

Board Office Use: Legislative File Info.	
File ID Number	15-2486
Introduction Date	1-13-2016
Enactment Number	16-0023
Enactment Date	1/13/16 812



# Memo

**To** Board of Education

**From** Antwan Wilson, Superintendent and Secretary, Board of Education  
 By: Vernon Hal, Senior Business Officer *VH*  
*LJ* Lance Jackson, Interim Deputy Chief, Facilities Planning and Management

**Board Meeting Date** January 13, 2016

**Subject** Amendment No. 2, Independent Contractor Agreement - Geosphere Consultants, Inc. - Madison Middle School Expansion-New Construction Project

**Action Requested** Approval by the Board of Education of Amendment No. 1, Independent Contractor Agreement with Geosphere Consultants, Inc. for Geotech Services on behalf of the District at Madison Middle School Expansion-New Construction Project, in an amount not-to exceed \$4,500.00 increasing previous contract amount from \$19,300.00 to a not to exceed amount of \$23,800.00 and revising the dates from August 27, 2014 through August 27, 2016; and August 28, 2016 through November 28, 2017. All remaining portions of the agreement shall remain in full force and effect as originally stated.

**Background** The fee is to cover GCS permit and application and processing.

**Discussion** The fees are required by the California Geological Survey (CGS). Amended scope was not included in original proposal.

**LBP (Local Business Participation Percentage)** 100.00%

**Procurement Method** Initially procured as special service under prior facilities practices; subsequent RFP was issued 11-24-2015.

**Recommendation** Approval by the Board of Education of Amendment No. 1, Independent Contractor Agreement with Geosphere Consultants, Inc. for Geotech Services on behalf of the District at Madison Middle School Expansion-New Construction Project, in an amount not-to exceed \$4,500.00 increasing previous contract amount from \$19,300.00 to a not to exceed amount of \$23,800.00 and revising the dates from August 27, 2014 through August 27, 2016; and August 28, 2016 through November 28, 2017. All remaining portions of the agreement shall remain in full force and effect as originally stated.

**Fiscal Impact**

**Measure J**

**Attachments**

- Independent Contractors Agreement including scope of work
- Certificate of Insurance
- Consultant Proposal



OAKLAND UNIFIED  
SCHOOL DISTRICT

File ID Number: 15-2486  
Introduction Date: 1/13/16  
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By: OP

## AMENDMENT NO. 2 TO INDEPENDENT CONSULTANT CONTRACT

This Amendment is entered into between the Oakland Unified School District (OUSD) and **Geosphere Consultants, Inc.** OUSD entered into an Agreement with CONTRACTOR for services on **August 27, 2014**, and the parties agree to amend that Agreement as follows:

<b>1. Services:</b>	<input type="checkbox"/> The scope of work is <u>unchanged</u> .	<input checked="" type="checkbox"/> The scope of work has <u>changed</u> .
If scope of work changed: Provide brief description of revised scope of work including description of expected final results, such as services, materials, products, and/or reports; attach additional pages as necessary. <u>Attach revised scope of work.</u>  The CONTRACTOR agrees to provide the following amended services: <u>The scope of the project is to cover Fee for California Geological Survey (CGS) permit application and processing.</u>		
<b>2. Terms (duration):</b>	<input type="checkbox"/> The term of the contract is <u>unchanged</u> .	<input checked="" type="checkbox"/> The term of the contract has <u>changed</u> .
If term is changed: The contract term is extended by an additional <b>One year, 3 months and 2 days</b> , and the amended expiration date is <b>November 28, 2017</b> .		
<b>3. Compensation:</b>	<input type="checkbox"/> The contract price is <u>unchanged</u> .	<input checked="" type="checkbox"/> The contract price has <u>changed</u> .
If the compensation is changed: The contract price is amended by <div style="text-align: center;"> <input checked="" type="checkbox"/> Increase of <b>\$4,500.00 to original contract amount</b>  <input type="checkbox"/> Decrease of \$_____ to original contract amount         </div>		
and the new contract total is <b>Twenty-three thousand, eight hundred dollars and no cents (\$23,800.00)</b>		

**4. Remaining Provisions:** All other provisions of the Agreement, and prior Amendment(s) if any, shall remain unchanged and in full force and effect as originally stated.

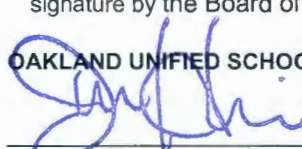
**5. Amendment History:**

☒ There are no previous amendments to this Agreement. ☐ This contract has previously been amended as follows:

No.	Date	General Description of Reason for Amendment	Amount of Increase (Decrease)
1	11-19-2014	The fees are required by the California Geological Survey (CGS). Amended scope was not included in original proposal.	\$4,000.00

**6. Approval:** This Agreement is not effective and no payment shall be made to Contractor until it is approved. Approval requires signature by the Board of Education, and the Superintendent as their designee.

**OAKLAND UNIFIED SCHOOL DISTRICT**

  
James Harris, President,  
Board of Education

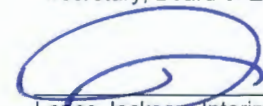
Date

1/14/16

  
Antwan Wilson, Superintendent  
Secretary, Board of Education

Date

1/14/16

  
Lance Jackson, Interim Deputy Chief  
Facilities, Planning and Management

Date

12/10/15

**CONTRACTOR**

  
Contractor Signature

Nov. 16, 2015  
Date

Eric J. Swenson, President  
Print Name, Title

**EXHIBIT "A" Scope of Work****Contractor Name: Geosphere Consultants, Inc.****Billing Rate: Four thousand five hundred dollars and no cents (\$4,500.00)****1. Description of Services to be Provided**

The scope of the project is to cover site-specific fees for California Geological Survey (CGS) permit application and processing.

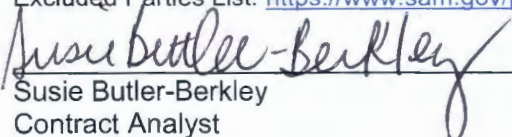
**2. Specific Outcomes:**

Create equitable opportunities for learning; and provide accountability for quality.

**3. Alignment with District Strategic Plan: Indicate the goals and visions supported by the services of this contract:**

<input type="checkbox"/> Ensure a high quality instructional core	<input type="checkbox"/> Prepare students for success in college and careers
<input type="checkbox"/> Develop social, emotional and physical health	<input type="checkbox"/> Safe, healthy and supportive schools
<input checked="" type="checkbox"/> Create equitable opportunities for learning	<input checked="" type="checkbox"/> Accountable for quality
<input type="checkbox"/> High quality and effective instruction	<input type="checkbox"/> Full service community district

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion: The District certifies to the best of its knowledge and belief, that it and its officials: Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency according to Federal Acquisition Regulation Subpart 9.4, and by signing this contract, certifies that this vendor does not appear on the Excluded Parties List. <https://www.sam.gov/portal/public/SAM>

  
Susie Butler-Berkley  
Contract Analyst





**Geosphere Consultants, Inc.**

AN ETS COMPANY

Geotechnical Engineering • Engineering Geology  
Environmental Management • Water Resources

## EXHIBIT A

September 26, 2014

Oakland Unified School District  
955 High Street  
Oakland, California 94601

Attention: Mr. Eric Scheuermann, Project Manager

**Subject: Request for Contract Amendment**  
*James Madison Middle School Expansion*  
400 Capistrano Drive, Oakland, California 94603  
Geosphere Project No. 91-03352-A and C

Dear Mr. Scheuermann:

**Geosphere Consultants, Inc. (Geosphere)** has prepared this contract amendment request to the Oakland Unified School District (District) to perform additional geotechnical engineering services in support of the preparation of the Geotechnical Engineering and Geologic Hazards Study for the proposed improvements at James Madison Middle School in Oakland, California. Our services currently being performed for the project are being provided in accordance with our approved proposal to the District dated July 21, 2014. In that proposal, the approved amount for Phase A services, including preparing a Geotechnical Engineering and Geologic Hazards Study and performing limited analytical sampling of onsite soils, was approved by the District for a lump sum of \$15,300.00. The proposal also noted that performance of a site-specific seismic ground motion analysis was not included in the project scope and cost, and stated that it was possible that the California Geological Survey (CGS), report reviewers on behalf of the Division of State Architect (DSA), could require that such an analysis be performed.

Subsequent to the approval of our proposal, we were informed by CGS that based on their recent enforcement of CGS Note 48, Section 16 requirements, they are now requiring that regardless of school building structural type, site-specific seismic ground motion analyses be performed for all sites where seismic parameter  $S_1$  is 0.75g or greater, which essentially occurs where sites are within a few miles of a major earthquake fault such as the Hayward and San Andreas faults, and analyzed using 2013 California Building Code (CBC) procedures instead of 2010 CBC procedures. The effect of this newly enforced requirement is that most schools within the OUSD system are likely subject to this requirement for DSA projects reviewed by CGS. The computed  $S_1$  value for the James Madison Middle School site is 0.79g.

This amendment request also includes Phase C services consisting of CGS permit application and processing, which Geosphere can provide in order to expedite DSA approval of the project.

### **Additional Phase A Services - Site Specific Seismic Ground Motion Analysis**

In order for the already authorized geotechnical engineering and geologic hazards study currently in the process of being completed, a site-specific seismic ground motion analysis will need to be completed for the project. We will perform the required computer analyses and generate the required site specific seismic ground motion analysis results based on the applicable procedures of the 2013 CBC and ASCE 7-10. Results will be included in the geologic hazards and geotechnical engineering study report currently in progress.



**Phase C - CGS Permit Application and Processing**

We can assist in the processing of CGS report review and clearance. Phase C would consist of the following scope of work:

- Prepare the new CGS application form for your project, including the submission of the required \$3,600 plan check fee.
- Submit the required hard copies of Geotechnical Engineering and Geologic Hazards Report along with plans provided by you.
- Prepare one response letter if required by CGS.

**Cost and Schedule**

We will perform the additional required analyses for a lump sum of **\$4,000.00**, resulting in the increase of our Phase A services from a lump sum of \$15,300.00 to a new total of **\$19,300.00**. We anticipate that the additional services could increase our time of completion of the geotechnical engineering and geologic hazards study by one or two weeks, but we recognize the time constraints for obtaining DSA approval on this project and will expedite the work as best we can.

Phase C services would be provided for a lump sum fee of **\$4,500.00**, including the basic cost of the permit application, markup and associated in-house costs for performing the work.

If our amendment request is acceptable, we anticipate you will provide a District contract amendment following Board approval. In the meantime, your verbal authorization is sufficient for us to proceed with the work. If you have any questions regarding this proposal, please contact the undersigned at 925-314-7100, [cdare@geosphereinc.net](mailto:cdare@geosphereinc.net) or [eswenson@geosphereinc.net](mailto:eswenson@geosphereinc.net). We appreciate the opportunity to continue to provide our services to the Oakland Unified School District.

Sincerely,  
**GEOSPHERE CONSULTANTS, INC.**

Corey T. Dare, PE, GE  
Principal Geotechnical Engineer

Eric J. Swenson, GE, CEG  
President and Chief Engineering Geologist

Distribution: PDF to Addressee, [Eric.Scheuermann@ousd.k12.ca.us](mailto:Eric.Scheuermann@ousd.k12.ca.us)

CTD/EJS:pmf



September 30, 2015

Corey T. Dare  
**Geosphere Consulting, Inc.**  
534 – 23<sup>rd</sup> Avenue  
Oakland, CA 94606

**Re: Oakland Unified School District  
James Madison Middle School – Expansion Project  
Notice of Intent to Award /Immediate Work Authorization**

Dear Mr. Dare:

This letter shall serve as **Notice of Intent to Award an Amendment of Agreement for Professional Services Contract** based on your Proposal for Additional Geotechnical Engineering Services submitted to our Director, Tadashi Nakadegawa by Geosphere Consulting, Inc. This also serves as your **Immediate Work Authorization to: Provide additional geotechnical services to the District for James Madison Middle School – Expansion Project.**

This is a very time-sensitive project and we will need your immediate assistance:

For the James Madison Middle School – Expansion Project, please, coordinate. The Project Manager for the District is: Wil Newby, Phone: (510) 532-2802.

Attached is a copy of the signed OUSD Agreement Request Form. Your contract is presently being prepared and you should receive it in the next few days. Should you find these forms acceptable please sign and return all copies to OUSD for execution. Upon Board action, we will forward to your office the Ratified Agreement.

In order to issue your contract please provide the following documents, within seven days, to Wil Newby, Project Manager for this project, at Oakland Unified School District, 955 High Street, Oakland, CA 94601:

#### Insurance

- 11.1 Without in any way limiting Consultant's liability under any other section of this Agreement, Consultant will maintain in force, during the full term of the Agreement, insurance in the following amounts and coverage's:
  - 11.1.1 Workers' Compensation Employers' Liability limits not less than each \$1,000,000 each accident, per disease, and aggregate. Consultant's Workers' Compensation Insurance policy shall contain a Waiver of Subrogation. In the event Consultant is self-insured, it shall furnish Certificate of Permission to Self-Insure signed by Department of Industrial Relations Administration of Self-Insurance, State of California.
  - 11.1.2 Consultant's right to self-insure is subject to approval by the District. As a condition to such approval, Consultant shall submit to the District evidence that consultant maintains sufficient financial resources for said self-insurance.
  - 11.1.3 Commercial General Liability Insurance or Business Owners Policy with limits not less than \$1,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including Contractual Liability, Personal Injury, Products and Completed Operations. This liability insurance shall include but

shall not be limited to protection against claims arising from bodily and personal injury (including death resulting there from) and damage to property resulting from Consultant's or subcontractor's or sub-consultant's operations.

- 11.1.4 Comprehensive or Business Owners Automobile Liability Insurance with limits not less than \$1,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including Owned and Non-owned and hired auto coverage, as applicable.
- 11.1.5 Professional Liability Insurance with limits not less than \$1,000,000.00 each claim with respect to negligent acts, errors or omissions in connection with professional services to be provided under this Agreement.
- 11.2 General Liability and Automobile Liability Insurance policies shall be endorsed to provide the following:
  - 11.2.1 Name as Additional Insured District, its Directors, Officers, Employees, Agents, and Representatives.
  - 11.2.2 That such policies are primary insurance to any other insurance available to the Additional Insured, with respect to any claims arising out of this Agreement, and that insurance applies separately to each insured against whom claim is made or suit is brought.
- 11.3 All policies shall be endorsed to provide thirty (30) days' advance written notice to District of cancellation, non-renewal or reduction in coverage, and certificates of all policies and endorsements shall be mailed to the following address:

(Please, see the next page.)

Lance Jackson, Interim Deputy Chief  
Oakland Unified School District  
Department of Facilities Planning & Management  
955 High Street  
Oakland, California 94601

- 11.4 Insurance shall be provided by an admitted California insurance company with a current Best's Key Rating of A minus (A-) or better. Should any of the required insurance be provided under a claims-made form, Consultant shall maintain such coverage continuously throughout the term of this Agreement and, without lapse, for a period of four years beyond the Agreement expiration, to the effect that, should occurrences during



the Agreement term give rise to claims made after expiration of the Agreement, such claims shall be covered by such claims-made policies.

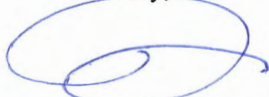
- 11.5 Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs be included in such general annual aggregate limit, such general annual aggregate limit shall be double the occurrence or claims limits specified above.
- 11.6 Certificates of insurance evidencing all coverage's above shall be furnished to District before commencing any operations under this Agreement, with complete copies of policies promptly upon District request. Approval of the insurance by District shall not relieve or decrease the liability of Consultant hereunder.
- 11.7 District may, at its sole option, terminate this Agreement immediately, without notice to Consultant and without opportunity to cure the default, in the event of any lapse of required insurance coverage. District may, at its sole option, secure sufficient insurance coverage to replace any required insurance coverage, which has lapsed, and Consultant hereby acknowledges its liability to reimburse District for all costs associated with such replacement insurance coverage. Consultant shall be responsible for any and all uninsured losses.
- 11.8 If Consultant is an association, joint venture or partnership, the association, joint venture or partnership shall be insured by any one of the following methods:
  - 11.8.1 Separate insurance policies issued with the association, joint venture or partnership as named insured; All insurance policies required by this Agreement of one of the participants to include the association, joint venture or partnership as named insured; The association, joint venture or partnership must be a named insured on all of the policies required by this Agreement.

Time is of the essence for this project, so please expedite the delivery of the above listed documents.

If you have any questions, please feel free to call Wil Newby, Project Manager at (510) 532-2802.

We look forward to working with you on this critical project.

Sincerely,



Lance Jackson  
Interim Deputy Chief  
Division of Facilities Planning and Management

cc: Tadashi Nakadegawa, Director of Facilities, OUSD

Wil Newby, Project Manager, OUSD  
Maria Denney, Deputy Program Manager SGI



# CERTIFICATE OF LIABILITY INSURANCE

CONSO-2

OP ID: EB

DATE (MM/DD/YYYY)

11/16/2015

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

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

<b>PRODUCER</b> Butwin Insurance Group Suite 414 60 Cutter Mill Road Great Neck, NY 11021-3104 Richard S. Butwin		<b>CONTACT NAME:</b> Ellen Begun <b>PHONE (A/C, No, Ext):</b> 516-466-4200 <b>E-MAIL ADDRESS:</b> ebegin@butwin.com <b>FAX (A/C, No):</b> 516-466-4213		
<b>INSURED</b> Geosphere Consultants Inc 2001 Crow Canyon Road #100 San Ramon, CA 94583		<b>INSURER(S) AFFORDING COVERAGE</b>		<b>NAIC #</b>
		INSURER A : ZURICH INS CO		16535
		INSURER B : Travelers		41769
		INSURER C : Everest Indemnity Ins. Co.		
		INSURER D :		
		INSURER E :		
INSURER F :				

**COVERAGES****CERTIFICATE NUMBER:****REVISION NUMBER:**

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

INSR LTR	TYPE OF INSURANCE	ADD'L INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> GEN'L AGGREGATE LIMIT APPLIES PER <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER	X	X	GLO0381005	07/01/2015	07/01/2016	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 500,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COM/OP AGG \$ 2,000,000
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS	X	X	BAP0381006	07/01/2015	07/01/2016	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
B	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 10,000			ZUP91M34980-15	07/01/2015	07/01/2016	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000
A	<input checked="" type="checkbox"/> WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	WC0381004	07/01/2015	07/01/2016	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
C	<input checked="" type="checkbox"/> Professional Liab			PL5EO00137-151	07/01/2015	07/01/2016	Limit 2,000,000 Aggregate 4,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Project: 91-03352-A, B-James Madison Middle School, 400 Capistrano Dr, Oakland, CA  
Oakland Unified School District and its directors, officers, employees, agents and representatives are additional insureds

**CERTIFICATE HOLDER****CANCELLATION**

<b>OAKLUSD</b>  Oakland Unified School District 955 High Street Oakland, CA 94601	<b>SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.</b>  <b>AUTHORIZED REPRESENTATIVE</b> 
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# General Liability Supplemental Coverage Endorsement

**ZURICH**

Policy No.	Eff. Date of Pol.	Exp. Date of Pol.	Eff. Date of End.
GLO0381005	07/01/2015	07/01/2016	07/01/2015

## THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the:

### Commercial General Liability Coverage Part

The following changes apply to this Coverage Part. However, endorsements attached to this Coverage Part will supersede any provisions to the contrary in this General Liability Supplemental Coverage Endorsement.

#### A. Broadened Named Insured

1. The following is added to Section II – Who Is An Insured:

Any organization of yours, other than a partnership or joint venture, which is not shown in the Declarations, and over which you maintain an ownership interest of more than 50% of such organization as of the effective date of this Coverage Part, will qualify as a Named Insured. However, such organization will not qualify as a Named Insured under this provision if it:

- Is newly acquired or formed during the policy period;
- Is also an insured under another policy, other than a policy written to apply specifically in excess of this Coverage Part; or
- Would be an insured under another policy but for its termination or the exhaustion of its limits of insurance.

Each such organization remains qualified as a Named Insured only while you maintain an ownership interest of more than 50% in the organization during the policy period.

2. The last paragraph of Section II – Who Is An Insured does not apply to this provision to the extent that such paragraph would conflict with this provision.

#### B. Newly Acquired or Formed Organizations as Named Insureds

1. Paragraph 3. of Section II – Who Is An Insured is replaced by the following:

3. Any organization you newly acquire or form during the policy period, other than a partnership or joint venture, and over which you maintain an ownership interest of more than 50% of such organization, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:

- Coverage under this provision is afforded only until the 180<sup>th</sup> day after you acquire or form the organization or the end of the policy period, whichever is earlier;
- Coverage A does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and
- Coverage B does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.

An additional premium will apply in accordance with our rules and rates in effect on the date you acquired or formed the organization.

2. The last paragraph of Section II – Who Is An Insured does not apply to this provision to the extent that such paragraph would conflict with this provision.

### C. Insured Status – Employees

Paragraph 2.a.(1) of Section II – Who Is An Insured is replaced by the following:

2. Each of the following is also an insured:

- a. Your "volunteer workers" only while performing duties related to the conduct of your business, or your "employees", other than either your "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business. However, none of these "employees" or "volunteer workers" are insureds for:

(1) "Bodily injury" or "personal and advertising injury":

- (a) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), to a co-"employee" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer workers" while performing duties related to the conduct of your business;
- (b) To the spouse, child, parent, brother or sister of that co-"employee" or "volunteer worker" as a consequence of Paragraph (1)(a) above;
- (c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraphs (1)(a) or (b) above; or
- (d) Arising out of his or her providing or failing to provide professional health care services.

However:

Paragraphs (1)(a) and (1)(d) do not apply to your "employees" or "volunteer workers", who are not employed by you or volunteering for you as health care professionals, for "bodily injury" arising out of "Good Samaritan Acts" while the "employee" or "volunteer worker" is performing duties related to the conduct of your business.

"Good Samaritan Acts" mean any assistance of a medical nature rendered or provided in an emergency situation for which no remuneration is demanded or received.

Paragraphs (1)(a), (b) and (c) do not apply to any "employee" designated as a supervisor or higher in rank, with respect to "bodily injury" to co-"employees". As used in this provision, "employees" designated as a supervisor or higher in rank means only "employees" who are authorized by you to exercise direct or indirect supervision or control over "employees" or "volunteer workers" and the manner in which work is performed.

### D. Additional Insureds – Lessees of Premises

1. Section II – Who Is An Insured is amended to include as an additional insured any person(s) or organization(s) who leases or rents a part of the premises you own or manage who you are required to add as an additional insured on this policy under a written contract or written agreement, but only with respect to liability arising out of your ownership, maintenance or repair of that part of the premises which is not reserved for the exclusive use or occupancy of such person or organization or any other tenant or lessee.

This provision does not apply after the person or organization ceases to lease or rent premises from you.

However, the insurance afforded to such additional insured:

- a. Only applies to the extent permitted by law; and
  - b. Will not be broader than that which you are required by the written contract or written agreement to provide for such additional insured.
2. With respect to the insurance afforded to the additional insureds under this endorsement, the following is added to Section III – Limits Of Insurance:



The most we will pay on behalf of the additional insured is the amount of insurance:

- a. Required by the written contract or written agreement referenced in Subparagraph **D.1.** above (of this endorsement); or
- b. Available under the applicable Limits of Insurance shown in the Declarations, whichever is less.

This Paragraph **D.** shall not increase the applicable Limits of Insurance shown in the Declarations.

#### **E. Additional Insured – Vendors**

1. The following change applies if this Coverage Part provides insurance to you for "bodily injury" and "property damage" included in the "products-completed operations hazard":

Section **II – Who Is An Insured** is amended to include as an additional insured any person or organization (referred to throughout this Paragraph **E.** as vendor) who you have agreed in a written contract or written agreement, prior to loss, to name as an additional insured, but only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business:

However, the insurance afforded to such vendor:

- a. Only applies to the extent permitted by law; and
  - b. Will not be broader than that which you are required by the written contract or written agreement to provide for such vendor.
2. With respect to the insurance afforded to these vendors, the following additional exclusions apply:
    - a. The insurance afforded the vendor does not apply to:
      - (1) "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;
      - (2) Any express warranty unauthorized by you;
      - (3) Any physical or chemical change in the product made intentionally by the vendor;
      - (4) Repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;
      - (5) Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;
      - (6) Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;
      - (7) Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or
      - (8) "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:
        - (a) The exceptions contained in Subparagraphs **(4)** or **(6)**; or
        - (b) Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.
    - b. This insurance does not apply to any insured person or organization, from whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products.
    - c. This insurance does not apply to any of "your products" for which coverage is excluded under this Coverage Part.



3. With respect to the insurance afforded to the vendor under this endorsement, the following is added to Section III – **Limits Of Insurance**:

The most we will pay on behalf of the vendor is the amount of insurance:

- a. Required by the written contract or written agreement referenced in Subparagraph E.1. above (of this endorsement); or
- b. Available under the applicable Limits of Insurance shown in the Declarations, whichever is less.

This Paragraph E. shall not increase the applicable Limits of Insurance shown in the Declarations.

**F. Additional Insured – Managers, Lessors or Governmental Entity**

1. Section II – **Who Is An Insured** is amended to include as an insured any person or organization who is a manager, lessor or governmental entity who you are required to add as an additional insured on this policy under a written contract, written agreement or permit, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

- a. Your acts or omissions; or
- b. The acts or omission of those acting on your behalf; and resulting directly from:
  - a. Operations performed by you or on your behalf for which the state or political subdivision has issued a permit;
  - b. Ownership, maintenance, occupancy or use of premises by you; or
  - c. Maintenance, operation or use by you of equipment leased to you by such person or organization.

However, the insurance afforded to such additional insured:

- a. Only applies to the extent permitted by law; and
- b. Will not be broader than that which you are required by the written contract or written agreement to provide for such additional insured.

2. This provision does not apply:

- a. Unless the written contract or written agreement has been executed, or the permit has been issued, prior to the "bodily injury", "property damage" or offense that caused "personal and advertising injury";
- b. To any person or organization included as an insured under Paragraph 3. of Section II – Who Is An Insured;
- c. To any lessor of equipment if the "occurrence" or offense takes place after the equipment lease expires;
- d. To any:
  - (1) Owners or other interests from whom land has been leased by you; or
  - (2) Managers or lessors of premises, if:
    - (a) The "occurrence" or offense takes place after the expiration of the lease or you cease to be a tenant in that premises;
    - (b) The "bodily injury", "property damage" or "personal and advertising injury" arises out of the structural alterations, new construction or demolition operations performed by or on behalf of the manager or lessor; or
    - (c) The premises are excluded under this Coverage Part.

3. With respect to the insurance afforded to the additional insureds under this endorsement, the following is added to Section III – **Limits Of Insurance**:

The most we will pay on behalf of the additional insured is the amount of insurance:

- a. Required by the written contract or written agreement referenced in Subparagraph F.1. above (of this endorsement); or

- b. Available under the applicable Limits of Insurance shown in the Declarations, whichever is less.

This Paragraph F. shall not increase the applicable Limits of Insurance shown in the Declarations.

#### **G. Damage to Premises Rented or Occupied by You**

1. The last paragraph under Paragraph 2. **Exclusions** of Section I – **Coverage A – Bodily Injury And Property Damage Liability** is replaced by the following:

Exclusions c. through n. do not apply to damage by "specific perils" to premises while rented to you or temporarily occupied by you with permission of the owner. A separate Damage To Premises Rented To You Limit of Insurance applies to this coverage as described in Section III – Limits Of Insurance.

2. Paragraph 6. of Section III – **Limits Of Insurance** is replaced by the following:

6. Subject to Paragraph 5. above, the Damage To Premises Rented To You Limit is the most we will pay under Coverage A for damages because of "property damage" to any one premises while rented to you, or in the case of damage by one or more "specific perils" to any one premises, while rented to you or temporarily occupied by you with permission of the owner.

#### **H. Broadened Contractual Liability**

The "insured contract" definition under the **Definitions** Section is replaced by the following:

"Insured contract" means:

- a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by "specific perils" to premises while rented to you or temporarily occupied by you with permission of the owner is not an "insured contract";
- b. A sidetrack agreement;
- c. Any easement or license agreement;
- d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
- e. An elevator maintenance agreement;
- f. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury", "property damage", or "personal and advertising injury" arising out of the offenses of false arrest, detention or imprisonment, to a third person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph f. does not include that part of any contract or agreement:

- (1) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
  - (a) Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
  - (b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or
- (2) Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in Paragraph (1) above and supervisory, inspection, architectural or engineering activities.

#### **I. Definition – Specific Perils**

The following definition is added to the **Definitions** Section:

"Specific perils" means:

- a. Fire;
- b. Lightning;
- c. Explosion;



- d. Windstorm or hail;
- e. Smoke;
- f. Aircraft or vehicles;
- g. Vandalism;
- h. Weight of snow, ice or sleet;
- i. Leakage from fire extinguishing equipment, including sprinklers; or
- j. Accidental discharge or leakage of water or steam from any part of a system or appliance containing water or steam.

**J. Limited Contractual Liability Coverage – Personal and Advertising Injury**

1. Exclusion e. of Section I – Coverage B – Personal And Advertising Injury Liability is replaced by the following:

**2. Exclusions**

This insurance does not apply to:

**e. Contractual Liability**

"Personal and advertising injury" for which the insured has assumed liability in a contract or agreement.

This exclusion does not apply to:

(1) Liability for damages that the insured would have in the absence of the contract or agreement; or

(2) Liability for "personal and advertising injury" if:

(a) The "personal and advertising injury" arises out of the offenses of false arrest, detention or imprisonment;

(b) The liability pertains to your business and is assumed in a written contract or written agreement in which you assume the tort liability of another. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement; and

(c) The "personal and advertising injury" occurs subsequent to the execution of the written contract or written agreement.

Solely for purposes of liability so assumed in such written contract or written agreement, reasonable attorney fees and necessary litigation expenses incurred by or for a party other than an insured are deemed to be damages because of "personal and advertising injury" described in Paragraph (a) above, provided:

(i) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same written contract or written agreement; and

(ii) Such attorney fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.

2. Paragraph 2.d. of Section I – Supplementary Payments – Coverages A and B is replaced by the following:

d. The allegations in the "suit" and the information we know about the "occurrence" or offense are such that no conflict appears to exist between the interests of the insured and the interests of the indemnitee;

3. The following is added to the paragraph directly following Paragraph 2.f. of Section I – Supplementary Payments – Coverages A and B:

Notwithstanding the provisions of Paragraph 2.e.(2) of Section I – Coverage B – Personal And Advertising Injury Liability, such payments will not be deemed to be damages for "personal and advertising injury" and will not reduce the limits of insurance.

**K. Supplementary Payments**

The following changes apply to **Supplementary Payments – Coverages A and B**:

Paragraphs 1.b. and 1.d. are replaced by the following:



- b. Up to \$2,500 for the cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.
- d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$500 a day because of time off from work.

#### **L. Broadened Property Damage**

##### **1. Property Damage to Contents of Premises Rented Short-Term**

The paragraph directly following Paragraph (6) in Exclusion j. of Section I – Coverage A – Bodily Injury And Property Damage Liability is replaced by the following:

Paragraphs (1), (3) and (4) of this exclusion do not apply to "property damage" to premises (other than damage by "specific perils"), including "property damage" to the contents of such premises, rented to you under a rental agreement for a period of 14 or fewer consecutive days. A separate Limit of Insurance applies to Damage to Premises Rented to You as described in Section III – Limits Of Insurance.

##### **2. Elevator Property Damage**

- a. The following is added to Exclusion j. of Section I – Coverage A – Bodily Injury And Property Damage Liability:

Paragraphs (3) and (4) of this exclusion do not apply to "property damage" arising out of the use of an elevator at premises you own, rent or occupy.

- b. The following is added to Section III – Limits Of Insurance:

Subject to Paragraph 5. above, the most we will pay under Coverage A for damages because of "property damage" to property loaned to you or personal property in the care, custody or control of the insured arising out of the use of an elevator at premises you own, rent or occupy is \$25,000 per "occurrence".

##### **3. Property Damage to Borrowed Equipment**

- a. The following is added to Exclusion j. of Section I – Coverage A – Bodily Injury And Property Damage Liability:

Paragraph (4) of this exclusion does not apply to "property damage" to equipment you borrow from others at a jobsite.

- b. The following is added to Section III – Limits Of Insurance:

Subject to Paragraph 5. above, the most we will pay under Coverage A for damages because of "property damage" to equipment you borrow from others is \$25,000 per "occurrence".

#### **M. Expected or Intended Injury or Damage**

Exclusion a. of Section I – Coverage A – Bodily Injury And Property Damage Liability is replaced by the following:

##### **a. Expected Or Intended Injury Or Damage**

"Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" or "property damage" resulting from the use of reasonable force to protect persons or property.

#### **N. Definitions – Bodily Injury**

The "property damage" definition under the Definitions Section is replaced by the following:

"Bodily injury" means bodily injury, sickness or disease sustained by a person, including mental anguish, mental injury, shock, fright or death sustained by that person which results from that bodily injury, sickness or disease.

#### **O. Insured Status – Amateur Athletic Participants**

Section II – Who Is An Insured is amended to include as an insured any person you sponsor while participating in amateur athletic activities. However, no such person is an insured for:

- a. "Bodily injury" to:

- (1) Your "employee", "volunteer worker" or any person you sponsor while participating in such amateur athletic activities; or



- (2) You, any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company) while participating in such amateur athletic activities; or
- b. "Property damage" to property owned by, occupied or used by, rented to, in the care, custody or control of, or over which the physical control is being exercised for any purpose by:
  - (1) Your "employee", "volunteer worker" or any person you sponsor; or
  - (2) You, any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).

**P. Non-Owned Aircraft, Auto and Watercraft**

Exclusion g. of Section I – Coverage A – Bodily Injury And Property Damage Liability is replaced by the following:

**g. Aircraft, Auto Or Watercraft**

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and "loading or unloading".

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft that is owned or operated by or rented or loaned to any insured.

This exclusion does not apply to:

- (1) A watercraft while ashore on premises you own or rent;
- (2) A watercraft you do not own that is:
  - (a) Less than 51 feet long; and
  - (b) Not being used to carry persons for a charge;
- (3) Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;
- (4) Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft;
- (5) An aircraft that is hired or chartered by you or loaned to you, with a paid and licensed crew, and is not owned in whole or in part by an insured; or
- (6) "Bodily injury" or "property damage" arising out of:
  - (a) The operation of machinery or equipment that is attached to, or part of, a land vehicle that would qualify under the definition of "mobile equipment" if it were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged; or
  - (b) The operation of any of the machinery or equipment listed in Paragraph f.(2) or f.(3) of the definition of "mobile equipment".

**Q. Definitions – Leased Worker, Temporary Worker and Labor Leasing Firm**

- 1. The "leased worker" and "temporary worker" definitions under the **Definitions** Section are replaced by the following:

"Leased worker" means a person leased to you by a "labor leasing firm" under a written agreement between you and the "labor leasing firm", to perform duties related to the conduct of your business. "Leased worker" does not include a "temporary worker".

"Temporary worker" means a person who is furnished to you to support or supplement your work force during "employee" absences, temporary skill shortages, upturns or downturns in business or to meet seasonal or short-term workload conditions. "Temporary worker" does not include a "leased worker".

- 2. The following definition is added to the **Definitions** Section:

"Labor leasing firm" means any person or organization who hires out workers to others, including any:

- a. Employment agency, contractor or services;
- b. Professional employer organization; or

- c. Temporary help service.

#### **R. Definition – Mobile Equipment**

Paragraph **f.** of the "mobile equipment" definition under the **Definitions** Section is replaced by the following:

- f.** Vehicles not described in Paragraph **a.**, **b.**, **c.** or **d.** above maintained primarily for purposes other than the transportation of persons or cargo.

However, self-propelled vehicles with the following types of permanently attached equipment, exceeding a combined gross vehicle weight of 1000 pounds, are not "mobile equipment" but will be considered "autos":

- (1) Equipment designed primarily for:
  - (a) Snow removal;
  - (b) Road maintenance, but not construction or resurfacing; or
  - (c) Street cleaning;
- (2) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
- (3) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

#### **S. Definitions – Your Product and Your Work**

The "your product" and "your work" definitions under the **Definitions** Section are replaced by the following:

"Your product":

- a.** Means:

- (1) Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:
  - (a) You;
  - (b) Others trading under your name; or
  - (c) A person or organization whose business or assets you have acquired; and
- (2) Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.

- b.** Includes:

- (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance, use, handling, maintenance, operation or safety of "your product"; and
- (2) The providing of or failure to provide warnings or instructions.

- c.** Does not include vending machines or other property rented to or located for the use of others but not sold.

"Your work":

- a.** Means:

- (1) Work, services or operations performed by you or on your behalf; and
- (2) Materials, parts or equipment furnished in connection with such work, services or operations.

- b.** Includes:

- (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance, use, handling, maintenance, operation or safety of "your work"; and
- (2) The providing of or failure to provide warnings or instructions.

#### **T. Priority Condition**

The following paragraph is added to Section **III – Limits Of Insurance**:



In the event a claim is made or "suit" is brought against more than one insured seeking damages because of "bodily injury" or "property damage" caused by the same "occurrence" or "personal and advertising injury" caused by the same offense, we will apply the Limits of Insurance in the following order:

- (a) You;
- (b) Your "executive officers", partners, directors, stockholders, members, managers (if you are a limited liability company) or "employees"; and
- (c) Any other insured in any order that we choose.

#### **U. Duties in the Event of Occurrence, Offense, Claim or Suit Condition**

The following paragraphs are added to Paragraph 2. **Duties In The Event Of Occurrence, Offense, Claim Or Suit** of Section IV – **Commercial General Liability Conditions**:

Notice of an "occurrence" or of an offense which may result in a claim under this insurance or notice of a claim or "suit" shall be given to us as soon as practicable after knowledge of the "occurrence", offense, claim or "suit" has been reported to any insured listed under Paragraph 1. of Section II – Who Is An Insured or an "employee" authorized by you to give or receive such notice. Knowledge by other "employees" of an "occurrence", offense, claim or "suit" does not imply that you also have such knowledge.

In the event that an insured reports an "occurrence" to the workers compensation carrier of the Named Insured and this "occurrence" later develops into a General Liability claim, covered by this Coverage Part, the insured's failure to report such "occurrence" to us at the time of the "occurrence" shall not be deemed to be a violation of this Condition. You must, however, give us notice as soon as practicable after being made aware that the particular claim is a General Liability rather than a Workers Compensation claim.

#### **V. Other Insurance Condition**

Paragraphs 4.a. and 4.b.(1) of the Other Insurance Condition of Section IV – **Commercial General Liability Conditions** are replaced by the following:

##### **4. Other Insurance**

If other valid and collectible insurance is available to the insured for a loss we cover under Coverages A or B of this Coverage Part, our obligations are limited as follows:

##### **a. Primary Insurance**

This insurance is primary except when Paragraph b. below applies. If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in Paragraph c. below. However, this insurance is primary to and will not seek contribution from any other insurance available to an additional insured provided that:

- (1) The additional insured is a Named Insured under such other insurance; and
- (2) You are required by written contract or written agreement that this insurance be primary and not seek contribution from any other insurance available to the additional insured.

Other insurance includes any type of self insurance or other mechanism by which an insured arranges for funding of its legal liabilities.

##### **b. Excess Insurance**

- (1) This insurance is excess over:

- (a) Any of the other insurance, whether primary, excess, contingent or on any other basis:

- (i) That is property insurance, Builder's Risk, Installation Risk or similar coverage for "your work";
    - (ii) That is property insurance purchased by you (including any deductible or self insurance portion thereof) to cover premises rented to you or temporarily occupied by you with permission of the owner;
    - (iii) That is insurance purchased by you (including any deductible or self insurance portion thereof) to cover your liability as a tenant for "property damage" to premises rented to you or temporarily occupied by you with permission of the owner;



- (iv) If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion **g.** of Section **I – Coverage A – Bodily Injury And Property Damage Liability**; or
- (v) That is property insurance (including any deductible or self insurance portion thereof) purchased by you to cover damage to:
  - Equipment you borrow from others; or
  - Property loaned to you or personal property in the care, custody or control of the insured arising out of the use of an elevator at premises you own, rent or occupy.
- (b) Any other primary insurance (including any deductible or self insurance portion thereof) available to the insured covering liability for damages arising out of the premises, operations, products, work or services for which the insured has been granted additional insured status either by policy provision or attachment of any endorsement. Other primary insurance includes any type of self insurance or other mechanism by which an insured arranges for funding of its legal liabilities.
- (c) Any of the other insurance, whether primary, excess, contingent or on any other basis, available to an additional insured, in which the additional insured on our policy is also covered as an additional insured on another policy providing coverage for the same "occurrence", claim or "suit". This provision does not apply to any policy in which the additional insured is a Named Insured on such other policy and where our policy is required by written contract or written agreement to provide coverage to the additional insured on a primary and non-contributory basis.

#### **W. Unintentional Failure to Disclose All Hazards**

Paragraph **6. Representations** of Section **IV – Commercial General Liability Conditions** is replaced by the following:

##### **6. Representations**

By accepting this policy, you agree:

- a. The statements in the Declarations are accurate and complete;
- b. Those statements are based upon representations you made to us; and
- c. We have issued this policy in reliance upon your representations.

Coverage will continue to apply if you unintentionally:

- a. Fail to disclose all hazards existing at the inception of this policy; or
- b. Make an error, omission or improper description of premises or other statement of information stated in this policy.

You must notify us as soon as possible after the discovery of any hazards or any other information that was not provided to us prior to inception of this Coverage Part.

#### **X. Waiver of Right of Subrogation**

Paragraph **8. Transfer Of Rights Of Recovery Against Others To Us** of Section **IV – Commercial General Liability Conditions** is replaced by the following:

##### **8. Transfer Of Rights Of Recovery Against Others To Us**

- a. If the insured has rights to recover all or part of any payment we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them.
- b. If the insured waives its right to recover payments for injury or damage from another person or organization in a written contract executed prior to a loss, we waive any right of recovery we may have against such person or organization because of any payment we have made under this Coverage Part. The written contract will be considered executed when the insured's performance begins, or when it is signed, whichever happens first. This waiver of rights shall not be construed to be a waiver with respect to any other operations in which the insured has no contractual interest.



**Y. Liberalization Condition**

The following condition is added to Section IV – **Commercial General Liability Conditions**:

**Liberalization Clause**

If we revise this Coverage Part to broaden coverage without an additional premium charge, your policy will automatically provide the additional coverage as of the day the revision is effective in the state shown in the mailing address of your policy.

All other terms and conditions of this policy remain unchanged.

**ZURICH**

## **Additional Insured – Automatic – Owners, Lessees Or Contractors**

Policy No.	Eff. Date of Pol.	Exp. Date of Pol.	Eff. Date of End.
GLO0381005	07/01/2015	07/01/2016	07/01/2015

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**Named Insured:** Geosphere Consultants Inc

**Address (including ZIP Code):** 2001 Crow Canyon Road #100  
San Ramon, CA 94583

This endorsement modifies insurance provided under the:

**Commercial General Liability Coverage Part**

**A. Section II – Who Is An Insured** is amended to include as an additional insured any person or organization whom you are required to add as an additional insured on this policy under a written contract or written agreement. Such person or organization is an additional insured only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf,

in the performance of your ongoing operations or "your work" as included in the "products-completed operations hazard", which is the subject of the written contract or written agreement.

However, the insurance afforded to such additional insured:

1. Only applies to the extent permitted by law; and
2. Will not be broader than that which you are required by the written contract or written agreement to provide for such additional insured.

**B. With respect to the insurance afforded to these additional insureds, the following additional exclusion applies:**

This insurance does not apply to:

"Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or failure to render, any professional architectural, engineering or surveying services including:

- a. The preparing, approving or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
- b. Supervisory, inspection, architectural or engineering activities.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage", or the offense which caused the "personal and advertising injury", involved the rendering of or the failure to render any professional architectural, engineering or surveying services.



**C. The following is added to Paragraph 2. Duties In The Event Of Occurrence, Offense, Claim Or Suit of Section IV – Commercial General Liability Conditions:**

The additional insured must see to it that:

1. We are notified as soon as practicable of an "occurrence" or offense that may result in a claim;
2. We receive written notice of a claim or "suit" as soon as practicable; and
3. A request for defense and indemnity of the claim or "suit" will promptly be brought against any policy issued by another insurer under which the additional insured may be an insured in any capacity. This provision does not apply to insurance on which the additional insured is a Named Insured if the written contract or written agreement requires that this coverage be primary and non-contributory.

**D. For the purposes of the coverage provided by this endorsement:**

1. The following is added to the Other Insurance Condition of Section IV – **Commercial General Liability Conditions:**

**Primary and Noncontributory insurance**

This insurance is primary to and will not seek contribution from any other insurance available to an additional insured provided that:

- a. The additional insured is a Named Insured under such other insurance; and
  - b. You are required by written contract or written agreement that this insurance be primary and not seek contribution from any other insurance available to the additional insured.
2. The following paragraph is added to Paragraph 4.b. of the Other Insurance Condition of Section IV – **Commercial General Liability Conditions:**

This insurance is excess over:

Any of the other insurance, whether primary, excess, contingent or on any other basis, available to an additional insured, in which the additional insured on our policy is also covered as an additional insured on another policy providing coverage for the same "occurrence", offense, claim or "suit". This provision does not apply to any policy in which the additional insured is a Named Insured on such other policy and where our policy is required by a written contract or written agreement to provide coverage to the additional insured on a primary and non-contributory basis.

**E. This endorsement does not apply to an additional insured which has been added to this policy by an endorsement showing the additional insured in a Schedule of additional insureds, and which endorsement applies specifically to that identified additional insured.**

**F. With respect to the insurance afforded to the additional insureds under this endorsement, the following is added to Section III – Limits Of Insurance:**

The most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the written contract or written agreement referenced in Paragraph A. of this endorsement; or
  2. Available under the applicable Limits of Insurance shown in the Declarations,
- whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

All other terms and conditions of this policy remain unchanged.

## Other Insurance Amendment – Primary And Non-Contributory



Policy No.	Eff. Date of Pol.	Exp. Date of Pol.	Eff. Date of End.
GLO0381005	07/01/2015	07/02/2016	07/01/2015

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**Named Insured:** Geosphere Consultants Inc

**Address (including ZIP Code):** 2001 Crow Canyon Road #100  
San Ramon, CA 94583

This endorsement modifies insurance provided under the:

**Commercial General Liability Coverage Part**

1. The following paragraph is added to the Other Insurance Condition of Section **IV – Commercial General Liability Conditions**:

This insurance is primary insurance to and will not seek contribution from any other insurance available to an additional insured under this policy provided that:

- a. The additional insured is a Named Insured under such other insurance; and
  - b. You are required by a written contract or written agreement that this insurance would be primary and would not seek contribution from any other insurance available to the additional insured.
2. The following paragraph is added to Paragraph **4.b.** of the Other Insurance Condition of Section **IV – Commercial General Liability Conditions**:

This insurance is excess over:

Any of the other insurance, whether primary, excess, contingent or on any other basis, available to an additional insured, in which the additional insured on our policy is also covered as an additional insured on another policy providing coverage for the same "occurrence", offense, claim or "suit". This provision does not apply to any policy in which the additional insured is a Named Insured on such other policy and where our policy is required by written contract or written agreement to provide coverage to the additional insured on a primary and non-contributory basis.

All other terms and conditions of this policy remain unchanged.





**ZURICH**

## Coverage Extension Endorsement

Policy No.	Eff. Date of Pol.	Exp. Date of Pol.	Eff. Date of End.
BAP0381006	07/01/2015	07/01/2016	07/01/2015

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

This endorsement modifies insurance provided under the:

**Business Auto Coverage Form  
Motor Carrier Coverage Form**

### **A. Amended Who Is An Insured**

1. The following is added to the **Who Is An Insured** Provision in **Section II – Covered Autos Liability Coverage**:

The following are also "insureds":

- Any "employee" of yours is an "insured" while using a covered "auto" you don't own, hire or borrow for acts performed within the scope of employment by you. Any "employee" of yours is also an "insured" while operating an "auto" hired or rented under a contract or agreement in an "employee's" name, with your permission, while performing duties related to the conduct of your business.
- Anyone volunteering services to you is an "insured" while using a covered "auto" you don't own, hire or borrow to transport your clients or other persons in activities necessary to your business.
- Anyone else who furnishes an "auto" referenced in Paragraphs **A.1.a.** and **A.1.b.** in this endorsement.
- Where and to the extent permitted by law, any person(s) or organization(s) where required by written contract or written agreement with you executed prior to any "accident", including those person(s) or organization(s) directing your work pursuant to such written contract or written agreement with you, provided the "accident" arises out of operations governed by such contract or agreement and only up to the limits required in the written contract or written agreement, or the Limits of Insurance shown in the Declarations, whichever is less.

2. The following is added to the **Other Insurance** Condition in the Business Auto Coverage Form and the **Other Insurance – Primary and Excess Insurance Provisions Condition** in the Motor Carrier Coverage Form:

Coverage for any person(s) or organization(s), where required by written contract or written agreement with you executed prior to any "accident", will apply on a primary and non-contributory basis and any insurance maintained by the additional "insured" will apply on an excess basis. However, in no event will this coverage extend beyond the terms and conditions of the Coverage Form.

### **B. Amendment – Supplementary Payments**

Paragraphs **a.(2)** and **a.(4)** of the **Coverage Extensions** Provision in **Section II – Covered Autos Liability Coverage** are replaced by the following:

- Up to \$5,000 for the cost of bail bonds (including bonds for related traffic law violations) required because of an "accident" we cover. We do not have to furnish these bonds.
- All reasonable expenses incurred by the "insured" at our request, including actual loss of earnings up to \$500 a day because of time off from work.

### C. Fellow Employee Coverage

The **Fellow Employee** Exclusion contained in **Section II – Covered Autos Liability Coverage** does not apply.

### D. Driver Safety Program Liability and Physical Damage Coverage

1. The following is added to the **Racing** Exclusion in **Section II – Covered Autos Liability Coverage**:

This exclusion does not apply to covered "autos" participating in a driver safety program event, such as, but not limited to, auto or truck rodeos and other auto or truck agility demonstrations.

2. The following is added to Paragraph 2. in the **Exclusions** of **Section III – Physical Damage Coverage** of the Business Auto Coverage Form and Paragraph 2.b. in the **Exclusions** of **Section IV – Physical Damage Coverage** of the Motor Carrier Coverage Form:

This exclusion does not apply to covered "autos" participating in a driver safety program event, such as, but not limited to, auto or truck rodeos and other auto or truck agility demonstrations.

### E. Lease or Loan Gap Coverage

The following is added to the **Coverage** Provision of the **Physical Damage Coverage** Section:

#### Lease Or Loan Gap Coverage

In the event of a total "loss" to a covered "auto", we will pay any unpaid amount due on the lease or loan for a covered "auto", less:

- a. Any amount paid under the **Physical Damage Coverage** Section of the Coverage Form; and
- b. Any:
  - (1) Overdue lease or loan payments at the time of the "loss";
  - (2) Financial penalties imposed under a lease for excessive use, abnormal wear and tear or high mileage;
  - (3) Security deposits not returned by the lessor;
  - (4) Costs for extended warranties, credit life insurance, health, accident or disability insurance purchased with the loan or lease; and
  - (5) Carry-over balances from previous leases or loans.

### F. Towing and Labor

Paragraph **A.2.** of the **Physical Damage Coverage** Section is replaced by the following:

We will pay up to \$75 for towing and labor costs incurred each time a covered "auto" of the private passenger type is disabled. However, the labor must be performed at the place of disablement.

### G. Extended Glass Coverage

The following is added to Paragraph **A.3.a.** of the **Physical Damage Coverage** Section:

If glass must be replaced, the deductible shown in the Declarations will apply. However, if glass can be repaired and is actually repaired rather than replaced, the deductible will be waived. You have the option of having the glass repaired rather than replaced.

### H. Hired Auto Physical Damage – Increased Loss of Use Expenses

The **Coverage Extension** for **Loss Of Use Expenses** in the **Physical Damage Coverage** Section is replaced by the following:

#### Loss Of Use Expenses

For Hired Auto Physical Damage, we will pay expenses for which an "insured" becomes legally responsible to pay for loss of use of a vehicle rented or hired without a driver under a written rental contract or written rental agreement. We will pay for loss of use expenses if caused by:



- (1) Other than collision only if the Declarations indicate that Comprehensive Coverage is provided for any covered "auto";
  - (2) Specified Causes Of Loss only if the Declarations indicate that Specified Causes Of Loss Coverage is provided for any covered "auto"; or
  - (3) Collision only if the Declarations indicate that Collision Coverage is provided for any covered "auto".
- However, the most we will pay for any expenses for loss of use is \$100 per day, to a maximum of \$3000.

#### **I. Personal Effects Coverage**

The following is added to the **Coverage** Provision of the **Physical Damage Coverage** Section:

##### **Personal Effects Coverage**

- a. We will pay up to \$750 for "loss" to personal effects which are:
  - (1) Personal property owned by an "insured"; and
  - (2) In or on a covered "auto".
- b. Subject to Paragraph a. above, the amount to be paid for "loss" to personal effects will be based on the lesser of:
  - (1) The reasonable cost to replace; or
  - (2) The actual cash value.
- c. The coverage provided in Paragraphs a. and b. above, only applies in the event of a total theft of a covered "auto". No deductible applies to this coverage. However, we will not pay for "loss" to personal effects of any of the following:
  - (1) Accounts, bills, currency, deeds, evidence of debt, money, notes, securities, or commercial paper or other documents of value.
  - (2) Bullion, gold, silver, platinum, or other precious alloys or metals; furs or fur garments; jewelry, watches, precious or semi-precious stones.
  - (3) Paintings, statuary and other works of art.
  - (4) Contraband or property in the course of illegal transportation or trade.
  - (5) Tapes, records, discs or other similar devices used with audio, visual or data electronic equipment.

Any coverage provided by this Provision is excess over any other insurance coverage available for the same "loss".

#### **J. Tapes, Records and Discs Coverage**

1. The Exclusion in Paragraph **B.4.a.** of **Section III – Physical Damage Coverage** in the Business Auto Coverage Form and the Exclusion in Paragraph **B.2.c.** of **Section IV – Physical Damage Coverage** in the Motor Carrier Coverage Form does not apply.
2. The following is added to Paragraph **1.a. Comprehensive Coverage** under the **Coverage** Provision of the **Physical Damage Coverage** Section:

We will pay for "loss" to tapes, records, discs or other similar devices used with audio, visual or data electronic equipment. We will pay only if the tapes, records, discs or other similar audio, visual or data electronic devices:

- (a) Are the property of an "insured"; and
- (b) Are in a covered "auto" at the time of "loss".

The most we will pay for such "loss" to tapes, records, discs or other similar devices is \$500. The **Physical Damage Coverage Deductible** Provision does not apply to such "loss".

#### **K. Airbag Coverage**

The Exclusion in Paragraph **B.3.a. of Section III – Physical Damage Coverage** in the Business Auto Coverage Form and the Exclusion in Paragraph **B.4.a. of Section IV – Physical Damage Coverage** in the Motor Carrier Coverage Form does not apply to the accidental discharge of an airbag.

#### **L. Two or More Deductibles**

The following is added to the **Deductible** Provision of the **Physical Damage Coverage** Section:

If an accident is covered both by this policy or Coverage Form and by another policy or Coverage Form issued to you by us, the following applies for each covered "auto" on a per vehicle basis:

1. If the deductible on this policy or Coverage Form is the smaller (or smallest) deductible, it will be waived; or
2. If the deductible on this policy or Coverage Form is not the smaller (or smallest) deductible, it will be reduced by the amount of the smaller (or smallest) deductible.

#### **M. Physical Damage – Comprehensive Coverage – Deductible**

The following is added to the **Deductible** Provision of the **Physical Damage Coverage** Section:

Regardless of the number of covered "autos" damaged or stolen, the maximum deductible that will be applied to Comprehensive Coverage for all "loss" from any one cause is \$5,000 or the deductible shown in the Declarations, whichever is greater.

#### **N. Temporary Substitute Autos – Physical Damage**

1. The following is added to **Section I – Covered Autos**:

##### **Temporary Substitute Autos – Physical Damage**

If Physical Damage Coverage is provided by this Coverage Form on your owned covered "autos", the following types of vehicles are also covered "autos" for Physical Damage Coverage:

Any "auto" you do not own when used with the permission of its owner as a temporary substitute for a covered "auto" you do own but is out of service because of its:

1. Breakdown;
  2. Repair;
  3. Servicing;
  4. "Loss"; or
  5. Destruction.
2. The following is added to the Paragraph **A. Coverage** Provision of the **Physical Damage Coverage** Section:

##### **Temporary Substitute Autos – Physical Damage**

We will pay the owner for "loss" to the temporary substitute "auto" unless the "loss" results from fraudulent acts or omissions on your part. If we make any payment to the owner, we will obtain the owner's rights against any other party.

The deductible for the temporary substitute "auto" will be the same as the deductible for the covered "auto" it replaces.

#### **O. Amended Duties In The Event Of Accident, Claim, Suit Or Loss**

Paragraph **a.** of the **Duties In The Event Of Accident, Claim, Suit Or Loss** Condition is replaced by the following:

- a. In the event of "accident", claim, "suit" or "loss", you must give us or our authorized representative prompt notice of the "accident", claim, "suit" or "loss". However, these duties only apply when the "accident", claim, "suit" or "loss" is known to you (if you are an individual), a partner (if you are a partnership), a member (if you are a limited liability company) or an executive officer or insurance manager (if you are a corporation). The failure of any



agent, servant or employee of the "insured" to notify us of any "accident", claim, "suit" or "loss" shall not invalidate the insurance afforded by this policy.

Include, as soon as practicable:

- (1) How, when and where the "accident" or "loss" occurred and if a claim is made or "suit" is brought, written notice of the claim or "suit" including, but not limited to, the date and details of such claim or "suit";
- (2) The "insured's" name and address; and
- (3) To the extent possible, the names and addresses of any injured persons and witnesses.

If you report an "accident", claim, "suit" or "loss" to another insurer when you should have reported to us, your failure to report to us will not be seen as a violation of these amended duties provided you give us notice as soon as practicable after the fact of the delay becomes known to you.

#### **P. Waiver of Transfer Of Rights Of Recovery Against Others To Us**

The following is added to the **Transfer Of Rights Of Recovery Against Others To Us** Condition:

This Condition does not apply to the extent required of you by a written contract, executed prior to any "accident" or "loss", provided that the "accident" or "loss" arises out of operations contemplated by such contract. This waiver only applies to the person or organization designated in the contract.

#### **Q. Employee Hired Autos – Physical Damage**

Paragraph **b.** of the **Other Insurance** Condition in the Business Auto Coverage Form and Paragraph **f.** of the **Other Insurance – Primary and Excess Insurance Provisions** Condition in the Motor Carrier Coverage Form are replaced by the following:

For Hired Auto Physical Damage Coverage, the following are deemed to be covered "autos" you own:

- (1) Any covered "auto" you lease, hire, rent or borrow; and
- (2) Any covered "auto" hired or rented under a written contract or written agreement entered into by an "employee" or elected or appointed official with your permission while being operated within the course and scope of that "employee's" employment by you or that elected or appointed official's duties as respect their obligations to you.

However, any "auto" that is leased, hired, rented or borrowed with a driver is not a covered "auto".

#### **R. Unintentional Failure to Disclose Hazards**

The following is added to the **Concealment, Misrepresentation Or Fraud** Condition:

However, we will not deny coverage under this Coverage Form if you unintentionally:

- (1) Fail to disclose any hazards existing at the inception date of this Coverage Form; or
- (2) Make an error, omission, improper description of "autos" or other misstatement of information.

You must notify us as soon as possible after the discovery of any hazards or any other information that was not provided to us prior to the acceptance of this policy.

#### **S. Hired Auto – World Wide Coverage**

Paragraph **7a.(5)** of the **Policy Period, Coverage Territory** Condition is replaced by the following:

- (5) Anywhere in the world if a covered "auto" is leased, hired, rented or borrowed for a period of 60 days or less,

#### **T. Bodily Injury Redefined**

The definition of "bodily injury" in the **Definitions** Section is replaced by the following:

"Bodily injury" means bodily injury, sickness or disease, sustained by a person including death or mental anguish, resulting from any of these at any time. Mental anguish means any type of mental or emotional illness or disease.

#### **U. Expected Or Intended Injury**

The **Expected Or Intended Injury** Exclusion in Paragraph **B. Exclusions** under **Section II – Covered Auto Liability Coverage** is replaced by the following:

##### **Expected Or Intended Injury**

"Bodily injury" or "property damage" expected or intended from the standpoint of the "insured". This exclusion does not apply to "bodily injury" or "property damage" resulting from the use of reasonable force to protect persons or property.

#### **V. Physical Damage – Additional Temporary Transportation Expense Coverage**

Paragraph **A.4.a.** of **Section III – Physical Damage Coverage** is replaced by the following:

##### **4. Coverage Extensions**

###### **a. Transportation Expenses**

We will pay up to \$50 per day to a maximum of \$1,000 for temporary transportation expense incurred by you because of the total theft of a covered "auto" of the private passenger type. We will pay only for those covered "autos" for which you carry either Comprehensive or Specified Causes of Loss Coverage. We will pay for temporary transportation expenses incurred during the period beginning 48 hours after the theft and ending, regardless of the policy's expiration, when the covered "auto" is returned to use or we pay for its "loss".

#### **W. Replacement of a Private Passenger Auto with a Hybrid or Alternative Fuel Source Auto**

The following is added to Paragraph **A. Coverage** of the **Physical Damage Coverage** Section:

In the event of a total "loss" to a covered "auto" of the private passenger type that is replaced with a hybrid "auto" or "auto" powered by an alternative fuel source of the private passenger type, we will pay an additional 10% of the cost of the replacement "auto", excluding tax, title, license, other fees and any aftermarket vehicle upgrades, up to a maximum of \$2500. The covered "auto" must be replaced by a hybrid "auto" or an "auto" powered by an alternative fuel source within 60 calendar days of the payment of the "loss" and evidenced by a bill of sale or new vehicle lease agreement.

To qualify as a hybrid "auto", the "auto" must be powered by a conventional gasoline engine and another source of propulsion power. The other source of propulsion power must be electric, hydrogen, propane, solar or natural gas, either compressed or liquefied. To qualify as an "auto" powered by an alternative fuel source, the "auto" must be powered by a source of propulsion power other than a conventional gasoline engine. An "auto" solely propelled by biofuel, gasoline or diesel fuel or any blend thereof is not an "auto" powered by an alternative fuel source.

#### **X. Return of Stolen Automobile**

The following is added to the **Coverage Extension** Provision of the **Physical Damage Coverage** Section:

If a covered "auto" is stolen and recovered, we will pay the cost of transport to return the "auto" to you. We will pay only for those covered "autos" for which you carry either Comprehensive or Specified Causes of Loss Coverage.

All other terms, conditions, provisions and exclusions of this policy remain the same.



**WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT**

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

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

Schedule

Any party which is required by written contract

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

Policy No. **WC0381004**

Insured: **Geosphere Consultants Inc**

Insurance Company: **Zurich Insurance Company**

Countersigned by *Ellen Begun*



**CONTRACT JUSTIFICATION FORM**  
**This Form Shall Be Submitted to the Board Office**  
**With *Every* Consent Agenda Contract.**

**Legislative File ID No.** 15-2486

**Department:** \_\_\_\_\_

**Vendor Name:** Geosphere Consultants, Inc.

**Project Name:** Madison Expansion - New Construction **Project No.:** 13124

**Contract Term:** Start Date: 12/17/2015 End Date: 12/17/2017

**Annual (if annual contract) or Total (if multi-year agreement) Cost:** \$ 4,500.00

**Approved by:** \_\_\_\_\_

**Is Vendor a local Oakland Business or have they meet the requirements of the Local Business Policy?** Yes ☒ No ☐

**Why was this Vendor selected?**

Required by California Geological Survey (CGS). Amended scope was not included in original proposal.

**Summarize the services this Vendor will be providing.**

CGS Permit Application and Processing:

Provide lump sum fee of \$4500, including the basic cost of the permit application, mark-up and associated in-house costs for performing the work.

**Was this contract competitively bid?** Yes ☒ No ☐

If No, answer the following:

1) How did you determine the price is competitive?



2) Please check the competitive bid exception relied upon:

- ☐ **Educational Materials**
- ☐ **Special Services** contracts for financial, economic, accounting, legal or administrative services
- ☐ **CUPCCAA exception** (Uniform Public Construction Cost Accounting Act)
- ☐ **Professional Service Agreements** of less than \$86,000 (increases a small amount on January 1 of each year)
- ☒ **Construction related Professional Services** such as Architects, DSA Inspectors, Environmental Consultants and Construction Managers (require a "fair, competitive selection process)
- ☐ **Energy** conservation and alternative energy supply (e.g., solar, energy conservation, co-generation and alternate energy supply sources)
- ☐ **Emergency** contracts
- ☐ **Technology** contracts
  - ☐ electronic data-processing systems, supporting software and/or services (including copiers/printers) over the \$86,000 bid limit, must be competitively advertised, but any one of the three lowest responsible bidders may be selected
  - ☐ contracts for computers, software, telecommunications equipment, microwave equipment, and other related electronic equipment and apparatus, including E-Rate solicitations, may be procured through an RFP process instead of a competitive, lowest price bid process
  - ☐ Western States Contracting Alliance Contracts (WSCA)
  - ☐ California Multiple Award Schedule Contracts (CMAS) [contracts are often used for the purchase of information technology and software]
- ☐ **"Piggyback" Contracts** with other governmental entities
- ☐ **Perishable Food**
- ☐ **Sole Source**
- ☐ **Change Order for Material and Supplies** if the cost agreed upon in writing does not exceed ten percent of the original contract price
- ☐ **Other, please provide specific exception**





Board Office Use: Legislative File Info.	
File ID Number	14-2232
Introduction Date	11-19-2014
Enactment Number	14-1902
Enactment Date	11-19-14 <i>AS</i>



OAKLAND UNIFIED  
SCHOOL DISTRICT

Community Schools, Thriving Students

## Memo

**To** Board of Education

**From** Antwan Wilson, Superintendent and Secretary, Board of Education  
By: Mia Settles-Tidwell, Chief Operations Officer *WAS*  
Timothy White, Deputy Chief, Facilities Planning and Management *TH*

**Board Meeting Date** November 19, 2014

**Subject** Amendment No. 1, Independent Contractor Agreement - Geosphere Consultants, Inc. - Madison Middle School Expansion-New Construction Project

**Action Requested** Approval by the Board of Education of Amendment No. 1, Independent Contractor Agreement with Geosphere Consultants, Inc. for Geotech Services on behalf of the District at Madison Middle School Expansion-New Construction Project, in an amount not-to exceed \$4,000.00 increasing previous contract amount from \$15,300.00 to a not to exceed amount of \$19,300.00. All remaining portions of the agreement shall remain in full force and effect as originally stated.

**Background** The fees are required by the California Geological Survey (CGS). Amended scope was not included in original proposal.

**Local Business Participation Percentage** 100.00%

**Strategic Alignment** Among the key purposes of the District's Facilities Master Plan is to provide an academic environment for the Oakland community that will give every student, educator, and community member using our facilities the best possible opportunity for learning.

Through implementation of the Facilities Master Plan, the District intends to improve the District's facilities in terms of structural integrity, safety, reliability of operating (mechanical) systems, access to modern resources, number and type of appropriate laboratories and specialized instruction rooms, opportunities for physical education, and attractiveness, such that the Oakland Public Schools are second to none. Operation of the District schools under the planned approach is intended to ensure safety, cleanliness, and orderliness for all individuals participating in the learning process.



The basic facility needs of students such as proper lighting, functional roofs, noise control and well maintained buildings, not only convey the message that we value our students and teachers but may foster a sense of school pride and community ownership which may improve attitudes towards learning. The implementation of the Facilities Master Plan is our first step in that direction.

**Recommendation**

Approval by the Board of Education of Amendment No. 1, Independent Contractor Agreement with Geosphere Consultants, Inc. for Geotech Services on behalf of the District at Madison Middle School Expansion-New Construction Project, in an amount not-to exceed \$4,000.00 increasing previous contract amount from \$15,300.00 to a not to exceed amount of \$19,300.00. All remaining portions of the agreement shall remain in full force and effect as originally stated.

**Fiscal Impact**

Measure J

**Attachments**

- Independent Contractors Agreement including scope of work
- Certificate of Insurance
- Consultant Proposal





File ID Number: 14-2232  
Introduction Date: 11-19-14  
Enactment Number: 14-1902  
Enactment Date: 11/19/14  
By: [Signature]

### AMENDMENT NO. 1 TO INDEPENDENT CONSULTANT CONTRACT

This Amendment is entered into between the Oakland Unified School District (OUSD) and Geosphere Consultants, Inc. OUSD entered into an Agreement with CONTRACTOR for services on August 27, 2014, and the parties agree to amend that Agreement as follows:

<b>1. Services:</b> <input type="checkbox"/> The scope of work is <u>unchanged</u> . <input checked="" type="checkbox"/> The scope of work has <u>changed</u> . If scope of work changed: Provide brief description of revised scope of work including description of expected final results, such as services, materials, products, and/or reports; attach additional pages as necessary. <u>Attach revised scope of work.</u> The CONTRACTOR agrees to provide the following amended services: <u>The scope of the project is to cover site-specific fees for seismic ground motion analysis.</u>	
<b>2. Terms (duration):</b> <input checked="" type="checkbox"/> The term of the contract is <u>unchanged</u> . <input type="checkbox"/> The term of the contract has <u>changed</u> . If term is changed: The contract term is extended by an additional _____, and the amended expiration date is _____.	
<b>3. Compensation:</b> <input type="checkbox"/> The contract price is <u>unchanged</u> . <input type="checkbox"/> The contract price has <u>changed</u> . If the compensation is changed: The contract price is amended by <input checked="" type="checkbox"/> Increase of \$4,000.00 to original contract amount <input type="checkbox"/> Decrease of \$_____ to original contract amount  and the new contract total is <u>Nineteen thousand, three hundred dollars and no cents (\$19,300.00)</u>	

**4. Remaining Provisions:** All other provisions of the Agreement, and prior Amendment(s) if any, shall remain unchanged and in full force and effect as originally stated.

**5. Amendment History:**

☒ There are no previous amendments to this Agreement. ☐ This contract has previously been amended as follows:

No.	Date	General Description of Reason for Amendment	Amount of Increase (Decrease)
			\$

**6. Approval:** This Agreement is not effective and no payment shall be made to Contractor until it is approved. Approval requires signature by the Board of Education, and the Superintendent as their designee.

OAKLAND UNIFIED SCHOOL DISTRICT

[Signature]  
David Kakashiba, President,  
Board of Education

11/20/14  
Date

[Signature]  
Anthony Wilson, Superintendent  
Secretary, Board of Education

11/20/14  
Date

CONTRACTOR

[Signature]  
Contractor Signature

10/14/14  
Date

Eric J. Swenson, President  
Print Name, Title

Timothy White, Associate Superintendent  
Facilities, Planning and Management

\_\_\_\_\_  
Date

**EXHIBIT "A" Scope of Work****Contractor Name:** Geosphere Consultants, Inc.**Billing Rate:** Four thousand dollars and no cents (\$4,000.00)**1. Description of Services to be Provided**

The scope of the project is to cover site-specific fees for seismic ground motion analysis.

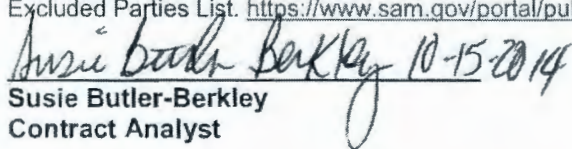
**2. Specific Outcomes:**

Create equitable opportunities for learning; and provide accountability for quality.

**3. Alignment with District Strategic Plan:** Indicate the goals and visions supported by the services of this contract:

<input type="checkbox"/> Ensure a high quality instructional core	<input type="checkbox"/> Prepare students for success in college and careers
<input type="checkbox"/> Develop social, emotional and physical health	<input type="checkbox"/> Safe, healthy and supportive schools
<input checked="" type="checkbox"/> Create equitable opportunities for learning	<input checked="" type="checkbox"/> Accountable for quality
<input type="checkbox"/> High quality and effective instruction	<input type="checkbox"/> Full service community district

**Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion:** The District certifies to the best of its knowledge and belief, that it and its officials: Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency according to Federal Acquisition Regulation Subpart 9.4, and by signing this contract, certifies that this vendor does not appear on the Excluded Parties List. <https://www.sam.gov/portal/public/SAM>

  
**Susie Butler-Berkley**  
Contract Analyst





**Geosphere Consultants, Inc.**

AN ETS COMPANY

Geotechnical Engineering • Engineering Geology  
Environmental Management • Water Resources

September 26, 2014

Oakland Unified School District  
955 High Street  
Oakland, California 94601

Attention: Mr. Eric Scheuermann, Project Manager

**Subject: Request for Contract Amendment**  
*James Madison Middle School Expansion*  
*400 Capistrano Drive, Oakland, California 94603*  
*Geosphere Project No. 91-03352-A and C*

Dear Mr. Scheuermann:

**Geosphere Consultants, Inc. (Geosphere)** has prepared this contract amendment request to the Oakland Unified School District (District) to perform additional geotechnical engineering services in support of the preparation of the Geotechnical Engineering and Geologic Hazards Study for the proposed improvements at James Madison Middle School in Oakland, California. Our services currently being performed for the project are being provided in accordance with our approved proposal to the District dated July 21, 2014. In that proposal, the approved amount for Phase A services, including preparing a Geotechnical Engineering and Geologic Hazards Study and performing limited analytical sampling of onsite soils, was approved by the District for a lump sum of \$15,300.00. The proposal also noted that performance of a site-specific seismic ground motion analysis was not included in the project scope and cost, and stated that it was possible that the California Geological Survey (CGS), report reviewers on behalf of the Division of State Architect (DSA), could require that such an analysis be performed.

Subsequent to the approval of our proposal, we were informed by CGS that based on their recent enforcement of CGS Note 48, Section 16 requirements, they are now requiring that regardless of school building structural type, site-specific seismic ground motion analyses be performed for all sites where seismic parameter  $S_1$  is 0.75g or greater, which essentially occurs where sites are within a few miles of a major earthquake fault such as the Hayward and San Andreas faults, and analyzed using 2013 California Building Code (CBC) procedures instead of 2010 CBC procedures. The effect of this newly enforced requirement is that most schools within the OUSD system are likely subject to this requirement for DSA projects reviewed by CGS. The computed  $S_1$  value for the James Madison Middle School site is 0.79g.

This amendment request also includes Phase C services consisting of CGS permit application and processing, which Geosphere can provide in order to expedite DSA approval of the project.

**Additional Phase A Services - Site Specific Seismic Ground Motion Analysis**

In order for the already authorized geotechnical engineering and geologic hazards study currently in the process of being completed, a site-specific seismic ground motion analysis will need to be completed for the project. We will perform the required computer analyses and generate the required site specific seismic ground motion analysis results based on the applicable procedures of the 2013 CBC and ASCE 7-10. Results will be included in the geologic hazards and geotechnical engineering study report currently in progress.



**Phase C - CGS Permit Application and Processing**

We can assist in the processing of CGS report review and clearance. Phase C would consist of the following scope of work:

- Prepare the new CGS application form for your project, including the submission of the required \$3,600 plan check fee.
- Submit the required hard copies of Geotechnical Engineering and Geologic Hazards Report along with plans provided by you.
- Prepare one response letter if required by CGS.

**Cost and Schedule**

We will perform the additional required analyses for a lump sum of **\$4,000.00**, resulting in the increase of our Phase A services from a lump sum of \$15,300.00 to a new total of **\$19,300.00**. We anticipate that the additional services could increase our time of completion of the geotechnical engineering and geologic hazards study by one or two weeks, but we recognize the time constraints for obtaining DSA approval on this project and will expedite the work as best we can.

Phase C services would be provided for a lump sum fee of **\$4,500.00**, including the basic cost of the permit application, markup and associated in-house costs for performing the work.

If our amendment request is acceptable, we anticipate you will provide a District contract amendment following Board approval. In the meantime, your verbal authorization is sufficient for us to proceed with the work. If you have any questions regarding this proposal, please contact the undersigned at 925-314-7100, [cdare@geosphereinc.net](mailto:cdare@geosphereinc.net) or [eswenson@geosphereinc.net](mailto:eswenson@geosphereinc.net). We appreciate the opportunity to continue to provide our services to the Oakland Unified School District.

Sincerely,  
**GEOSPHERE CONSULTANTS, INC.**

A handwritten signature in cursive script, reading "Corey T. Dare".

Corey T. Dare, PE, GE  
Principal Geotechnical Engineer

A handwritten signature in cursive script, reading "Eric J. Swenson".

Eric J. Swenson, GE, CEG  
President and Chief Engineering Geologist

Distribution: PDF to Addressee, [Eric.Scheuermann@ousd.k12.ca.us](mailto:Eric.Scheuermann@ousd.k12.ca.us)

CTD/EJS:pmf





# CERTIFICATE OF LIABILITY INSURANCE

CONSO-2

OP ID: EB

DATE (MM/DD/YYYY)

07/30/2014

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

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

<b>PRODUCER</b> Butwin Insurance Group Suite 414 60 Culter Mill Road Great Neck, NY 11021-3104 Richard S. Butwin		<b>CONTACT NAME:</b> Ellen Begun <b>PHONE (A/C No. Ext):</b> 516-466-4200 <b>FAX (A/C No.):</b> 516-466-4213 <b>E-MAIL ADDRESS:</b> ellen@butwin.com		
<b>INSURED</b> Geosphere Consultants Inc 2001 Crow Canyon Road #100 San Ramon, CA 94583		<b>INSURER(S) AFFORDING COVERAGE</b>		<b>NAIC #</b>
		INSURER A: National Union Fire Ins. Co.		19445
		INSURER B: Admiral Insurance Company		24856
		INSURER C:		
		INSURER D:		
INSURER E:				
INSURER F:				

**COVERAGES****CERTIFICATE NUMBER:****REVISION NUMBER:**

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

INSR LTR	TYPE OF INSURANCE	ADDITIONAL INSURER	SUBJECT	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<b>GENERAL LIABILITY</b> <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR	X	X	7133088	07/01/2014	07/01/2015	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea. occurrence) \$ 500,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADJ INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMPROP AGG \$ 2,000,000
	<b>AUTOMOBILE LIABILITY</b> <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRE AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS	X	X	3500812	07/01/2014	07/01/2015	COMBINED SINGLE LIMIT (Ea. accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (PER ACCIDENT) \$
A	<b>UMBRELLA LIAB</b> <input checked="" type="checkbox"/> <b>EXCESS LIAB</b> <input checked="" type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DEF. <input checked="" type="checkbox"/> RETENTION \$ 10000			BE031731077	07/01/2014	07/01/2015	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000
A	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY EMPLOYER PARTNER EXECUTIVE CERTIFICATE EMPLOYEE (Mandatory in NJ) If not design order GEN. AGG. & OPERATIONS INJURY	Y/N	N/A	X 036332881	07/01/2014	07/01/2015	<input checked="" type="checkbox"/> NO STATE LIMITS E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
B	<b>Professional Liab</b>			EO00004152-05	07/01/2014	07/01/2015	Each Occ 2,000,000 Gen Agg 2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

Project: 91-03352-A, B-James Madison Middle School, 400 Capistrano Dr, Oakland, CA  
Oakland Unified School District and its directors, officers, employees, agents and representatives are additional insureds

**CERTIFICATE HOLDER**

OAKLUSD

Oakland Unified School  
District  
955 High Street  
Oakland, CA 94601

**CANCELLATION**

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

© 1988-2010 ACORD CORPORATION. All rights reserved.

ENDORSEMENT

This endorsement, effective 07/01/2014 forms a part of

policy No. 7133088 issued to Geosphere Consultants Inc

by National Union Fire Ins. Co.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY**

**ADDITIONAL INSURED - PRIMARY INSURANCE**

*This endorsement modifies insurance provided under the following:*

**COMMERCIAL GENERAL LIABILITY COVERAGE FORM**

Section IV, Commercial General Liability Conditions, paragraph 4., Other Insurance, subparagraph a. Primary Insurance, is amended by the addition of the following:

However, coverage under this policy afforded to an additional insured will apply as primary insurance where required by contract, and any other insurance issued to such additional insured shall apply as excess and noncontributory insurance.

*Ellen Begun*

Authorized Representative or  
Countersignature (in States Where  
Applicable)



THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED - OWNERS, LESSEES OR  
CONTRACTORS - AUTOMATIC STATUS WHEN  
REQUIRED IN CONSTRUCTION AGREEMENT WITH YOU**

This endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE PART**

A. Section II - Who Is An Insured is amended to include as an additional insured any person or organization for whom you are performing operations when you and such person or organization have agreed in writing in a contract or agreement that such person or organization be added as an additional insured on your policy. Such person or organization is an additional insured only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured.

However, the insurance afforded to such additional insured:

1. Only applies to the extent permitted by law; and
2. Will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

A person's or organization's status as an additional insured under this endorsement ends when your operations for that additional insured are completed.

B. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to:

1. "Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:

- a. The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
- b. Supervisory, inspection, architectural or engineering activities.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage", or the offense which caused the "personal and advertising injury", involved the rendering of or the failure to render any professional architectural, engineering or surveying services.

2. "Bodily injury" or "property damage" occurring after:

- a. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
- b. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

C. With respect to the insurance afforded to these additional insureds, the following is added to Section III Limits Of Insurance:

The most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement you have entered into with the additional insured; or
2. Available under the applicable Limits of

Insurance shown in the Declarations;  
whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.



POLICY NUMBER: 7133088

COMMERCIAL GENERAL LIABILITY  
CG 20 37 04 13

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## ADDITIONAL INSURED - OWNERS, LESSEES OR CONTRACTORS - COMPLETED OPERATIONS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART  
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

### SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s)	Location And Description Of Completed Operations
As per written contract between the named insured and any party requesting additional insured status	
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

A. Section II - Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury" or "property damage" caused, in whole or in part, by "your work" at the location designated and described in the Schedule of this endorsement performed for that additional insured and included in the "products-completed operations hazard".

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such addi-

tional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following is added to Section III - Limits Of Insurance:

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
2. Available under the applicable Limits of Insurance shown in the Declarations;

whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations

POLICY NUMBER: 7133088

COMMERCIAL GENERAL LIABILITY  
CG 24 04 05 09

## WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART  
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

### SCHEDULE

**Name Of Person Or Organization:**

As per written contract between the named insured and the party requesting this endorsement

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

The following is added to Paragraph 8, Transfer Of Rights Of Recovery Against Others To Us of Section IV – Conditions:

We waive any right of recovery we may have against the person or organization shown in the Schedule above because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a contract with that person or organization and included in the "products-completed operations hazard". This waiver applies only to the person or organization shown in the Schedule above.



**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## ADDITIONAL INSURED - VENDORS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART  
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

### SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s) (Vendor)	Your Products
<p>(This means any vendor to whom you become obligated to include as an additional insured under this policy, as a result of any contract or agreement you enter into which requires you to furnish insurance to that person or organization of the type provided by this policy, but only with respect to vendors which distribute or sell the insured's products in the regular course of the vendor's business). However, the insurance provided will not exceed the lesser of:</p> <ol style="list-style-type: none"> <li>1. the coverage and/ or limits of this policy, or</li> <li>2. the coverage and/ or limits required by said contract or agreement.</li> </ol>	<p>(This means any of the insured's products that the vendor sells that you become obligated to include as a result of any contract or agreement you enter into which requires you to furnish insurance to that person or organization of the type provided by this policy, but only with respect to products which the vendor distributes or sells in the regular course of business). However, the insurance provided will not exceed the lesser of:</p> <ol style="list-style-type: none"> <li>1. the coverage and/ or limits of this policy, or</li> <li>2. the coverage and/ or limits required by said contract or agreement.</li> </ol>
<p>Information required to complete this Schedule, if not shown above, will be shown in the Declarations.</p>	

A. Section II - Who Is An Insured is amended to include as an additional insured any person(s) or organization(s) (referred to throughout this endorsement as vendor) shown in the Schedule, but only with respect to "bodily injury" or "property damage" arising out of "your products" shown in the Schedule which are distributed or sold in the regular course of the vendor's business.

However:

1. The insurance afforded to such vendor only applies to the extent permitted by law; and
  2. If coverage provided to the vendor is required by a contract or agreement, the insurance afforded to such vendor will not be broader than that which you are required by the contract or agreement to provide for such vendor.
- B. With respect to the insurance afforded to these vendors, the following additional exclusions apply:
1. The insurance afforded the vendor does not apply to:

- a. "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;
- b. Any express warranty unauthorized by you;
- c. Any physical or chemical change in the product made intentionally by the vendor;
- d. Repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;
- e. Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## ADDITIONAL INSURED - VENDORS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART  
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

### SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s) (Vendor)	Your Products
Vendors who sell your products	All Products
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

A. Section II - Who Is An Insured is amended to include as an additional insured any person(s) or organization(s) (referred to throughout this endorsement as vendor) shown in the Schedule, but only with respect to "bodily injury" or "property damage" arising out of "your products" shown in the Schedule which are distributed or sold in the regular course of the vendor's business.

However:

1. The insurance afforded to such vendor only applies to the extent permitted by law; and
  2. If coverage provided to the vendor is required by a contract or agreement, the insurance afforded to such vendor will not be broader than that which you are required by the contract or agreement to provide for such vendor.
- B. With respect to the insurance afforded to these vendors, the following additional exclusions apply:
1. The insurance afforded the vendor does not apply to:

- a. "Bodily Injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;
- b. Any express warranty unauthorized by you;
- c. Any physical or chemical change in the product made intentionally by the vendor;
- d. Repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;
- e. Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;



f. Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;

g. Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or

h. "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:

(1) The exceptions contained in Sub-paragraphs d. or f.; or

(2) Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business,

in connection with the distribution or sale of the products.

2. This insurance does not apply to any insured person or organization, from whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products.

C. With respect to the insurance afforded to these vendors, the following is added to Section III - Limits Of Insurance:

If coverage provided to the vendor is required by a contract or agreement, the most we will pay on behalf of the vendor is the amount of insurance:

1. Required by the contract or agreement; or

2. Available under the applicable Limits of Insurance shown in the Declarations;

whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

## ENDORSEMENT

This endorsement, effective 07/01/2014 forms a part of

policy No. 3500812 issued to Geosphere Consultants Inc

by National Union Fire Ins. Co

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

### **WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US**

*This endorsement modifies insurance provided under the following:*

#### **BUSINESS AUTO COVERAGE FORM**

**Section IV - Business Auto Conditions, A. - Loss Conditions, 5. - Transfer of Rights of Recovery Against Others to Us,** is amended to add:

However, we will waive any right of recover we have against any person or organization with whom you have entered into a contract or agreement because of payments we make under this Coverage Form arising out of an "accident" or "loss" if:

- (1) The "accident" or "loss" is due to operations undertaken in accordance with the contract existing between you and such person or organization; and
- (2) The contract or agreement was entered into prior to any "accident" or "loss".

No waiver of the right of recovery will directly or indirectly apply to your employees or employees of the person or organization, and we reserve our rights or lien to be reimbursed from any recovery funds obtained by any injured employee.

*Ellen Begun*

AUTHORIZED REPRESENTATIVE



ENDORSEMENT

This endorsement, effective 07/01/2014 forms a part of

policy No. 3500812 issued to Geosphere Consultants Inc

by National Union Fire Ins. Co.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED - WHERE REQUIRED UNDER CONTRACT OR AGREEMENT

*This endorsement modifies insurance provided under the following:*

BUSINESS AUTO COVERAGE FORM

SCHEDULE

ADDITIONAL INSURED:

Any party requesting this status, as per written contract

I. SECTION II - LIABILITY COVERAGE, A. Coverage, 1. - Who Is Insured, is amended to add:

- d. Any person or organization, shown in the schedule above, to whom you become obligated to include as an additional insured under this policy, as a result of any contract or agreement you enter into which requires you to furnish insurance to that person or organization of the type provided by this policy, but only with respect to liability arising out of use of a covered "auto". However, the insurance provided will not exceed the lesser of:

- (1) The coverage and/or limits of this policy, or
- (2) The coverage and/or limits required by said contract or agreement.

*Ellen Begun*

Authorized Representative or  
Countersignature (in States Where  
Applicable)





Board Office Use: Legislative File Info.	
File ID Number	14-1712
Introduction Date	8-27-2014
Enactment Number	14-1611
Enactment Date	8-27-14 <i>[initials]</i>



**OAKLAND UNIFIED  
SCHOOL DISTRICT**

*Community Schools, Thriving Students*

## Memo

**To** Board of Education

**From** Antwan Wilson, Superintendent and Secretary, Board of Education  
By: Mia Settles-Tidwell, Chief Operations Officer *[initials]*  
Timothy White, Associate Superintendent, Facilities Planning and Management

**Board Meeting Date** August 27, 2014

**Subject** Independent Consultant Agreement for Professional Services -Geosphere Consultants, Inc. - Madison Middle School Expansion-New Construction Project

**Action Requested** Approval by the Board of Education of an Independent Consultant Agreement for Professional Services with Geosphere Consultants, Inc. for Geotechnical Services on behalf of the District at the Madison Middle School Expansion-New Construction Project, in an amount not-to exceed \$15,300.00. The term of this Agreement shall commence on August 27, 2014 and shall conclude no later than August 27, 2016.

**Background** Geotech services for new building.

**Local Business Participation Percentage** 100.00%

**Strategic Alignment** Among the key purposes of the District's Facilities Master Plan is to provide an academic environment for the Oakland community that will give every student, educator, and community member using our facilities the best possible opportunity for learning.

Through implementation of the Facilities Master Plan, the District intends to improve the District's facilities in terms of structural integrity, safety, reliability of operating (mechanical) systems, access to modern resources, number and type of appropriate laboratories and specialized instruction rooms,



## OAKLAND UNIFIED SCHOOL DISTRICT

*Community Schools, Thriving Students*

opportunities for physical education, and attractiveness, such that the Oakland Public Schools are second to none. Operation of the District schools under the planned approach is intended to ensure safety, cleanliness, and orderliness for all individuals participating in the learning process.

The basic facility needs of students such as proper lighting, functional roofs, noise control and well maintained buildings, not only convey the message that we value our students and teachers but may foster a sense of school pride and community ownership which may improve attitudes towards learning. The implementation of the Facilities Master Plan is our first step in that direction.

### Recommendation

Approval by the Board of Education of an Independent Consultant Agreement for Professional Services with Geosphere Consultants, Inc. for Geotechnical Services on behalf of the District at the Madison Middle School Expansion-New Construction Project, in an amount not-to exceed \$15,300.00. The term of this Agreement shall commence on August 27, 2014 and shall conclude no later than August 27, 2016.

### Fiscal Impact

Measure J, Fund 21

### Attachments

- Independent Consultant Agreement including scope of work
- Certificate of Insurance





## OAKLAND UNIFIED SCHOOL DISTRICT

*Community Schools, Thriving Students*

opportunities for physical education, and attractiveness, such that the Oakland Public Schools are second to none. Operation of the District schools under the planned approach is intended to ensure safety, cleanliness, and orderliness for all individuals participating in the learning process.

The basic facility needs of students such as proper lighting, functional roofs, noise control and well maintained buildings, not only convey the message that we value our students and teachers but may foster a sense of school pride and community ownership which may improve attitudes towards learning. The implementation of the Facilities Master Plan is our first step in that direction.

### Recommendation

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### Fiscal Impact

Measure J, Fund 21

### Attachments

- Independent Consultant Agreement including scope of work
- Certificate of Insurance

## INDEPENDENT CONSULTANT AGREEMENT FOR PROFESSIONAL SERVICES

### Madison Middle School Expansion – New Construction Project

This Independent Consultant Agreement for Professional Services ("Agreement") is made and entered into as of the 29<sup>th</sup> day of July, 2014 by and between the Oakland Unified School District, Oakland, California ("District") and Geosphere Consultants, Inc. ("Consultant"), (together, "Parties").

NOW, THEREFORE, the Parties agree as follows:

**Services.** The Consultant shall provide the services as described in **Exhibit "A,"** attached hereto and incorporated herein by this reference ("Services" or "Work"). The scope of services will generally consist of the following:

The scope of services is more specifically indicated on **Exhibit "A."**

1.1. The Services shall be performed on the following project(s) / site(s) ("Project"):

**The scope of the project is to provide geotechnical services for the expansion project, including geology, geologic hazards study, design consultation, and soils testing.**

2. **Term.** The term of this Agreement shall be no longer than the period of construction of the Project, unless this Agreement is terminated and/or otherwise cancelled prior to that time.

**The project commences August 27, 2014 and concludes no later than August 27, 2016.**

3. **Submittal of Documents.** The Consultant shall not commence the Work under this Contract until the Consultant has submitted and the District has approved the certificate(s) and affidavit(s), and the endorsement(s) of insurance required as indicated below:

  X   Signed Agreement  
  X   Workers' Compensation Certification  
  X   Insurance Certificates and Endorsements

4. **Compensation.** Consultant's fee for the performance of Consultant's Services shall be on an hourly basis and/or a per unit basis, as indicated in **Exhibit "B"** (Prices for Services). District agrees to pay the Consultant for services satisfactorily rendered pursuant to this Agreement a total fee not to exceed **Fifteen thousand, three hundred dollars and no cents (\$15,300.00)**. District shall pay Consultant according to the following terms and conditions:

4.1. Payment for the Work shall be made for all undisputed amounts in monthly installment payments within thirty (30) days after the Consultant submits an invoice to the District for Work actually completed and after the District's written approval of the Work, or the portion of the Work for which payment is to be made.

5. **Expenses.** District shall not be liable to Consultant for any costs or expenses paid or incurred



by Consultant in performing services for District, except as follows: Not applicable.

6. **Independent Contractor.** Consultant, in the performance of this Agreement, shall be and act as an independent contractor. Consultant understands and agrees that it and all of its employees shall not be considered officers, employees, agents, partner, or joint venture of the District, and are not entitled to benefits of any kind or nature normally provided employees of the District and/or to which District's employees are normally entitled, including, but not limited to, State Unemployment Compensation or Worker's Compensation. Consultant shall assume full responsibility for payment of all federal, state and local taxes or contributions, including unemployment insurance, social security and income taxes with respect to Consultant's employees. In the performance of the work herein contemplated, Consultant is an independent contractor or business entity, with the sole authority for controlling and directing the performance of the details of the work, District being interested only in the results obtained.
7. **Materials.** Consultant shall furnish, at its own expense, all labor, materials, equipment, supplies and other items necessary to complete the services to be provided pursuant to this Agreement, except as follows: Not applicable.
8. **Performance of Services.**
  - 8.1. **Standard of Care.** Consultant represents that Consultant has the qualifications and ability to perform the Services in a professional manner, without the advice, control or supervision of District. Consultant's services will be performed, findings obtained, reports and recommendations prepared in accordance with generally and currently accepted principles and practices of its profession for services to California school districts.
  - 8.2. **Meetings.** Consultant and District agree to participate in regular meetings on at least a monthly basis to discuss strategies, timetables, implementations of services, and any other issues deemed relevant to the operation of Consultant's performance of Services.
  - 8.3. **District Approval.** The work completed herein must meet the approval of the District and shall be subject to the District's general right of inspection and supervision to secure the satisfactory completion thereof.
  - 8.4. **New Project Approval.** Consultant and District recognize that Consultant's Services may include working on various projects for District. Consultant shall obtain the approval of District prior to the commencement of a new project.
9. **Originality of Services.** Except as to standard generic details, Consultant agrees that all technologies, formulae, procedures, processes, methods, writings, ideas, dialogue, compositions, recordings, teleplays and video productions prepared for, written for, or submitted to the District and/or used in connection with this Agreement, shall be wholly original to Consultant and shall not be copied in whole or in part from any other source, except that submitted to Consultant by District as a basis for such services.
10. **Copyright/Trademark/Patent.** Consultant understands and agrees that all matters produced under this Agreement shall become the property of District and cannot be used without District's express written permission. District shall have all right, title and interest in said matters, including the right to secure and maintain the copyright, trademark and/or patent of said matter in the name of the District. Consultant consents to use of Consultant's name in conjunction with the sale, use, performance and distribution of the matters, for any purpose and in any medium.

11. **Audit.** Consultant shall establish and maintain books, records, and systems of account, in accordance with generally accepted accounting principles, reflecting all business operations of Consultant transacted under this Agreement. Consultant shall retain these books, records, and systems of account during the Term of this Agreement and for five (5) years thereafter. Consultant shall permit the District, its agent, other representatives, or an independent auditor to audit, examine, and make excerpts, copies, and transcripts from all books and records, and to make audit(s) of all billing statements, invoices, records, and other data related to the Services covered by this Agreement. Audit(s) may be performed at any time, provided that the District shall give reasonable prior notice to Consultant and shall conduct audit(s) during Consultant's normal business hours, unless Consultant otherwise consents.

12. **Termination.**

12.1. **Without Cause By District.** District may, at any time, with or without reason, terminate this Agreement and compensate Consultant only for services satisfactorily rendered to the date of termination. Written notice by District shall be sufficient to stop further performance of services by Consultant. Notice shall be deemed given when received by the Consultant or no later than three days after the day of mailing, whichever is sooner.

12.2. **Without Cause By Consultant.** Consultant may, upon thirty (30) days notice, with or without reason, terminate this Agreement. Upon this termination, District shall only be obligated to compensate Consultant for services satisfactorily rendered to the date of termination. Written notice by Consultant shall be sufficient to stop further performance of services to District. Consultant acknowledges that this thirty (30) day notice period is acceptable so that the District can attempt to procure the Services from another source.

12.3. **With Cause By District.** District may terminate this Agreement upon giving of written notice of intention to terminate for cause. Cause shall include

- 12.3.1. material violation of this Agreement by the Consultant; or
- 12.3.2. any act by Consultant exposing the District to liability to others for personal injury or property damage; or
- 12.3.3. Consultant is adjudged a bankrupt, Consultant makes a general assignment for the benefit of creditors or a receiver is appointed on account of Consultant's insolvency.

Written notice by District shall contain the reasons for such intention to terminate and unless within three (3) calendar days after that notice the condition or violation shall cease, or satisfactory arrangements for the correction thereof be made, this Agreement shall upon the expiration of the three (3) calendar days cease and terminate. In the event of this termination, the District may secure the required services from another Consultant. If the expense, fees, and/or costs to the District exceeds the cost of providing the service pursuant to this Agreement, the Consultant shall immediately pay the excess expense, fees, and/or costs to the District upon the receipt of the District's notice of these expense, fees, and/or costs. The foregoing provisions are in addition to and not a limitation of any other rights or remedies available to District.

13. **Indemnification.** To the furthest extent permitted by California law, Consultant shall defend, indemnify, and hold free and harmless the District, its agents, representatives, officers, consultants, employees, trustees, and volunteers ("Indemnified Parties") from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity ("Claim") to property or persons, including personal injury and/or death, to the extent that any of the above arise out of, pertain to, or relate to the negligence,



recklessness, errors or omissions, or willful misconduct of Consultant, its officials, officers, employees, subcontractors, consultants, or agents directly or indirectly arising out of, connected with, or resulting from the performance of the Services, the Project, or this Agreement, including without limitation the payment of all consequential damages.

#### 14. Insurance.

14.1. The Consultant shall procure and maintain at all times it performs any portion of the Services the following insurance with minimum limits equal to the amount indicated below.

14.1.1. **Commercial General Liability and Automobile Liability Insurance.**

Commercial General Liability Insurance and Any Auto Automobile Liability Insurance that shall protect the Consultant, the District, and the State from all claims of bodily injury, property damage, personal injury, death, advertising injury, and medical payments arising performing any portion of the Services. (Form CG 0001 and CA 0001, or forms substantially similar, if approved by the District.)

14.1.2. **Workers' Compensation and Employers' Liability Insurance.** Workers'

Compensation Insurance and Employers' Liability Insurance for all of its employees performing any portion of the Services. In accordance with provisions of section 3700 of the California Labor Code, the Consultant shall be required to secure workers' compensation coverage for its employees. If any class of employee or employees engaged in performing any portion of the Services under this Agreement are not protected under the Workers' Compensation Statute, adequate insurance coverage for the protection of any employee(s) not otherwise protected must be obtained before any of those employee(s) commence performing any portion of the Services.

14.1.3. **Professional Liability (Errors and Omissions).** Professional Liability (Errors and Omissions) Insurance as appropriate to the Consultant's profession.

Type of Coverage	Minimum Requirement
<b>Commercial General Liability Insurance</b> , including Bodily Injury, Personal Injury, Property Damage, Advertising Injury, and Medical Payments	
Each Occurrence	\$ 1,000,000
General Aggregate	\$ 1,000,000
<b>Automobile Liability Insurance - Any Auto</b>	
Each Occurrence	\$ 1,000,000
General Aggregate	\$ 1,000,000
<b>Professional Liability</b>	\$ 1,000,000
<b>Workers Compensation</b>	Statutory Limits
<b>Employer's Liability</b>	\$ 1,000,000

14.2. **Proof of Carriage of Insurance.** The Consultant shall not commence performing any portion of the Services until all required insurance has been obtained and certificates indicating the required coverage have been delivered in duplicate to the District and approved by the District. Certificates and insurance policies shall include the following:

14.2.1. A clause stating: "This policy shall not be canceled or reduced in required limits of liability or amounts of insurance until notice has been mailed to the

District, stating date of cancellation or reduction. Date of cancellation or reduction shall not be less than thirty (30) days after date of mailing notice."

14.2.2. Language stating in particular those insured, extent of insurance, location and operation to which insurance applies, expiration date, to whom cancellation and reduction notice will be sent, and length of notice period.

14.2.3. An endorsement stating that the District and the State and their agents, representatives, employees, trustees, officers, consultants, and volunteers are named additional insured under all policies except Workers' Compensation Insurance, Professional Liability, and Employers' Liability Insurance. An endorsement shall also state that Consultant's insurance policies shall be primary to any insurance or self-insurance maintained by District.

14.2.4. All policies except the Professional Liability Policy shall be written on an occurrence form.

14.3. **Acceptability of Insurers.** Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A: VII, unless otherwise acceptable to the District.

15. **Assignment.** The obligations of the Consultant pursuant to this Agreement shall not be assigned by the Consultant.

16. **Compliance with Laws.** Consultant shall observe and comply with all rules and regulations of the governing board of the District and all federal, state, and local laws, ordinances and regulations. Consultant shall give all notices required by any law, ordinance, rule and regulation bearing on conduct of the Work as indicated or specified. If Consultant observes that any of the Work required by this Contract is at variance with any such laws, ordinance, rules or regulations, Consultant shall notify the District, in writing, and, at the sole option of the District, any necessary changes to the scope of the Work shall be made and this Contract shall be appropriately amended in writing, or this Contract shall be terminated effective upon Consultant's receipt of a written termination notice from the District. If Consultant performs any work that is in violation of any laws, ordinances, rules or regulations, without first notifying the District of the violation, Consultant shall bear all costs arising therefrom.

17. **Certificates/Permits/Licenses** Consultant and all Consultant's employees or agents shall secure and maintain in force such certificates, permits and licenses as are required by law in connection with the furnishing of Services pursuant to this Agreement.

18. **Employment with Public Agency.** Consultant, if an employee of another public agency, agrees that Consultant will not receive salary or remuneration, other than vacation pay, as an employee of another public agency for the actual time in which services are actually being performed pursuant to this Agreement.

19. **Anti-Discrimination.** It is the policy of the District that in connection with all work performed under Contracts there be no discrimination against any employee engaged in the work because of race, color, ancestry, national origin, religious creed, physical disability, medical condition, marital status, sexual orientation, gender, or age and therefore the Consultant agrees to comply with applicable Federal and California laws including, but not limited to the California Fair Employment and Housing Act beginning with Government Code Section 12900 and Labor Code Section 1735 and District policy. In addition, the Consultant agrees to require like compliance by all its sub-contractors.

20. **Fingerprinting of Employees** The Fingerprints by Criminal Background Investigation Certification must be completed and attached to this Agreement prior to Consultant's



performing of any portion of the Services

21. **Disabled Veteran Business Enterprises.** Section 17076.11 of the Education Code requires school districts using funds allocated pursuant to the State of California School Facility Program for the construction or modernization of a school building to have a participation goal of at least 3 percent, per year, of the overall dollar amount expended each year by the school district, for disabled veteran business enterprises (DVBE). In accordance therewith, the Consultant must submit, upon request by District, appropriate documentation to the District identifying the steps the Consultant has taken to solicit DVBE participation in conjunction with this Agreement, if applicable.
22. **Local, Small Local and Small Local Resident Business Enterprise Program (L/SL/SLRBE):** There is a twenty percent (20%) minimum participation requirement for all District contracts. Consultant shall comply with the twenty percent (20%) local business participation requirement at a rate of ten percent (10%) local and 10% small local and/or small local resident business participation. The requirement may be wholly satisfied by a City of Oakland certified business. Business entities must be certified by the City of Oakland in order to earn credit toward meeting the twenty percent participation requirement. Please refer to the District's S/SL/SLRBE Policy; a copy can be obtained for the OUSD website: [www.ousd.k12.ca.us](http://www.ousd.k12.ca.us)
23. **No Rights In Third Parties.** This Agreement does not create any rights in, or inure to the benefit of, any third party except as expressly provided herein.
24. **District's Evaluation of Consultant and Consultant's Employees and/or Subcontractors.** The District may evaluate the Consultant in any way the District is entitled pursuant to applicable law. The District's evaluation may include, without limitation:
  - 24.1. Requesting that District employee(s) evaluate the Consultant and the Consultant's employees and subcontractors and each of their performance.
  - 24.2. Announced and unannounced observance of Consultant, Consultant's employee(s), and/or subcontractor(s).
25. **Limitation of District Liability.** Other than as provided in this Agreement, District's financial obligations under this Agreement shall be limited to the payment of the compensation provided in this Agreement. Notwithstanding any other provision of this Agreement, in no event, shall District be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits or revenue, arising out of or in connection with this Agreement for the services performed in connection with this Agreement.
26. **Confidentiality.** The Consultant and all Consultant's agents, personnel, employee(s), and/or subcontractor(s) shall maintain the confidentiality of all information received in the course of performing the Services. Consultant understands that student records are confidential and agrees to comply with all state and federal laws concerning the maintenance and disclosure of student records. This requirement to maintain confidentiality shall extend beyond the termination of this Agreement.
27. **Notice.** Any notice required or permitted to be given under this Agreement shall be deemed to have been given, served, and received if given in writing and either personally delivered or deposited in the United States mail, registered or certified mail, postage prepaid, return receipt required, or sent by overnight delivery service, or facsimile transmission, addressed as follows:

**District:**  
Oakland Unified School District  
955 High Street  
Oakland, CA 94601  
ATTN: **Tadashi Nakadegawa,**  
**Director of Facilities**

**Consultant:**  
Corey T. Dore  
Geosphere Consultants, Inc.  
534-23<sup>rd</sup> Avenue  
Oakland, CA 94606

Any notice personally given or sent by facsimile transmission shall be effective upon receipt. Any notice sent by overnight delivery service shall be effective the business day next following delivery thereof to the overnight delivery service. Any notice given by mail shall be effective three (3) days after deposit in the United States mail.

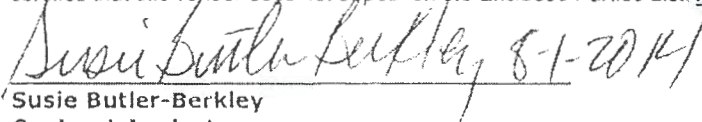
- 28. Integration/Entire Agreement of Parties.** This Agreement constitutes the entire agreement between the Parties and supersedes all prior discussions, negotiations, and agreements, whether oral or written. This Agreement may be amended or modified only by a written instrument executed by both Parties.
- 29. California Law.** This Agreement shall be governed by and the rights, duties and obligations of the Parties shall be determined and enforced in accordance with the laws of the State of California. The Parties further agree that any action or proceeding brought to enforce the terms and conditions of this Agreement shall be maintained in the county in which the District's administrative offices are located.
- 30. Waiver.** The waiver by either party of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant, condition, or any subsequent breach of the same or any other term, covenant, or condition herein contained.
- 31. Severability.** If any term, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force and effect, and shall not be affected, impaired or invalidated in any way.
- 32. Authority to Bind Parties.** Neither party in the performance of any and all duties under this Agreement, except as otherwise provided in this Agreement, has any authority to bind the other to any agreements or undertakings.
- 33. Attorney Fees/Costs.** Should litigation be necessary to enforce any terms or provisions of this Agreement, then each party shall bear its own litigation and collection expenses, witness fees, court costs and attorney's fees.
- 34. Captions and Interpretations.** Paragraph headings in this Agreement are used solely for convenience, and shall be wholly disregarded in the construction of this Agreement. No provision of this Agreement shall be interpreted for or against a party because that party or its legal representative drafted such provision, and this Agreement shall be construed as if jointly prepared by the Parties.
- 35. Calculation of Time.** For the purposes of this Agreement, "days" refers to calendar days unless otherwise specified.
- 36. Signature Authority.** Each party has the full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each Party has been properly authorized and empowered to enter into this Agreement.
- 37. Counterparts.** This Agreement and all amendments and supplements to it may be executed



in counterparts, and all counterparts together shall be construed as one document.

**38. Incorporation of Recitals and Exhibits.** The Recitals and each exhibit attached hereto are hereby incorporated herein by reference.

**Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion:** The District certifies to the best of its knowledge and belief, that it and its officials: Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency according to Federal Acquisition Regulation Subpart 9.4, and by signing this contract, certifies that this vendor does not appear on the Excluded Parties List, <https://www.sam.gov/portal/public/SAM>

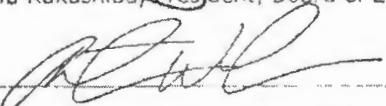
  
Susie Butler-Berkley  
Contract Analyst

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date indicated below.

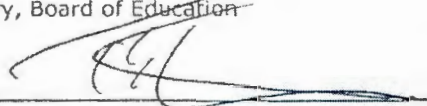
**OAKLAND UNIFIED SCHOOL DISTRICT**

  
\_\_\_\_\_  
David Kakashida, President, Board of Education

Date: 8-28-14

  
\_\_\_\_\_  
Antwan Wilson, Superintendent and  
Secretary, Board of Education

Date: 8-28-14

  
\_\_\_\_\_  
Timothy White, Associate Superintendent Facilities  
Planning and Management

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

**GEOSPHERE CONSULTANTS, INC.**

  
\_\_\_\_\_  
Eric J. Swenson, President

July 30, 2014

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Catherine Boskoff, Facilities Counsel

Date: 8-7-14

File ID Number: 14-1712  
Introduction Date: 8-27-14  
Enactment Number: 14-1611  
Enactment Date: 8-27-14  
By:



Information regarding Consultant:

Consultant: Geosphere Consultants, Inc.  
Oakland Business Tax Certificate  
License No.: #28045542  
Address: 2001 Crow Canyon Road, Suite 210  
San Ramon, CA 94583-5368  
Telephone: (925) 314-7180  
Facsimile: (925) 855-7140  
E-Mail: ejs@geosphereinc.net

Type of Business Entity:

☐ Individual  
☐ Sole Proprietorship  
☐ Partnership  
☐ Limited Partnership  
☒ Corporation, State: California  
☐ Limited Liability Company  
☐ Other: \_\_\_\_\_

FEIN #26 1376494:  
Employer Identification and/or Social  
Security Number

NOTE: Title 26, Code of Federal Regulations, sections 6041 and 6209 require non-corporate recipients of \$600.00 or more to furnish their taxpayer identification number to the payer. The regulations also provide that a penalty may be imposed for failure to furnish the taxpayer identification number. In order to comply with these regulations, the District requires your federal tax identification number or Social Security number, whichever is applicable.

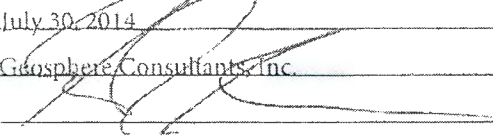
**WORKERS' COMPENSATION CERTIFICATION**

Labor Code section 3700 in relevant part provides:

Every employer except the State shall secure the payment of compensation in one or more of the following ways:

- a. By being insured against liability to pay compensation by one or more insurers duly authorized to write compensation insurance in this state.
- b. By securing from the Director of Industrial Relations a certificate of consent to self-insure, which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to his employees.

I am aware of the provisions of section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the Work of this Contract.

Date: July 30, 2014  
Proper Name of Consultant: Geosphere Consultants, Inc.  
Signature:   
Print Name: Eric J. Swenson  
Title: President

(In accordance with Article 5 - commencing at section 1860, chapter 1, part 7, division 2 of the Labor Code, the above certificate must be signed and filed with the awarding body prior to performing any Work under this Contract.)

**CRIMINAL BACKGROUND INVESTIGATION CERTIFICATION**

The undersigned does hereby certify to the governing board of the District as follows:

That I am a representative of the Consultant currently under contract ("Contract") with the District; that I am familiar with the facts herein certified, and am authorized and qualified to execute this certificate on behalf of Consultant.

Consultant certifies that it has taken at least one of the following actions with respect to the construction Project that is the subject of the Contract (check all that apply):

\_\_\_\_\_ The Consultant has complied with the fingerprinting requirements of Education Code section 45125.1 with respect to all Consultant's employees and all of its sub-consultants' employees who may have contact with District pupils in the course of providing services pursuant to the Contract, and the California Department of Justice has determined that none of those employees has been convicted of a felony, as that term is defined in Education Code section 45122. 1. A complete and accurate list of Consultant's employees and of all of its sub-consultants' employees who may come in contact with District pupils during the course and scope of the Contract is attached hereto; and/or

\_\_\_\_\_ Pursuant to Education Code section 45125.2, Consultant has installed or will install, prior to commencement of Work, a physical barrier at the Work Site, that will limit contact between Consultant's employees and District pupils at all times; and/or

\_\_\_\_\_ Pursuant to Education Code section 45125.2, Consultant certifies that all employees will be under the continual supervision of, and monitored by, an employee of the Consultant who the California Department of Justice has ascertained has not been convicted of a violent or serious felony. The name and title of the employee who will be supervising Consultant's employees and its sub-consultants' employees is

Name: \_\_\_\_\_

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

☒ The Work on the Contract is at an unoccupied school site and no employee and/or sub-consultant or supplier of any tier of Contract shall come in contact with the District pupils.

Consultant's responsibility for background clearance extends to all of its employees, Sub-consultants, and employees of Sub-consultants coming into contact with District pupils regardless of whether they are designated as employees or acting as Independent Consultants of the Consultant.

Date: July 30, 2014

Proper Name of Consultant: Geosphere Consultants, Inc.

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

Print Name: Eric J. Swenson

Title: President



### DRUG/SMOKE-FREE WORKPLACE CERTIFICATION

The District and all District projects are "drug-free" and "smoke-free" workplaces and, as such, require that the Project Manager be subject to the requirements mandated by California Government Code Section 8340, et seq., when on the Project site. The Drug-Free Workplace Act of 1990 requires that every person or entity awarded a contract or grant for the procurement of any property or service from a State agency certify that it will provide a drug-free workplace and, in that respect, comply with certain obligations set forth in that Act. In addition, the Drug-Free Workplace Act provides that each contract or grant awarded by the State agency may be subject to suspension of payments or termination for failure to comply with such Act. It is the sole responsibility of the Project Manager to police and oversee its personnel on the Project. If the Project Manager fails to comply with the Drug-Free Workplace Act or the smoke-free workplace policy of the District, the District may enforce its lawful rights to suspend pending or subsequent payments and to terminate this Agreement and may pursue all other rights and remedies it may have against the Project Manager at law and/or in equity.

Date:

July 30, 2014

Proper Name of Consultant: Geosphere Consultants, Inc.

Signature:

Print Name:

Eric J. Swenson

Title:

President

EXHIBIT "A"  
DESCRIPTION OF SERVICES TO BE PERFORMED BY CONSULTANT

Consultant's entire Proposal is not made part of this Agreement.

(PLEASE SEE THE ATTACHED PROPOSAL FROM Geosphere.)



Geosphere Consultants, Inc.

AN ETS COMPANY

Geotechnical Engineering - Engineering Geology  
Environmental Management - Water Resources

## EXHIBIT A

July 8, 2014

Revised July 21, 2014

Oakland Unified School District  
955 High Street  
Oakland, California 94601

Attention: Mr. Eric Scheuermann, Project Manager

Subject: *Proposal for Geotechnical Engineering Study, Limited Analytical Sampling,  
and Geologic Hazards Report  
James Madison Middle School Expansion  
400 Capistrano Drive, Oakland, California 94603  
Geosphere Proposal No. 91-03352-A, B*

Dear Mr. Scheuermann:

Geosphere Consultants, Inc. (Geosphere), the geotechnical division of Consolidated Engineering Laboratories, has prepared this proposal at your request to provide geotechnical services for the proposed expansion of James Madison Middle School in Oakland, California. This proposal is based on information provided by you, as well as the conceptual plans by the project architect, Byrens Kim Design Works, also provided by you.

We understand that the District proposes to construct a new classroom building totaling approximately 22,000 square feet in building footprint. At the time this proposal was prepared, two possible configurations were being considered at a single site on the eastern side of the school property located south of the existing paved parking lot, east of the main school building, and west of the baseball diamond. The proposed site is currently occupied by a paved play yard.

### A - GEOTECHNICAL ENGINEERING/ GEOLOGY & GEOLOGIC HAZARDS STUDY

The Geotechnical Field Study will meet Title 24 requirements, including the most recent Note 48 requirements of the California Geological Survey (CGS), as enforced by the Division of the State Architect (DSA). These requirements include drilling a minimum of two borings representing each structure and at least one boring for every 5,000 sf of building footprint. Based on satisfying the CGS requirements, we judge that five borings will be required to cover the 22,000 square feet of building footprint. In addition, since the school site is located within a State of California Seismic Hazard Zone for required liquefaction hazard evaluation, one of the borings will be drilled to a depth of 50 feet. The project site was not found to be located within an Aquist-Priolo Earthquake Fault zone. In addition, we will perform a limited assessment of the near surface soils for potential contaminants. The services to be provided for our study include the following:

#### Preliminary Field Activities

- 1) Review available geotechnical and geologic literature for the site.
- 2) Coordinate access with District personnel.
- 3) Meet with school and District personnel at the site.
- 4) Mark the locations of the subsurface explorations at the site and contact Underground Service Alert.
- 5) Utilize an underground utility locating subcontractor to better define the location of existing buried utilities.
- 6) Obtain an Alameda County Public Works Agency drilling permit.
- 7) Perform a geologic site reconnaissance by a California-registered Certified Engineering Geologist (CEG).





#### Field Exploration

- 1) The field exploration program will consist of drilling five borings at the site. The borings will range in depth between 20 and 50 feet.
- 2) Sampling will occur in roughly five-foot intervals in the borings, with more frequent sampling within the uppermost five feet. The soil will be sampled with a Modified California sampler fitted with six-inch long inner brass liners and a Standard Penetration Test (SPT) split spoon sampler. The relatively undisturbed liner samples will be sealed and the SPT samples will be placed in plastic bags. The samplers will be driven 18 inches with a 140-pound hammer with an approximate 30-inch drop. Blowcounts for the last foot will be logged as the penetration resistance. The blowcounts from the SPT sampler will be utilized to determine subsurface soil characteristics for correlation with USCS soil types. Bulk soil samples may be obtained from the upper few feet of auger cuttings in the borings.
- 3) During the sampling, we will also obtain samples representative of the upper five-feet of soil within the possible construction area. We will obtain a composited sample from all of the borings from a depth of one to two feet and a composited sample from three to five feet. These samples will be tested for potential contamination as detailed in our laboratory testing section. The intent of this testing is to screen soils which may be off-hauled during construction. This scope of work is not an all-encompassing study of potential contaminants nor is it a study of groundwater in the area. If there is a known concern regarding contamination, we should be advised so we can make any needed changes to this scope of work.
- 4) The borings will be backfilled with cement grout under the supervision of an Alameda County Inspector. Per the District's request, the excess drill cuttings may be temporarily stored in 55-gallon drums but will subsequently be off hauled from the site.

#### Laboratory Testing

- 1) Several in-situ moisture and density tests will be performed on selected brass tube liner samples.
- 2) Up to three Sieve Analysis tests will be performed to help determine subsurface soil characteristics and help evaluate liquefaction susceptibility, if applicable.
- 3) One to two Unconfined Compression tests or Direct Shear tests will be performed to measure soil strength parameters.
- 4) One or two Atterberg Limits tests will be performed to measure the plasticity and expansive potential of the near surface soil, assuming cohesive materials are encountered.
- 5) One R-value test will be conducted to derive information needed for flexible pavement design.
- 6) One set of Corrosion tests will be performed as required by the 2013 California Building Code (CBC) to help evaluate the corrosive potential of the subsurface soils on buried concrete and metal structures.
- 7) The two composited samples will be sealed, labeled and stored on ice. The samples will be transported to a California Licensed Analytical Laboratory and proper Chain-of-Custody procedures will be followed. The soil samples will be tested for the presence of CAM 17 Metals (EPA 6010B), TPH gasoline with BTEX and MTBE (EPA 8260), TPH diesel and motor oil (EPA 8015), PCBs and Pesticides (EPA 8081 and 8082), Volatile Organic Compounds (EPA 8260), Semi-Volatile Organic Compounds (EPA 8270). The standard turnaround time for testing is five days upon receipt of the samples.

#### Geology and Geologic Hazards Study

In accordance with the requirements of Title 24 and the 2013 CBC, a Geologic Hazards Study is also required. This is dictated by Note 48 of the California Geologic Survey. The Geology and Geologic Hazards Study would include site plans, geology maps, soil series maps, geologic cross-sections, a fault map, a liquefaction susceptibility map, and a flood map. A California-registered Certified Engineering Geologist will perform a site reconnaissance of the property. Pertinent geologic maps, literature, and aerial photographs will also be reviewed. The local and regional geology and





geologic hazards will be discussed. Based on our understanding of the size and type of the buildings, as well as the anticipated subsurface materials, we do not anticipate that a site-specific ground motion response analysis will be required for this project, except if excessive liquefaction settlement (liquefaction settlement exceeding one inch) is found to exist and CBC requirements as a result dictate, or the structural engineer requests that a site-specific response analysis be performed.

#### Report Preparation

- 1) A Geotechnical Engineering/ Geologic Hazards Study report will be prepared and will contain the aforementioned Geology and Geologic Hazards Study, plus a site plan showing boring locations, boring logs, subsurface cross-sections, and a summary of the site soil and groundwater conditions. 2013 CBC seismic design parameters, a preliminary corrosion evaluation, and other pertinent information will be provided. A liquefaction analysis will be conducted if liquefaction-susceptible subsurface materials are encountered.
- 2) Geotechnical recommendations will be provided for:
  - Site clearing, preparation, grading, and drainage;
  - Recommended or allowable fill materials;
  - Foundations, including allowable bearing capacities, dimensions and embedment;
  - Interior floor slabs and slabs-on-grade;
  - Exterior concrete hardscape;
  - Temporary cut slope excavation and trench slope stability;
  - New site pavements; and
  - Underground utility trench backfilling.
- 3) The analytical testing results will be presented with a comparison to Environmental Screening Levels developed by the San Francisco Regional Water Quality Control Board. Waste profiling or other environmental consulting services are not included in this proposal.

#### **B - CONSULTATION DURING DESIGN**

Consultation during design may be required to provide information to other engineers or architects. This consultation is typically minor and may consist of supplemental geotechnical recommendations for specific project elements not identified by the project team at the time the geotechnical study was performed; ideas for value engineering from a geotechnical engineering standpoint; or plan review services and letter preparation by a Principal Engineer or Geologist, or other engineering staff.

#### **Summary of Fees**

The following table provides our estimated breakdown of the fees for this project:

Scope Item	Amount	Fee Basis
<b><u>Phase A - Geotechnical Engineering Study and Geologic Hazards Report</u></b>		
Permitting and Planning	\$ 800.00	Lump Sum
Alameda County Public Works Agency Permit/Inspection	\$ 300.00	Lump Sum
Utility Location-USA and Private Locating Contractor	\$ 1,000.00	Lump Sum
Drilling with Engineer; Off Site Soil Disposal	\$ 5,800.00	Lump Sum
Lab Testing	\$ 1,800.00	Lump Sum
Analytical Sampling and Testing (5 day turnaround time)	\$ 1,800.00	Lump Sum
Engineering Analysis & Geologic Hazard Evaluation	\$ 1,400.00	Lump Sum
Report Preparation	\$ 2,400.00	Lump Sum
<b>Total - Required Geologic Report and Geotechnical Report</b>	<b>\$15,300.00</b>	<b>Lump Sum</b>



Geosphere Consultants, Inc.

Geosphere Proposal No. 91-03352-A, B

July 8, 2014

Revised: July 21, 2014

Phase B services (i.e., response to CGS comments and consultation fees during the design of the project) are not included in our aforementioned cost budget, and would be provided on a Time and Materials basis. Assuming that a site-specific response analysis is not required for the project by either CGS or the project structural engineer, we suggest an initial budget of \$1,500.00 be allocated for Phase B services. Site-specific ground motion response analyses can cost in the range of \$2,000 to \$5,000, depending on required complexity, and are not included in the aforementioned budget. Construction-phase services are dependent on the project's final design as well as the construction schedule and can be provided for a budget to be determined and authorized prior to the start of construction.

#### Schedule

The field exploration program is anticipated to take a total of one to one and a half days of drilling and the base estimate above is based on the assumption that the drilling can take place on a summer weekday. We would coordinate with District and school personnel so that disruption to daily summer school operations, if any, would be minimized. Laboratory testing will take approximately one to two weeks to complete following the fieldwork.

The report can be issued within about four to five weeks after the drilling is completed. If needed, prior to completion of the report, specific design recommendations can be transmitted to the project design consultants. Adjustments to our schedule are possible if needed to meet the overall project schedule.

If this proposal is acceptable, we anticipate you would provide us your District authorization to perform our services. We greatly appreciate the opportunity to provide this proposal to the Oakland Unified School District.

If you have any questions regarding this proposal, please contact Mr. Dare at [cdare@geosphereinc.net](mailto:cdare@geosphereinc.net) or 925-580-7343.

Sincerely,  
GEOSPHERE CONSULTANTS, INC.

A handwritten signature in cursive script, reading "Corey T. Dare".

Corey T. Dare, PE, GE  
Principal Geotechnical Engineer

A handwritten signature in cursive script, reading "Eric J. Swenson".

Eric J. Swenson, PG, GE, CEG  
President and Principal Engineering Geologist

Attachments: Fee Schedule

Distribution: PDF to Addressee (510/535-7041); [eric.scheuermann@ousd.k12.ca.us](mailto:eric.scheuermann@ousd.k12.ca.us)

CTD/EJS: pmf

R:\Proposals\Proposals 3300-3399\91-03352-A OUSD - Madison MS Expansion\91-03352-A GES & GHR Proposal-Revised.doc





Geosphere Consultants, Inc

## FEE SCHEDULE

### PROFESSIONAL CONSULTING AND CONSTRUCTION OBSERVATION AND TESTING SERVICES

Effective: Through December 31, 2014

Task Code	PERSONNEL	UNIT RATE	UNIT
X1401/X2000	Principal Engineer/Geologist	\$ 200.00	hour
X1500/X2100	Senior Engineer/Geologist	\$ 170.00	hour
X1600/X2200	Project Engineer/Geologist	\$ 150.00	hour
X1700/X2300	Staff Engineer/Geologist	\$ 130.00	hour
X1900/X2500	Assistant Engineer	\$ 95.00	hour
X3200	Technician Supervisor	\$ 90.00	hour
X3300	Field Technician	\$ 85.00	hour
X2900	Laboratory Technician	\$ 70.00	hour
X3000	Assistant Technician/Inspector	\$ 70.00	hour
X3600	Administrative	\$ 85.00	hour
	Drafting	\$ 80.00	hour
	Depositions, minimum 4 hours	\$ 300.00	hour
	Expert Witness, minimum 4 hours	\$ 400.00	hour
	Nuclear Gauge	\$ 5.00	hour
	Vehicle	\$ 5.00	hour
SOIL AND BASE MATERIALS		UNIT RATE	UNIT
Moisture and Density Relationships			
02019	Compaction, Standard Proctor, ASTM D698	\$ 265.00	each
02018	Compaction, Modified Proctor, ASTM D1557	\$ 300.00	each
02016	Compaction, Checkpoint, ASTM D1557	\$ 150.00	each
02014/02015	Compaction, California Impact, CT216	\$ 300.00	each
02046/02093	Moisture/Density, Sample Tubes, ASTM D2216/D2937	\$ 30.00	each
02088	Moisture Content, Bulk Sample, ASTM D2216	\$ 20.00	each
Particle Size Analysis			
02074	Dry Sieve to #200, ASTM D422/CT117	\$ 180.00	each
	Dry Sieve Analysis/Hydrometer, ASTM D422	\$ 268.00	each
	Hydrometer, ASTM D422	\$ 168.00	each
02076	Wet Sieve Analysis to #200, ASTM D1140	\$ 65.00	each
02075	Sieve Analysis, Bulk Sample Gradation, ASTM C136/CT202	\$ 180.00	each
Soil Characteristics			
02040	Atterberg Limits (Plasticity Index), ASTM D4318 / CT204	\$ 220.00	each
02077	Soil Classification, ASTM D2487	\$ 350.00	each
02081	Specific Gravity, D854	\$ 110.00	each
02058	Permeability of Granular Soils (Constant Head) ASTM D2434	\$ 350.00	each
02060	Permeability, Flexible Wall, Cohesive Soil, ASTM D5084	Quotation upon request	
02061	Permeability, Rigid Piston Driven, Cohesive Soil, ASTM 5856	Quotation upon request	
Volume Change			
02047	Consolidation, Method A Constant Load, 7 load increments, ASTM D2435	\$ 400.00	each
02048	Consolidation, Method A Constant Load, per load increment, ASTM D2435	\$ 60.00	each
02049	Consolidation, Method B Timed per load increment, ASTM D2435	\$ 500.00	each
02051	Consolidation/Swell, Cohesive Soil, per point, ASTM D4546, Methods A and B	\$ 300.00	each
02052	Consolidation/Swell, Cohesive Soil, per point, ASTM D4546, Method C	\$ 300.00	each
02013	Collapse Potential, ASTM D5333	\$ 180.00	each
02037	Expansion Index Test (UBC 29-2)	\$ 300.00	each
02050	Expansion, Shrinkage, and Uplift Pressure, ASTM D3877	\$ 400.00	each



Geosphere Consultants, Inc.

## FEE SCHEDULE

### PROFESSIONAL CONSULTING AND CONSTRUCTION OBSERVATION AND TESTING SERVICES

Effective: Through December 31, 2014

Soil Strength			
02027	Direct Shear, 3 points, Unconsolidated-Undrained, Q-test, ASTM D3080	\$ 350.00	each
02031	Direct Shear, additional points, Unconsolidated-Undrained, Q-test	\$ 100.00	each
02028	Direct Shear, 3 points, Consolidated-Undrained, R-Test	\$ 600.00	each
02029	Direct Shear, 3 points, Consolidated-Drained, ASTM D3080	\$ 1,000.00	each
02030	Direct Shear, 3 points, Residual, ASTM D6467	\$ 800.00	each
02034	Direct Shear, per point, Residual, Each Additional Cycle, ASTM D6467	\$ 350.00	each
02083	Unconfined Compressive Strength, ASTM D2166	\$ 120.00	each
02084	Unconfined Compressive Strength (lime or cement treated), CT373	\$ 400.00	each
	Unconfined Compression, Field Prepared CTB, per point ASTM D558, D1632, D1633	\$ 180.00	each
02003/02004	Triaxial	Quotation upon request	
Subgrade Soil and Baserock			
02006	California Bearing Ratio, 1 point, ASTM D1883	\$ 200.00	each
02007	California Bearing Ratio, 3 points (specified moisture), ASTM D1883	\$ 600.00	each
02008	California Bearing Ratio, 3 points (96 hour soak), ASTM D1883	\$ 400.00	each
02085/02088	"R" Value (no additives), ASTM D2844 / CT301	\$ 300.00	each
02087	"R" Value (lime, cement, other additives) CT301	\$ 360.00	each
02010	Compression, Cement Treated Base (Including Preparation), Cal 312	\$ 170.00	each
02071/02072	Sand Equivalent, ASTM D2419 / CT217	\$ 195.00	each
02214	Durability, ASTM D3744	\$ 120.00	each
Corrosivity			
02024	Corrosivity, Water Soluble Sulfate, ASTM D4327	\$ 100.00	each
02082	pH, ASTM 4972	\$ 40.00	each
02099/02070	Lab Resistivity	\$ 90.00	each
02022	Corrosivity (pH, resistivity, chlorides, sulfate, sulfide) D4972, G57, D4327, D4658M	\$ 300.00	each
02023	Corrosivity, Caltrans (pH, chlorides, sulfate, resistivity) CT 643, 417, 422	\$ 300.00	each
AGGREGATES		UNIT RATE*	UNIT
Sieve Analysis			
02074	Bulk Sample Gradation (coarse or fine), ASTM C 136	\$ 160.00	each
02238	Material Finer than #200 Sieve, ASTM C 117	\$ 70.00	each
02075	Bulk Sample Gradation, Cal 202	\$ 180.00	each
02240	Specific Gravity (coarse), ASTM C 127/Cal 206	\$ 90.00	each
02241	Specific Gravity (fine), ASTM C 128/Cal 207	\$ 110.00	each
02205	Absorption, Sand or Gravel, ASTM C 127/ASTM C 140	\$ 80.00	each
AGGREGATES (continued)		UNIT RATE*	UNIT
02226	Organic Impurities in Concrete Sand, ASTM C 88 or ASTM C40	\$ 75.00	each
02200/02204	L.A. Rattler, ASTM C 131 or C 535/Cal 211	\$ 300.00	each
02244	Sulfate Soundness (per sieve), ASTM C 88	\$ 140.00	each
02246	Unit Weight of Aggregates, ASTM C 29	\$ 85.00	each
07009	Hardness, ASTM D 1865	\$ 120.00	each
02212	Crushed Particles, Cal 205	\$ 160.00	each
02012	Cleaness Value, Cal 227 or Cal 217	\$ 120.00	each
02214/02215	Durability ASTM D 3744/Cal 229	\$ 120.00	each
02224	Moisture Content of Aggregate ASTM C 29	\$ 70.00	each



Geosphere Consultants, Inc

## FEE SCHEDULE

### PROFESSIONAL CONSULTING AND CONSTRUCTION OBSERVATION AND TESTING SERVICES

Effective: Through December 31, 2014

ASPHALTIC CEMENT		UNIT RATE	UNIT
02374	Penetration of Bituminous Materials at 77°F, ASTM D5/AASHTO T49	\$ 71.00	each
02376	Penetration of Bituminous Materials at 32°F to 158°F, ASTM D 5/AASHTO T49	\$ 105.00	each
02380	Kinematic Viscosity of Asphalt, ASTM D 2170/AASHTO T201	\$ 170.00	each
02300	Absolute Viscosity of Asphalt, ASTM D2170/AASHTO T201/ASTM D2171	\$ 170.00	each
02360	Viscosity (Asphalt Institute Method) Kinematic ASTM D2170	\$ 170.00	each
02380	Rolling Thin Film Test, ASTM 2872/Cal 346/AASHTO T240	\$ 180.00	each
02338	Residue by Evaporation, ASTM D244/AASHTO T59	\$ 95.00	each
	Extraction and Recovery, ASTM D2172/ASTM D 1856	\$ 646.00	each
MISCELLANEOUS GEOTECHNICAL CHARGES		UNIT RATE	UNIT
All Other Direct Project Expenses (such as contract drilling and backhoe services, special equipment rental, commercial travel, protective clothing, shipping, etc.)		Cost + 15%	
BASIS OF CHARGES		UNIT RATE	UNIT
Work Over 8 Hours per Day, or on Saturdays		Time and One-Half	
Work Over 12 Hours		Double Time	
Work on Sundays/Holidays		Double Time	
Swing or Graveyard Shift Premium		\$ 8.00	hour
Work from 0 to 4 Hours (technician services only)		4-hour Minimum Billing	
Work from 4 to 8 Hours (technician services only)		8-hour Minimum Billing	
9U	Show-Up Time	2-hour Minimum Billing	
21022	Sample Pick-Up	\$ 80.00	hour
21033	Trip Charge	\$ 80.00	trip
Laboratory Testing - Rush Fee		Add 50% to Testing Cost	
Reimbursables		Cost + 15%	
QA/QC Plan Written Procedures		Quotation on Request	
Travel Time (Portal to Portal)		Basic Hourly Rate	
Mileage		\$ 0.55	mile
Per-diem, Including Lodging		\$ 84.00	day

The rates herein will be in effect through December 31, 2014. Thereafter, the unit rates are subject to an increase of five percent (5%) per year to mitigate the annual operating cost increases.



ENDORSEMENT

This endorsement, effective 07/01/2014 forms a part of

policy No. 3500812 issued to Geosphere Consultants Inc

by National Union Fire Ins. Co

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

INSURANCE PRIMARY AS TO CERTAIN ADDITIONAL INSURED

*This endorsement modifies insurance provided under the following:*

BUSINESS AUTO COVERAGE FORM

Section IV - Business Auto Conditions, B., General Conditions, 5., Other Insurance, c., is amended by the addition of the following sentence:

The insurance afforded under this policy to an additional insured will apply as primary insurance for such additional insured where so required under an agreement executed prior to the date of accident. We will not ask any insurer that has issued other insurance to such additional insured to contribute to the settlement of loss arising out of such accident.

All other terms and conditions remain unchanged.

*Ellen Begun*

Authorized Representative or  
Countersignature (in States Where  
Applicable)

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

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

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

This endorsement, effective 07/01/2014

forms a part of Policy No. 036332881

By National Union Fire Ins. Co.

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

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

Schedule

Any party requesting this Endorsement, as per written contract with the named insured

## INDEPENDENT CONSULTANT AGREEMENT ROUTING FORM

Project Information			
Project Name	Madison MS Expansion-New Construction	Site	215

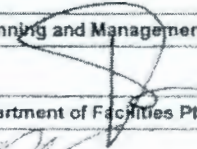

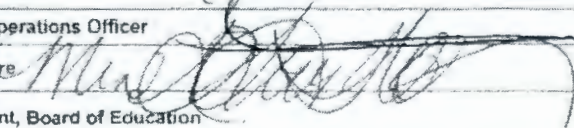
Basic Directions	
Services cannot be provided until the contract is fully approved and a Purchase Order has been issued.	
Attachment Checklist	<input type="checkbox"/> Proof of general liability insurance, including certificates and endorsements, if contract is over \$15,000 <input type="checkbox"/> Workers compensation insurance certification, unless vendor is a sole provider

Contractor Information							
Contractor Name	Geosphere Consultants, Inc.	Agency's Contact	Corey T. Dare				
OUSD Vendor ID #	1005071	Title	Project Manager				
Street Address	534-23 <sup>rd</sup> Avenue	City	Oakland	State	CA	Zip	94606
Telephone	510-436-7626	Policy Expires	7-1-2015				
Contractor History	Previously been an OUSD contractor? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		Worked as an OUSD employee? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				
OUSD Project #	13124						

Term			
Date Work Will Begin	8-27-2014	Date Work Will End By <small>(not more than 5 years from start date)</small>	8-27-2016

Compensation			
Total Contract Amount	\$	Total Contract Not To Exceed	\$15,300.00
Pay Rate Per Hour (If Hourly)	\$	If Amendment, Changed Amount	\$
Other Expenses		Requisition Number	

Budget Information				
<i>If you are planning to multi-fund a contract using LEP funds, please contact the State and Federal Office before completing requisition.</i>				
Resource #	Funding Source	Org Key	Object Code	Amount
9350	Measure J, Fund 21	2159905820	6252	\$15,300.00

Approval and Routing (in order of approval steps)				
<small>Services cannot be provided before the contract is fully approved and a Purchase Order is issued. Signing this document affirms that to your knowledge services were not provided before a PO was issued.</small>				
1.	Division Head Director, Facilities Planning and Management	Phone	510-535-7038	Fax 510-535-7082
	Signature 	Date Approved	8/1/14	
2.	General Counsel, Department of Facilities Planning and Management			
	Signature 	Date Approved	8-7-14	
	Associate Superintendent, Facilities Planning and Management			
3.	Signature 	Date Approved	8/14/14	
	Chief Operations Officer			
4.	Signature 	Date Approved	8/19/14	
	President, Board of Education			
5.	Signature	Date Approved		





OAKLAND UNIFIED  
SCHOOL DISTRICT

TR 5

## AMENDMENT PROFESSIONAL SERVICES ROUTING FORM

### Project Information

Project Name	Madison MS Expansion-New Construction	Site	215
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### Basic Directions

Services cannot be provided until the contract is fully approved and a Purchase Order has been issued.

Attachment Checklist	<input type="checkbox"/> Proof of general liability insurance, including certificates and endorsements, if contract is over \$15,000 <input type="checkbox"/> Workers compensation insurance certification, unless vendor is a sole provider
----------------------	---

### Contractor Information

Contractor Name	Geosphere Consultants, Inc.	Agency's Contact	Corey T. Dare				
OUSD Vendor ID #	1005071	Title	Project Manager				
Street Address	534-23 <sup>rd</sup> Avenue	City	Oakland	State	CA	Zip	94606
Telephone	510-436-7626	Policy Expires	7-1-2015				
Contractor History	Previously been an OUSD contractor? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Worked as an OUSD employee? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No					
OUSD Project #	13124						

### Term

Date Work Will Begin	8-27-2014	Date Work Will End By (not more than 5 years from start date)	8-27-2016
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### Compensation

Total Contract Amount	\$	Total Contract Not To Exceed	\$19,300.00
Pay Rate Per Hour (If Hourly)	\$	If Amendment, Changed Amount	\$ 4,000.00
Other Expenses		Requisition Number	

### Budget Information

If you are planning to multi-fund a contract using LEP funds, please contact the State and Federal Office before completing requisition.

Resource #	Funding Source	Org Key	Object Code	Amount
9350	Measure J, Fund 21	2159905820	6252	\$4,000.00

### Approval and Routing (in order of approval steps)

Services cannot be provided before the contract is fully approved and a Purchase Order is issued. Signing this document affirms that to your knowledge services were not provided before a PO was issued.

	Division Head	Phone	510-535-7038	Fax	510-535-7082
1.	Director, Facilities Planning and Management	Signature	Date Approved	10/15/14	
2.	General Counsel, Department of Facilities Planning and Management	Signature	Date Approved	10-20-14	
	Deputy Chief, Facilities Planning and Management	Signature	Date Approved	10/15/14	
3.	Chief Operations Officer	Signature	Date Approved	10/22/14	
4.	President, Board of Education	Signature	Date Approved		
5.	Signature	Date Approved			





## AMENDMENT PROFESSIONAL SERVICES ROUTING FORM

### Project Information

Project Name	Madison MS Expansion-New Construction	Site	215
--------------	---------------------------------------	------	-----

### Basic Directions

Services cannot be provided until the contract is fully approved and a Purchase Order has been issued.

Attachment Checklist	<input type="checkbox"/> Proof of general liability insurance, including certificates and endorsements, if contract is over \$15,000 <input type="checkbox"/> Workers compensation insurance certification, unless vendor is a sole provider
----------------------	---

### Contractor Information

Contractor Name	Geosphere Consultants, Inc.	Agency's Contact	Corey T. Dare				
OUSD Vendor ID #	I005071	Title	Project Manager				
Street Address	534-23 <sup>rd</sup> Avenue	City	Oakland	State	CA	Zip	94606
Telephone	510-436-7626	Policy Expires					
Contractor History	Previously been an OUSD contractor? X Yes <input type="checkbox"/> No		Worked as an OUSD employee? <input type="checkbox"/> Yes X No				
OUSD Project #	13124						

### Term

Date Work Will Begin	8-27-2014	Date Work Will End By (not more than 5 years from start date)	11-28-2017
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### Compensation

Total Contract Amount	\$	Total Contract Not To Exceed	\$23,800.00
Pay Rate Per Hour (If Hourly)	\$	If Amendment, Changed Amount	\$ 4,500.00
Other Expenses		Requisition Number	

### Budget Information

*If you are planning to multi-fund a contract using LEP funds, please contact the State and Federal Office before completing requisition.*

Resource #	Funding Source	Org Key	Object Code	Amount
9350	Measure J	2159905820	6252	\$4,500.00

### Approval and Routing (in order of approval steps)

Services cannot be provided before the contract is fully approved and a Purchase Order is issued. Signing this document affirms that to your knowledge services were not provided before a PO was issued.

	Division Head	Phone	510-535-7038	Fax	510-535-7082
1.	Director, Facilities Planning and Management				
	Signature	Date Approved	11/18/15		
2.	General Counsel, Department of Facilities Planning and Management				
	Signature	Date Approved	11-9-15		
	Interim Deputy Chief, Facilities Planning and Management				
3.	Signature	Date Approved	12/10/15		
	Senior Business Officer				
4.	Signature	Date Approved			
	President, Board of Education				
5.	Signature	Date Approved			