

# **Mt. Diablo Unified School District**

Independent Contract Agreement

Geosphere Consultants, Inc.

Geotechnical Engineering Study  
and  
Geologic Hazards Report

SWIMMING POOL REPLACEMENT

At

Mt. Diablo and College Park High Schools  
(1562)

Dated  
**June 29, 2010**

MT. DIABLO UNIFIED SCHOOL DISTRICT  
1936 Carlotta Drive  
Concord, CA 94519

**AGREEMENT BETWEEN  
MT. DIABLO UNIFIED SCHOOL DISTRICT  
AND INDEPENDENT CONTRACTOR**

THIS AGREEMENT is made this 29th day of June, by and between the Mt. Diablo Unified School District (hereinafter "District") and Geosphere Consultants, Inc. (GCI) (hereinafter "Contractor").

District hereby engages Contractor to render described services under the terms and conditions of this Agreement.

1. Performance of Services

- (a) Contractor agrees to perform the services described on Exhibit "A" (hereinafter "Services") on page 4 of this Agreement as an independent contractor. Contractor will determine the means, manner, method, and details of performing the Services. Contractor shall be responsible for providing the materials, tools, transportation, and workspace necessary for the performance of the services. Contractor may, at Contractor's own expense, use non-District employees to perform the Services under this Agreement. Subcontractors may be used with the written approval of the District only.
- (b) Contractor represents that Contractor has the qualifications and ability to perform the Services in a professional manner, without the advice, control, or supervision of the District. Contractor shall be solely responsible for the professional performance of the services, and shall receive no assistance, direction, or control from District. Contractor shall have sole discretion and control of Contractor's services and the manner in which they are performed.

2. Compensation. District agrees to compensate Contractor for the performance of the Services on the following basis:

\$ 20,000.00 total fee for Services (NOT TO EXCEED)

The basis of the fee for Services shall be as follows:

- a. \$ See Exhibit A per hour,  
b. \$ \_\_\_\_\_ per day, or  
c. \$ \_\_\_\_\_ per engagement.

Check one:

- Partial Payments: Contractor shall invoice District on a monthly basis or as agreed to for all hours worked pursuant to this Agreement.
- Payment in Full: Contractor shall be paid upon completion of services after obtaining originator's signature at the bottom of this contract, indicating that services have been performed.

Contractor shall be responsible for all expenses incurred in association with the performance of the Services.

3. Term and Termination. This Agreement will become effective on June 29, 2010. This Agreement will terminate upon the completion of the Services or when terminated as set forth below.

Either party may terminate this Agreement at any time by giving thirty (30) days written notice to the other party. Should either party default in the performance of this Agreement or materially breach any of its provisions, the non-breaching party may terminate this Agreement by giving written notice to the breaching party. Termination shall be effective immediately on receipt of said notice.

4. Relationship of the Parties. Contractor enters into this Agreement as, and shall continue to be, an independent contractor. Under no circumstances shall Contractor be considered an employee of District within the meaning of any federal, state, or local law or regulation including, but not limited to, laws or regulations governing unemployment insurance, old age benefits, workers' compensation, industrial illness or accident coverage, taxes, or labor and employment in general. Under no circumstances shall

Contractor look to District as his/her employer, or as a partner, agent, or principal. Contractor shall not be entitled to any benefits accorded to District's employees, including, without limitation, workers' compensation, disability insurance, vacation, or sick pay. Contractor shall be responsible for providing, at Contractor's expense, and in the Contractor's name, disability, workers' compensation or other insurance, as well as licenses and permits usual or necessary for conducting the Services hereunder.

Contractor shall pay, when and as due, any and all local, state and federal income or other taxes incurred as a result of Contractor's compensation hereunder, including estimated taxes, and shall provide District with proof of said payments upon demand. Contractor hereby indemnifies District for any claims, losses, costs, fees, liabilities, damages, or injuries suffered by District arising out of Contractor's breach of this Section.

5. Fingerprinting and Criminal Records Check of Contractor's Employees. Contractor shall comply with the provisions of Education Code §45125.1 regarding the submission of fingerprints to the California Department of Justice and the completion of criminal background investigations of the contractor and/or its employees. Contractor shall not permit any employee to have any contact with District pupils until such time as Contractor has verified in writing to the governing board of the District that such employee has not been convicted of a felony, as defined in Education Code §45125.1.
6. Rules and Regulations. All results and regulations of the Board of Education and all federal, state; and local laws, ordinances and regulations are to be observed strictly by Contractor pursuant to this Agreement.
7. Indemnification. Contractor shall and does hereby indemnify, defend, and hold harmless District, and District's officers, employees, agents and representatives from and against any and all claims, demands, losses, costs, expenses, obligations, liabilities and damages, including, without limitation, interest, penalties, and reasonable attorneys fees and costs, that District may incur or suffer and that arise, result from, or are related to any breach or failure of Contractor to perform any of the representations, warranties, and agreements contained in this Agreement.
8. Insurance. Insurance shall be endorsed to include the District, its officers, officials, agents, employees and volunteers as additional insureds with respect to liability arising out of work or operations performed by or on behalf of the Contractor. Such insurance shall contain a provision that the insurance afforded thereby to the District and its officers, officials, agents, employees and volunteers shall be primary insurance to the full limits of liability of the policy, and that if the District, its officers, officials, agents, employees and volunteers have other insurance against a loss covered by such a policy, such other insurance shall be excess insurance only.
9. Ownership of Designs and Plans. Contractor agrees that all designs, plans, reports, specifications, drawings, schematics, prototypes, models, inventions and all other information and items made during the course of this Agreement and arising from the Services shall be owned by and assigned to District as its sole and exclusive property.
10. 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 telegram, overnight delivery service, or facsimile transmission, addressed as follows:

<u>DISTRICT</u>	<u>CONTRACTOR</u>
Mt. Diablo Unified School District	Name: <u>Mr. Marc Hachey</u>
1936 Carlotta Drive	Address: <u>Geosphere Consultants, Inc.</u>
Concord, CA 94519-1397	<u>2001 Crow Canyon Road, Suite 100</u>
Attn: Superintendent	<u>San Ramon, California 94583</u>
	Phone: <u>(925) 314-7100</u>
	Fax: <u>(925) 855-7140</u>
	Tax ID #: <u>26-1376494</u>

Any notice personally given or sent by telegram or 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.

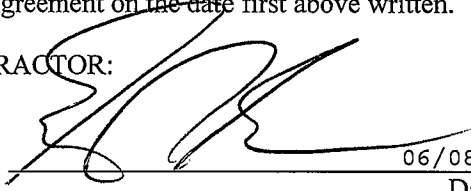
- 11. Entire Agreement of Parties. This Agreement constitutes the entire agreement between the parties and supersedes all prior discussions, negotiations and agreements, whether oral or written. This Agreement may be amended or modified only by a written instrument executed by both parties.
- 12. California 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 Contra Costa County, California.
- 13. Attorneys' Fees. If either party files any action or brings any proceedings against the other arising out of this Agreement, the prevailing party shall be entitled to recover, in addition to its costs of suit and damages, reasonable attorneys' fees to be fixed by the court. The "prevailing party" shall be the party who is entitled to recover its costs of suit, whether or not suit proceeds to final judgment. No sum for attorneys' fees shall be counted in calculating the amount of a judgment for purposes of determining whether a party is entitled to its costs or attorneys' fees.
- 14. 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.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

MT. DIABLO UNIFIED SCHOOL DISTRICT

CONTRACTOR:

By: \_\_\_\_\_  
Budget Administrator Date

By:  \_\_\_\_\_ 06/08/10  
Date

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

Title: Eric J. Swenson, Principal Engineer

Authorized by: \_\_\_\_\_  
Assistant or Associate Superintendent Date

Approved: \_\_\_\_\_  
Assistant Superintendent of Personnel Date

<b>TO BE COMPLETED BY DISTRICT BUDGET ADMINISTRATOR</b>	
<input type="checkbox"/>	It is my determination that this contractor is not required to comply with Ed. Code §45125.1 regarding the submission of fingerprints to the Department of Justice.
OR	
<input type="checkbox"/>	This contractor is subject to the requirements of Ed. Code §45125.1 and will not begin services until I have received evidence that the Department of Justice has completed its criminal background investigation.
 _____	 _____
Administrator's Signature	Date

**Upon completion of Services, sign below and forward original contract to Fiscal Services for payment.**

\_\_\_\_\_  
Originator's Signature Date Phone

324.8368.58.6290 - \$10,000.00 (NTE)  
~~326.8368.58.6290 - \$10,000.00 (NTE)~~  
355.  
\_\_\_\_\_  
Budget Code

<i>Distribution</i>	
<i>original:</i>	<i>Fiscal Services for payment</i>
<i>copy:</i>	<i>Contractor</i>
<i>copy:</i>	<i>Originator/Budget Administrator</i>

**EXHIBIT A**

**LIST OF SERVICES TO BE PERFORMED BY CONTRACTOR**

1. Provide all permits, materials testing, geotechnical engineering services, labor, tools, equipment and materials necessary for:
  - 1.1. Geotechnical Engineering Study and Geologic Hazards Report to support swimming pool replacement at College Park High School.
  - 1.2. Geotechnical Engineering Study and Geologic Hazards Report to support swimming pool replacement at Mt. Diablo High School.
  - 1.3. Utility Location Services
  - 1.4. If requested/required complete application, submission (including all fees) and respond as required for project review by the California Geologic Survey.
2. All work shall be in accordance with applicable law and regulatory requirements as generally outlined and per attached proposal dated May 26, 2010 (Exhibit A.1).

Services of Contractor arranged by

Timothy M. Cody  
Signature

MO&F  
Department / School

**EXHIBIT A.1**  
**CONTRACTOR PROPOSAL and FEE SCHEDULE**



**Geosphere Consultants, Inc.**

AN ETS COMPANY

Geotechnical Engineering • Engineering Geology  
 Environmental Management • Water Resources

May 26, 2010

Mt. Diablo Unified School District  
 1480 Gasoline Alley  
 Concord, California 94520

Attention: Tim Cody

**Subject: Proposal for a Geotechnical Engineering Study  
 and Geologic Hazards Reports**  
 Swimming Pool Replacements  
 College Park High School (91-02573-A, B)  
 Mt. Diablo High School (81-02574-A, B)  
 Contra Costa, California  
 Geosphere Proposal Numbers 91-02573-A, B and 91-02574-A, B

Dear Mr. Cody:

**Geosphere Consultants Inc.**, formerly the Geotechnical Division of Consolidated Engineering Laboratories (CEL) has prepared this proposal to provide geotechnical services for the proposed swimming pool replacements at the above referenced schools in Contra Costa County, California. This proposal is based on experience in the general area, a site visit to each school by a **Geosphere** geologist, and a review of the project site plans. It is our understanding that the existing outdoor swimming pool at each site will be demolished and replaced. Other improvements will include new decking, exterior concrete hardscapes, and interior improvements to the adjacent mechanical rooms. New buildings are not proposed. Access to the improvement areas appears adequate.

**A - Geotechnical Engineering Study**

The geotechnical field study will meet Title 24 requirements. These include drilling a minimum of two borings for each structure and one boring for every 5,000 sf of building footprint. Our field study will characterize the site; hence, deep borings will be located within the site area. The services to be provided for a Geotechnical Engineering Study include the following:

Preliminary Field Activities

- 1) Review available geotechnical and geologic literature for the site.
- 2) Mark the locations of the subsurface explorations at the site and contact Underground Service Alert.
- 3) Utilize an underground utility locating subcontractor to better define the location of existing buried utilities.
- 4) Obtain a Contra Costa County Environmental Health Department drilling permit, which takes upwards of two weeks to obtain.

Field Exploration

- 1) The field exploration program will consist of drilling two borings at each site. The borings will be between 15 and 50 feet deep.
- 2) Sampling will occur in five-foot intervals in the borings. 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.

2001 Crow Canyon Road, Suite 100 | San Ramon, CA 94583-5387 | Tel. (925) 314-7180 | Fax (925) 855-7140

**EXHIBIT A.1**  
**CONTRACTOR PROPOSAL and FEE SCHEDULE**



Geosphere Consultants, Inc.

Geosphere Proposal Nos. 91-02573-A,B & 91-02574-A,B  
 May 26, 2010

resistance. The blowcounts from the SPT sampler will be utilized to determine subsurface soil characteristics for correlation with USCS soil types. Bulk soil samples will be obtained from the upper few feet of auger cuttings in the borings.

- 3) The borings will be backfilled with cement grout under the supervision of a Contra Costa County Environmental Health Inspector. Excess drill cuttings will be spread around the site in landscaped areas.

**Laboratory Testing**

- 1) Several in-situ moisture and density tests will be performed on selected brass tube liner samples.
- 2) One to two Sieve Analysis tests will be performed at each site to determine subsurface soil characteristics for liquefaction analysis.
- 3) Two Unconfined Compression tests will be performed at each site to obtain soil strength parameters.
- 4) One Atterberg Limits test from each site to determine the expansive potential of the near surface soil.
- 5) One Corrosion test will be performed at each site as required by the 2007 CBC to determine corrosive potential of soil on buried structures.

**Report Preparation**

- 1) Two separate Geotechnical Engineering Study reports will be prepared, one for each site containing a site plan showing boring locations, boring logs, geologic cross-sections, and a summary of the site soil and groundwater conditions. CBC seismic design parameters and other pertinent information will be provided.
- 2) Recommendations will be provided for:
  - Site clearing, preparation, grading, and drainage,
  - Foundations,
  - Retaining walls design,
  - Exterior concrete hardscape,
  - Temporary cut slope excavation and trench slope stability,
  - Underground utility backfilling.

**Geology and Geologic Hazards Study**

In accordance with the requirements of Title 24 of the 2007 CBC, two Geologic Hazards Study reports are also required. This is dictated by Note 48 of the California Geologic Survey. The Geology and Geologic Hazards Study reports would include site plans, geology maps, soil series maps, geologic cross-sections, and fault map. Geologic maps, literature, and aerial photographs will be reviewed. The local and regional geology and geologic hazards will be discussed.

Per our conversations with both DSA and CGS, a site specific response analysis is not required for the two projects.

**Optional Scope of Work**

We understand that many school districts have economic challenges in funding levels. We have provided a scope of work above which we believe will meet the basic requirements for submission to DSA and CGS for your proposed projects. We are providing additional scope of work items that may be required by other design team members, may reduce your risks or be of convenience to you.

**EXHIBIT A.1**  
**CONTRACTOR PROPOSAL and FEE SCHEDULE**



Geosphere Consultants, Inc.

Geosphere Proposal Nos. 91-02573-A,B & 91-02574-A,B  
May 26, 2010

**B - Consultation during Design**

Consultation during design may be required to provide information to other engineers or architects. This consultation is typically minor and consists of letter preparation and plan review services by a Senior Engineer or Geologist.

**CGS Permit Application and Processing**

Over 50% of our work involves public school projects in Northern California and we have therefore developed good relationships within the California Geologic Survey. Recent changes to the CGS clearance process have made good relationships more important when it comes to processing a school project. As an alternative scope of work, we can put our relationships to work for our clients and assist in the processing of CGS report review and clearance. As an option, we propose the following scope of work:

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

We are confident that we have provided a scope of work in our investigation that will meet the CGS requirements and the fees for this permit application will include all of our time to process CGS clearance. In the unlikely event that additional consultation beyond the one included response letter or additional site investigation is required, we will request the district to compensate us for additional site investigation and analytical time.

**Summary of Fees**

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

Scope Item	Amount	Fee Basis
<b><i>Geotechnical Engineering Study and Geologic Hazards Report</i></b>		
Permitting and Planning	\$ 600.00	Lump Sum
Contra Costa County Environmental Health Permit/Inspection	\$ 1,000.00	Lump Sum
Utility Location-USA and Private Locating Contractor	\$ 600.00	Lump Sum
Drilling with Geologist	\$ 3,700.00	Lump Sum
Lab Testing	\$ 2,000.00	Lump Sum
Engineering Analysis	\$ 600.00	Lump Sum
Report Preparation	\$ 2,500.00	Lump Sum
<b>Total – Required Geologic Report and Geotechnical Report</b>	<b>\$11,000.00</b>	Lump Sum
<b>Optional Supplemental Consulting during Design – Senior Engineer or Geologist</b>	<b>\$160/Hr</b>	T&M
<b>Optional CGS Permit and Application Processing (cost per site)</b>	<b>\$ 4,500.00</b>	Lump Sum

\*The required scope of services for the projects breaks down to a total of \$5,500.00 per site.

**Schedule**

The field exploration program is anticipated to take a total of one day of drilling for both sites. Scheduling drillers may take up to two-weeks due to availability of drill rigs and for obtaining a drilling permit. Laboratory testing will take approximately two weeks to complete following the fieldwork. The reports can be issued within about three to four weeks after the drilling is completed.



**EXHIBIT A.1**  
**CONTRACTOR PROPOSAL and FEE SCHEDULE**



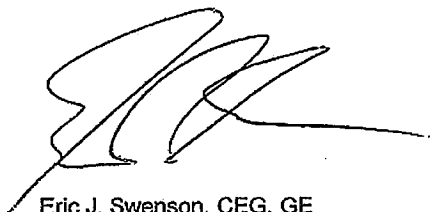
Geosphere Consultants, Inc.

Geosphere Proposal Nos. 91-02573-A,B & 91-02574-A,B  
May 26, 2010

If this proposal is acceptable, please provide a contract for our review. If you have any questions regarding this proposal, please contact the undersigned at 925-314-7180, [mah@geosphereinc.net](mailto:mah@geosphereinc.net); [ejs@geosphereinc.net](mailto:ejs@geosphereinc.net). We appreciate the opportunity of providing this proposal to Mt. Diablo Unified School District.

Sincerely,  
**GEOSPHERE CONSULTANTS, INC.**

  
Marc Hachey, CEG  
Senior Geologist

  
Eric J. Swenson, CEG, GE  
Principal Geologist and Geotechnical Engineer

Attachments: Fee Schedule  
Report Distribution

Distribution: 2 plus PDF to Addressee ([codyt@mdusd.k12.ca.us](mailto:codyt@mdusd.k12.ca.us))

MAH/EJS:pmf  
R:\Proposals\Proposals 2500-2599\91-02573-A & 74-A MDUSD Swimming Pools\91-02573 & 74 GES Proposal.doc

**EXHIBIT A.1  
CONTRACTOR PROPOSAL and FEE SCHEDULE**



Geosphere Consultants, Inc.

Geosphere Proposal No. 91-02573-A,B  
Date: May 26, 2010

**REPORT DISTRIBUTION**

**Project No.:** 1562

**Project Manager:** Marc Hachey

**Project Name:** College Park High School

**Project Address:** 200 Muir Road 201 Viking Drive

**Project Address (continued):** Martinez, California 94104 Pleasant Hill, California 94523

**Jobsite Contact:** Jerry Winkelbauer

**Jobsite Phone:** 783-9981

**Jobsite Fax:**

**Permit/Application #:**

**GEOSPHERE CONSULTANT INC. will issue inspection and laboratory test reports to the following:**

**Client:** Tim Cody

**Company:** Mt. Diablo Unified School District

**Address:** 1480 Gasoline Alley

**City, State, Zip:** Concord, California 94520

**General Contractor:**

**Contact:**

**Address:**

**Structural Engineer:**

**Contact:**

**Address:**

**Architect:** Arch Pac Aquatics, Inc.

**Contact:** Ken Moeller

**Address:** 1351 Distribution Way, Suite 1

**City/ORS/OSHPD (Specify):** Vista, California 92081

**Other (Specify)** kenmoeller@archpac.com

**EXHIBIT A.1  
CONTRACTOR PROPOSAL and FEE SCHEDULE**



Geosphere Consultants, Inc.

Geosphere Proposal No. 91-02574-A,B  
Date: May 26, 2010

**REPORT DISTRIBUTION**

**Project No.:** 1562

**Project Manager:** Marc Hachey

**Project Name:** Mt. Diablo High School

**Project Address:** 2450 Grant Street

**Project Address (continued):** Concord, California 94520

**Jobsite Contact:** David Hart

**Jobsite Phone:** 473-0904

**Jobsite Fax:**

**Permit/Application #:**

**GEOSPHERE CONSULTANT INC. will issue inspection and laboratory test reports to the following:**

**Client:** Tim Cody

**Company:** Mt. Diablo Unified School District

**Address:** 1480 Gasoline Alley

**City, State, Zip:** Concord, California 94520

**General Contractor:**

**Contact:**

**Address:**

**Structural Engineer:**

**Contact:**

**Address:**

**Architect:** Arch Pac Aquatics, Inc.

**Contact:** Ken Moeller

**Address:** 1351 Distribution Way, Suite 1

**City/ORS/OSHPD (Specify):** Vista, California 92081

**Other (Specify)** kenmoeller@archpac.com