider shall perform the activities necessary to establish the structure of the Trustees' *JOC and IR JOC* programs, inform the internal Trustees staff as well as the contracting community about *JOC and IR JOC*, assist with procurement of the actual *JOC and IR JOC* contractors and the development of the actual execution procedures that the Trustees will use in executing the *JOC and IR JOC* concepts. Specific services to be performed by Service Provider will include:
 - a. Development of the *JOC and IR JOC* Program Structure/Bidding Strategy.
 - b. Prepare and Conduct Pre-Bid Seminars.
 - c. Prepare and Conduct an External Marketing Program.
 - d. Prepare and Conduct an Internal Marketing Program.
 - e. Develop and Coordinate the *JOC and IR JOC* Execution Procedures.
7. The Service Provider shall be responsible for developing a comprehensive *JOC and IR JOC* training program that will include different course modules in order for the Trustees staff to receive specialized training.
8. The Service Provider's staff shall assist in the actual execution of the contracts by helping Trustees staff develop the initial Work Orders. The Service Provider's staff shall attend and monitor initial site visits, proposal development and negotiation sessions. The Service Provider shall remain on-site with the Trustees for ninety (90) days after the first *JOC or IR JOC* contract has been awarded to provide this assistance.

9. The Service Provider shall be responsible for providing comprehensive JOC *and IR JOC* support to Trustees through the term of the Agreement. The Service Provider shall also monitor the overall program and prepare any status reports required by the Trustees.
10. The Trustees shall assume the following duties and responsibilities:
 - a. Review all documentation and requests for information submitted by the Service Provider in a timely manner.
 - b. Provide full information regarding requirements for the JOC *and IR JOC* Programs, including but not limited to facilities lists, current Trustees procedures, programs, technical specifications and bidding information.
 - c. Designate, in writing, a Trustees representative who shall render or obtain decisions in a timely manner pertaining to the JOC *or IR JOC* Programs.
 - d. Provide office space, furniture, fixtures, telephones, equipment, and supplies to the Service Provider's JOC *or IR JOC* development team.
11. The Service Provider shall deliver all documents and reports and direct any queries it may have regarding this Agreement as follows:

FOR JOB ORDER CONTRACT:

California State University, Office of the Chancellor
Capital Planning, Design and Construction
401 Golden Shore, 2nd Floor
Long Beach, California 90802-4210
Attention: Jim Sowerbrower, Chief of Construction Management
Telephone: (562) 951-4112
Email: jsowerbrower@calstate.edu

FOR IMMEDIATE RESPONSE JOB ORDER CONTRACT:

*California State University, Office of the Chancellor
Capital Planning, Design and Construction
401 Golden Shore, 2nd Floor
Long Beach, California 90802-4210
Attention: Shawn Holland, Physical Plant Program Manager
Telephone: (562) 951-4634
Email: sholland@calstate.edu*

The CSU Systemwide Chief of Construction Management is the Project Administrator for this Agreement. Any requests for extra services or changes to the Agreement shall be directed to the Chief. Weekly telephone or email project updates shall be made to keep the Chief informed of project progress.

12. Fee Schedule

a. The Service Provider shall provide **JOC and IR JOC services** for the California State University pursuant to this Master Enabling Agreement, the terms and conditions of Request for Proposal (RFP) No. 80246 and Service Provider's Response to RFP No. 80246 dated January 6, 2009, as amended February 4, 2009 for the following fee schedule, which shall be applicable to each CSU campus:

The Trustees shall pay Service Provider as follows during the term of this *JOC and Immediate Response JOC* Master Enabling Agreement.

- i. The Trustees shall pay the Service Provider Four Percent (4%) of all work ordered with the JOC system cumulating up to and including Five Million Dollars (\$5,000,000) during the term of this Master Enabling Agreement.
- ii. The Trustees shall pay the Service Provider One and Ninety-Five Hundredths Percent (1.95%) of all work ordered with the JOC system in excess of Five Million Dollars (\$5,000,000) during the term of this Master Enabling Agreement, subject to the discounted JOC System License Fees specified below.
- iii. For any twelve (12) month period of July 1st through June 30th during the term of the Master Enabling Agreement that a CSU Campus exceeds Ten Million (\$10,000,000) of work ordered with the JOC system, the following discounted JOC System License Fee shall apply:
 - 1) For all work ordered in excess of Ten Million Dollars (\$10,000,000) up to and including Twenty-Five Million Dollars (\$25,000,000), the Trustees shall pay the Service Provider One and Five Tenths Percent (1.5%) of that amount.
 - 2) For all work ordered in excess of Twenty-Five Million Dollars (\$25,000,000), the Trustees shall pay the Service Provider One and Twenty-Five Hundredths Percent (1.25%) of that amount.
- iv. Each CSU Campus shall receive a credit against the Five Million Dollar (\$5,000,000) limit for all work ordered with the JOC system under the previous Master Enabling Agreements between CSU and The Gordian Group, No. A980144 dated April 26, 1999 and No. 30781 dated April 19, 2004.
- v. Each CSU Campus that ordered in excess of Five Million Dollars (\$5,000,000) with the JOC system under the previous Agreements between CSU and The Gordian Group, No. A980144 dated April 26, 1999 and No. 30781 dated April 19, 2004, shall pay One and Ninety-Five Hundredths Percent (1.95%) of all work ordered with the JOC system under this new Master Enabling Agreement, subject to the discounted JOC System License Fee specified above.
- vi. The work shall be valued at the amount paid by the CSU Campus to JOC *or* IR JOC Contractor under the JOC system. It shall not include amounts that may subsequently be obtained through claims resolution processes such as arbitration, mediation, litigation, or settlement.

- vii. The JOC System License Fee shall be payable upon the issuance of each Job Order Notice to Proceed issued through the Job Order Contract process.
- 13. The Service Provider shall submit triplicate invoices for each Job Order issued to the JOC *or IR* JOC Project Administrator for approval and processing for payment.
- 14. The CSU Campus shall pay Service Provider's invoices within thirty (30) calendar days from the invoice date. Any invoice not disputed by CSU Campus in writing within fourteen (14) calendar days from the invoice date shall be deemed proper. In the event of a dispute, the CSU Campus shall pay all undisputed invoice amounts within thirty (30) days of the original invoice date.
- 15. Upon the expiration or termination as provided herein, the Trustees shall return to the Service Provider all Proprietary Information in the Trustee's possession and the Service Provider shall provide to the Trustees all project data generated by the Trustees in a form accessible by a standard database program, such as Microsoft® Access®.