

REPORT TO CITY COUNCIL

Approved by:

Keith Helmuth, City Engineer

Arnaldo Rodriguez, City Manager

Council Meeting of: July 17, 2019

Agenda Number: B-5

SUBJECT: Consideration of a Resolution Approving a Request of Assignment and Assumption of Contracts from GHD Inc (GHD).

RECOMMENDATION:

Staff recommends that the City Council adopt a resolution approving the request of Assignment and Assumption of Contracts from GHD and authorize the Mayor to sign the Assignment Letter.

SUMMARY:

GHD has submitted a request for approval of assignment and assumption of contracts. This will affect one existing contract with the City, the Lake Street, 4th Street and Central Avenue Intersection Project (Project).

DISCUSSION:

On December 21, 2016, the City entered into an Agreement with Omni-Means, Ltd. (Omni-Means) for professional project development and engineering design services for the Project. On January 31, 2017, Omni-Means was acquired and became a wholly-owned subsidiary of GHD. Subsequently, GHD submitted a letter to the City requesting approval of assignment and assumption of contracts from Omni-Means.

GHD has agreed to assume full responsibility for the subject Agreement and has agreed that the provisions of the Agreement will remain unchanged. The Project is currently in the preliminary design phase.

FINANCIAL IMPACT:

The reassignment of this Agreement will not change the terms of the Agreement. There will not be a change to financial impact to the City caused by this action.

CONSISTENCY WITH THE VISION MADERA 2025 PLAN:

Strategy 101.6 – Ensure infrastructure can sustain population growth in the development of the General Plan.

ALTERNATIVES:

1. Reject the Request from GHD and cancel the Agreement since Omni Means is no longer in business.

ATTACHMENTS:

1. Resolution
2. Assignment and Assumption of Contracts Request Letter
3. GHD, Inc. W-9 form
4. Certificate of Insurance

ATTACHMENT 1

RESOLUTION NO. 19 - _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA,
CALIFORNIA, APPROVING A REQUEST OF ASSIGNMENT AND
ASSUMPTION OF CONTRACTS FROM GHD INC (GHD).**

WHEREAS, the City of Madera entered into an agreement with Omni-Means, Ltd. (OMNI Means) on December 16, 2016 for professional engineering services related to the Lake Street, 4th Street and Central Avenue Intersection; and

WHEREAS, Omni-Means was acquired and became a wholly-owned subsidiary of GHD; and

WHEREAS, GHD has requested approval of assignment and assumption of contracts; and

NOW, THEREFORE, THE COUNCIL OF THE CITY OF MADERA hereby resolves, finds, determines and orders as follows:

1. The above recitals are true and correct.
2. The Agreement for professional engineering services as described above is necessary to carrying out of the project.
3. Approves the Assignment and Assumption of Contracts.
4. The Mayor is authorized to execute the Assignment and Assumption of Contracts letter.
5. This resolution is effective immediately upon adoption.

* * * * *

ATTACHMENT 2



RECEIVED

DEC 14 2018

**CITY OF MADERA
ENGINEERING DEPARTMENT**

December 6, 2018

Mr. Keith Helmuth, P.E.
City Engineer
City of Madera
205 W. Fourth Street
Madera, CA 93637

Re: Request for Approval of Assignment and Assumption of Contracts

Dear Keith:

Omni-Means, Ltd. (OML) was acquired and became a wholly-owned subsidiary of GHD Inc. on January 31, 2017. We have nearly completed integration of our operations, and seek to have all of our OML contracts assigned to GHD Inc.

GHD Inc. agrees to assume full responsibility for OML's following agreement with the City of Madera (CITY) effective immediately upon the CITY's consent to this assignment:

- Agreement with "Omni Means LTD." for Professional Project Development and Engineering Design Services for the Lake Street, 4th Street and Central Avenue Intersection. Federal Project Number CML 5157 (102).

Upon the assignment, GHD Inc agrees to assume all responsibility for execution and completion of the agreement.

GHD Inc. agrees that the provisions of the agreement will be unchanged by the Assignment and Assumption of this agreement to GHD Inc. We assure you that the Project Manager and staff supporting your project will remain the same.

For your use, we have attached the following:

- GHD's W-9
- GHD's certificate of insurance
- Legal Confirmation of Acquisition

By this writing I am requesting that the CITY approve this assignment by signing below, and returning a signed copy (email scan is acceptable) for our files.



Please do not hesitate to contact me with any questions you might have, and thank you for assisting with this assignment of the agreement.

Sincerely,

GHD Inc.

A handwritten signature in blue ink that reads "Joe Weiland". The signature is written in a cursive style with a horizontal line underneath.

Joe Weiland
Project Manager

Assignment Approved and Accepted this ____ day of _____, 2018:
(Month and Day)

City of Madera

By: _____

Its: _____



October 12, 2018

Re: Acquisition of Omni-Means, Ltd. by GHD Inc.

To Whom It May Concern:

GHD Inc., a California corporation, acquired 100% of the issued and outstanding stock of Omni-Means, Ltd., a Nevada corporation, on January 31, 2017. All Omni-Means, Ltd. staff have been transferred to GHD Inc. All Omni-Means, Ltd. contracts for professional services are being transferred/assigned to GHD Inc.

Shortly after the end of this calendar year, through a statutory merger, Omni-Means, Ltd. will be merged with and into GHD Inc. which will be the surviving corporation. By operation of law, GHD Inc. will retain responsibility for all of Omni-Means, Ltd.'s prior acts. Additionally, as of the purchase transaction closing date, GHD was able to add Omni-Means, Ltd. as an insured under GHD's professional liability insurance policy, with full prior acts coverage.

Please do not hesitate to contact me if you have any further questions.

Very truly yours,

GHD

A handwritten signature in blue ink, appearing to read "J. Duncan Findlay".

J. Duncan Findlay, Esq.
Chief Counsel - Americas

ATTACHMENT 3

Request for Taxpayer Identification Number and Certification

**Give Form to the
requester. Do not
send to the IRS.**

▶ Go to www.irs.gov/FormW9 for instructions and the latest information.

Print or type. See Specific Instructions on page 3.	<p>1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.</p> <p>GHD Inc.</p> <p>2 Business name/disregarded entity name, if different from above</p>	
	<p>3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only one of the following seven boxes.</p> <p><input type="checkbox"/> Individual/sole proprietor or single-member LLC</p> <p><input checked="" type="checkbox"/> C Corporation <input type="checkbox"/> S Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate</p> <p><input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ▶ _____</p> <p style="font-size: x-small;">Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is not disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.</p> <p><input type="checkbox"/> Other (see instructions) ▶ _____</p>	<p>4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):</p> <p>Exempt payee code (if any) <u>5</u></p> <p>Exemption from FATCA reporting code (if any) _____</p> <p style="font-size: x-small;">(Applies to accounts maintained outside the U.S.)</p>
	<p>5 Address (number, street, and apt. or suite no.) See instructions.</p> <p>4747 North 22nd Street, Suite 200</p> <p>6 City, state, and ZIP code</p> <p>Phoenix, Arizona 85016</p>	<p>Requester's name and address (optional)</p>
	<p>7 List account number(s) here (optional)</p>	

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number									
OR									
Employer identification number									
9	8		0	4	2	5	9	3	5

Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
- I am a U.S. citizen or other U.S. person (defined below); and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification Instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign Here	Signature of U.S. person ▶ <i>Laura M Kelley</i>	Date ▶ <i>1/2/18</i>
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General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to www.irs.gov/FormW9.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.

ATTACHMENT 4



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
11/26/2018

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 have ADDITIONAL INSURED provisions or 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).

PRODUCER Willis of Massachusetts, Inc. c/o 26 Century Blvd P.O. Box 305191 Nashville, TN 372305191 USA	CONTACT NAME: PHONE (A/C, No, Ext): 1-877-945-7378 FAX (A/C, No): 1-888-467-2378 E-MAIL ADDRESS: certificates@willis.com	
	INSURER(S) AFFORDING COVERAGE INSURER A: Allied World Assurance Company US Inc NAIC# 19489 INSURER B: Zurich American Insurance Company 16535 INSURER C: Lexington Insurance Company 19437 INSURER D: AIG Specialty Insurance Company 26883 INSURER E: INSURER F:	INSURED GHD Inc. 4747 N. 22nd Street, Suite 200 Phoenix, AZ 85016 USA

COVERAGES CERTIFICATE NUMBER: W8945696 REVISION NUMBER:

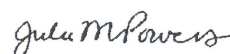
THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE 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	ADDL SUBR INSD WVP	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 GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	Y Y	0310-4497	12/01/2018	12/01/2019	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 25,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
B	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> COLL Ded: 500 <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> Comp Ded: 250	Y Y	BAP 3757423-03	07/01/2018	07/01/2019	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ Hired Physical Damag \$ 100000
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$		0310-4498	12/01/2018	12/01/2019	EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ 1,000,000
B	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 <input checked="" type="checkbox"/> No N/A Y	WC 0380936-03	07/01/2018	07/01/2019	<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	Professional Liability		031710989	12/01/2018	12/01/2019	Each Claim/Aggregate: \$2,000,000

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

SEE ATTACHED

CERTIFICATE HOLDER CANCELLATION

To Whom It May Concern-GHD Inc	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 



ADDITIONAL REMARKS SCHEDULE

AGENCY Willis of Massachusetts, Inc.		NAMED INSURED GBD Inc. 4747 N. 22nd Street, Suite 200 Phoenix, AZ 85016 USA	
POLICY NUMBER See Page 1		EFFECTIVE DATE: See Page 1	
CARRIER See Page 1	NAIC CODE See Page 1		

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,
FORM NUMBER: 25 **FORM TITLE:** Certificate of Liability Insurance

Additional Insured status can be granted as above only where required by written contract.

General Liability policy can be Primary and Non-contributory with any other insurance in force for or which may be purchased by Additional Insured where required by contract or agreement.

Waiver of Subrogation can be applied as above in favor of Certificate Holder where required by contract or agreement.

Excess Liability follows form over General Liability, Auto Liability and Employers Liability policies.

INSURER AFFORDING COVERAGE: AIG Specialty Insurance Company NAIC#: 26883
 POLICY NUMBER: CPO 14247915 EFF DATE: 12/01/2018 EXP DATE: 12/01/2019

ADDITIONAL INSURED: Y

TYPE OF INSURANCE:	LIMIT DESCRIPTION:	LIMIT AMOUNT:
Pollution Liability	Each Occ/Aggregate	\$2,000,000

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED – OWNERS, LESSEES OR
CONTRACTORS – SCHEDULED PERSON OR
ORGANIZATION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

<p>Name of Person or Organization:</p> <p>Where required by written contract</p>

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

A. Section II – Who Is An Insured is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of your ongoing operations performed for that insured.

B. With respect to the insurance afforded to these additional insureds, the following exclusion is added:

2. Exclusions

This insurance does not apply to "bodily injury" or "property damage" occurring after:

- (1) 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 site of the covered operations has been completed; or
- (2) 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.

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

SCHEDULE

Name of Person or Organization: Where required by written contract
Location And Description of Completed Operations: Where required by written contract
Additional Premium: N/A

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

Section II – Who Is An Insured is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of "your work" at the location designated and described in the schedule of this endorsement performed for that insured and included in the "products-completed operations hazard".

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PRIMARY AND NON-CONTRIBUTORY

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

Notwithstanding any other provision of this policy to the contrary, the insurance afforded to an additional insured under this policy will be primary to, and non-contributory with, any other insurance available to that person or organization in the event a contract or agreement you enter into requires you to furnish insurance to that person or organization of the type provided by this policy.

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:

Where required by written contract

Where required by written contract 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.



ZURICH

Coverage Extension Endorsement

Policy No.	Eff. Date of Pol.	Exp. Date of Pol.	Eff. Date of End.	Producer No.	Add'l. Prem	Return Prem.
BAP 3757423-03	7/1/2018	7/1/2019	7/1/2018		---	---

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":

- a. 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.
 - b. 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.
 - c. Anyone else who furnishes an "auto" referenced in Paragraphs **A.1.a.** and **A.1.b.** in this endorsement.
 - d. 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.

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

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.

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 PERSON OR ORGANIZATION FOR WHOM YOU ARE REQUIRED BY WRITTEN CONTRACT OR AGREEMENT TO OBTAIN THIS WAIVER OF RIGHTS FROM US

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

(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement Effective

Policy No: **WC 0380936-03**

Endorsement No.

Insured: GHD Services Inc.

Premium \$

Insurance Company: Zurich American Insurance Company

Countersigned By

Leighton Thomas