September 6, 2022

Ms. Susan Ager
Village of Northport
116 W. Nagonaba St.
Northport, MI 49670

Consulting
Engineers and
Scientists

RE: Village of Northport Dam Inspection, Leelanau County, Michigan

Dear Ms. Ager:

GEI Consultants of Michigan, P.C. (GEI) appreciates the opportunity to provide you with a proposal for inspection services of the Northport Dam located in the Village of Northport, Michigan. We understand that the Northport Dam consists of a low-head, earthen embankment impounding Northport creek. The dam does not meet the size criteria for a regulated dam by the State of Michigan.

Scope of Services

An experienced dam safety engineer will conduct a visual inspection of the dam within 2 weeks of the notice to proceed. The visual inspection will be performed in accordance with Michigan Department of Environment, Great Lakes and Energy's (EGLE) Part 315, Dam Safety, guidelines. Hydrologic and hydraulic analyses will be approximated based on empirical calculations. GEI will coordinate the field inspection with the Village DPW staff.

The deliverables for this project will include a memorandum outlining the findings of the visual inspection including a description of the existing conditions observed, and recommendations for maintenance and repairs (if observed). The recommendations will include a general timeframe for completing any necessary repairs based on the severity of the observed deficiency. The project memorandum will be submitted to the Village within 2 weeks of the field inspection.

GEI anticipates 1 meeting will be required for this project which will consist of meeting with the Village Staff and/or Board to review our findings and recommendations.

Project Cost

GEI will perform the Dam Safety Inspection, attend a meeting and prepare/deliver the technical memorandum for a Lump Sum fee of $4,000. An invoice which will outline the services completed will be submitted to you along with the project deliverables.

Terms

GEI will complete the proposed scope of work according to the attached Standard Professional Services Agreement. Please sign and return one copy of the attached agreement, which will serve as our contract and Notice to Proceed.

We look forward to providing professional services to you on this project. Please feel free to contact me, at (616) 915-7013 or ddevaun@geiconsultants.com should you need any additional information or have questions regarding our proposal.

Sincerely,

GEI CONSULTANTS OF MICHIGAN, P.C.

Dan DeVaun, PE
Senior Project Manager

Brad Parlato, PE
Vice President

Attachment(s): Standard Professional Services Agreement

GEI Consultants of Michigan, P.C.
4472 Mount Hope Road, Suite A, Williamsburg, MI 49690
231.933.4041

1. AGREEMENT

This Agreement is made and entered into by and between

GEI Consultants, Inc., 4472 Mount Hope Road, Suite A, Williamsburg, MI 49690 and

Village of Northport, 116 W Nagonaba St, Northport, MI 49670

By this Agreement, the parties do mutually agree as follows:

2. SCOPE OF SERVICES

GEI shall perform the services described herein and in **Exhibit A**.

3. EFFECTIVE DATE

The effective date of this Agreement shall be the latter of the acceptance dates indicated in Article 16, Acceptance. Acceptance of this Agreement by both parties shall serve as GEI's Notice to Proceed with the services described in **Exhibit A**.

4. FORCE MAJEURE

a) Force Majeure "Event of Force Majeure" means an event beyond the control of GEI and CLIENT, which prevents a Party from complying with any of its obligations under this Agreement, including but not limited to, acts of God (such as, but not limited to, fires, explosions, earthquakes, drought, tidal waves and floods, epidemics, war, hostilities, acts of terrorism, riot, commotion, strikes, go slows, lock outs or disorder, unless solely restricted to employees of GEI or its subcontractors.

b) Neither CLIENT nor GEI shall be considered in breach of this Agreement to the extent that performance of their respective obligations (excluding payment obligations) is prevented by an event of Force Majeure. Either CLIENT or GEI shall give written notice to the other upon becoming aware of an Event of Force Majeure.

5. COMPENSATION

a) CLIENT agrees to pay GEI in accordance with the payment terms provided in **Exhibit B** but in no event later than thirty (30) days of CLIENT's receipt of invoice.

b) GEI will submit invoices monthly or upon completion of a specified scope of service in accordance with GEI's standard invoicing practices, or as otherwise provided in **Exhibit B**.

c) Payment is due upon receipt of the invoice. Payments will be made by either check or electronic transfer to the address specified by GEI, and will reference GEI's invoice number.

d) Interest will accrue at the rate of 1% per month of the invoiced amount in excess of thirty (30) days past the invoice date, or as otherwise provided in **Exhibit B**.

e) In the event of a disputed or contested invoice, only that portion so contested will be withheld from payment, and the undisputed amounts will be paid.

6. PERFORMANCE STANDARDS

a) GEI will perform its services under this Agreement in a manner consistent with that degree of skill and care ordinarily exercised by members of GEI's profession currently practicing in the same locality under similar conditions. GEI makes no other representations and no warranties, either express or implied, regarding the services provided hereunder.

b) GEI shall correct deficiencies in services or documents provided under this Agreement without additional cost to CLIENT; except to the extent that such deficiencies are directly attributable to deficiencies in CLIENT-furnished information.

c) Unless otherwise specifically indicated in writing, GEI shall be entitled to rely, without liability, on the accuracy and completeness of information provided by CLIENT, CLIENT's consultants and contractors, and information from public records, without the need for independent verification.

d) CLIENT agrees to look solely to the manufacturer or provider to enforce any warranty claims arising from any equipment, materials or other goods provided as a component of GEI's services.

7. INSURANCE

a) GEI will carry the types and amounts of insurance in the usual form as provided in **Exhibit C**.

b) Upon written request of CLIENT, GEI will furnish Certificates of Insurance indicating the required coverages and conditions.

8. ALLOCATION OF RISKS

a) Indemnification. To the fullest extent permitted by law, GEI agrees to indemnify and hold CLIENT harmless from and against liabilities, claims, damages, and costs (including reasonable attorney's fees) to the extent caused by the negligence or willful misconduct of GEI in the performance of services under this Agreement.

b) Limitation of Liability. To the fullest extent permitted by law, the total liability, in the aggregate, of GEI and its officers, directors, employees, agents, and independent professional associates and consultants, and any of them, to CLIENT and any one claiming by, through or under CLIENT, for any and all injuries, claims, losses, expenses, or damages whatsoever arising out of or in any way related to GEI's services, the project, or this Agreement, will not exceed the total compensation received by GEI under the specific applicable project and/or task order, or Fifty Thousand Dollars ($50,000) whichever is less. This limitation will apply regardless of legal theory, and includes but is not limited to claims or actions alleging negligence, errors, omissions, strict liability, breach of contract, breach of warranty of GEI or its officers, directors, employees, agents, or independent professional associates or consultants, or any of them. CLIENT further agrees to require that all contractors and subcontractors agree that this limitation of GEI's liability extends to include any claims or actions that they might bring in any forum.

c) Consequential Damages. GEI and CLIENT waive consequential damages, including but not limited to damages for loss of profits, loss of revenues, and loss of business or business opportunities, for claims, disputes, or other matters in question arising out of or relating to this Agreement.

9. CONFIDENTIALITY

a) Unless compelled by law, governmental agency or authority, or order of a court of competent jurisdiction, or unless required pursuant to a subpoena deemed by GEI to be duly issued, or unless requested to do so in writing by CLIENT, GEI agrees it will not convey to others any proprietary non-public information, knowledge, data, or property relating to the business or affairs of CLIENT or of any of its affiliates, which is in any way obtained by GEI during its association with CLIENT. GEI further agrees to strive to limit, to a "need to know" basis, access by its employees to information referred to above.

b) Unless compelled by law, governmental agency or authority, or order of a court of competent jurisdiction, or unless required pursuant to a subpoena deemed by CLIENT to be duly issued, CLIENT will not release to its employees or any other parties any concepts, materials, or procedures of GEI deemed by GEI to be proprietary and so explained to CLIENT.

10. OWNERSHIP OF DOCUMENTS

Drawings, diagrams, specifications, calculations, reports, processes, computer processes and software, operational and design data, and all other documents and information produced in connection with the project as instruments of service (Project Documents), regardless of form, will be confidential and the proprietary information of GEI, and will remain the sole and exclusive property of GEI whether the project for which they are made is executed or not. CLIENT retains the right to use Project Documents for the furtherance of the project consistent with the express purpose(s) of the Project Documents, and for CLIENT's information and reference in connection with CLIENT's use and occupancy of the project. Any use of Project Documents for purposes other than those for which they were explicitly prepared shall be at CLIENT's sole risk and liability. CLIENT agrees to

defend, indemnify, and hold GEI harmless from and against any claims, losses, liabilities, and damages arising out of or resulting from the unauthorized use of Project Documents.

11. TERMINATION AND SUSPENSION

a) This Agreement may be terminated by CLIENT for any reason upon ten (10) days written notice to GEI.

b) This Agreement may be terminated by GEI for cause upon thirty (30) days written notice to CLIENT.

c) In the event that this Agreement is terminated for any reason, CLIENT agrees to remit just and equitable compensation to GEI for services already performed in accordance with this Agreement, subject to the limitations given in this Article 11, Termination and Suspension.

d) In the event Client terminates this Agreement for cause, in determining just and equitable compensation to GEI for work already performed, CLIENT may reduce amounts due to GEI by amounts equal to additional costs incurred by CLIENT to complete the Agreement scope. Such additional costs incurred by CLIENT may include but are not limited to: (1) the additional costs incurred by CLIENT to engage another qualified consultant to complete the unfinished scope; and (2) CLIENT's labor costs and expenses to demobilize and remobilize its personnel to the site to coordinate with the new consultant.

e) GEI may suspend any or all services under this Agreement if CLIENT fails to pay undisputed invoice amounts within sixty (60) days following invoice date, by providing written notice to CLIENT, until payments are restored to a current basis. In the event GEI engages counsel to enforce overdue payments, CLIENT will reimburse GEI for all reasonable attorney's fees and court costs related to enforcement of overdue payments, provided that CLIENT does not have a good faith dispute with the invoice. CLIENT will indemnify and save GEI harmless from any claim or liability resulting from suspension of the work due to non-current, undisputed payments.

12. DISPUTE RESOLUTION

Both parties agree to submit any claims, disputes, or controversies arising out of or in relation to the interpretation, application, or enforcement of this Agreement to non-binding mediation pursuant to the Rules for Commercial Mediation of the American Arbitration Association, as a condition precedent to litigation or any other form of dispute resolution.

13. GENERAL CONSIDERATIONS

a) Authorized Representatives. The following individuals are authorized to act as CLIENT's and GEI's representatives with respect to the services provided under this Agreement:

For CLIENT:	Village of Northport, 116 W Nagonaba St, Northport, MI 49670
For GEI:	Bradley Parlato, PE
	4472 Mount Hope Road, Suite A, Williamsburg, MI 49690

b) Nothing in this Agreement shall be construed as establishing a fiduciary relationship between CLIENT and GEI.

c) Notices. Any notice required under this Agreement will be in writing, submitted to the respective party's Authorized Representative at the address provided in this Article 13, General Considerations. Notices shall be delivered by registered or certified mail postage prepaid, or by commercial courier service. All notices shall be effective upon the date of receipt.

d) Controlling Law. This Agreement is to be governed by the laws of the Commonwealth of Massachusetts.

e) Survival. All express representations, indemnifications, or limitations of liability included in the Agreement will survive its completion or termination for any reason. However, in no event shall indemnification obligations extend beyond the date when the institution of legal or equitable proceedings for professional negligence would be barred by an applicable statute of repose or statute of limitations.

f) Severability. Any provision or part of this Agreement held to be void or unenforceable under any law or regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon GEI and CLIENT.

g) Waiver. Non-enforcement of any provision by either party shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Agreement.

h) Headings. The headings used in this Agreement are for general reference only and do not have special significance.

i) Certifications. GEI shall not be required to sign any documents, no matter by whom requested, that would result in GEI having to certify, guaranty, or warrant the existence of conditions or the suitability or performance of GEI's services or the project, that would require knowledge, services or responsibilities beyond the scope of this Agreement.

j) Third Parties. Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either CLIENT or GEI. GEI's services hereunder are being performed solely for the benefit of CLIENT, and no other entity shall have any claim against GEI because of this Agreement or GEI's performance of services hereunder. CLIENT shall indemnify and hold GEI harmless from any claims by any third parties that arise from the CLIENT's release of any Project Documents by CLIENT.

14. ADDITIONAL PROVISIONS

a) If Field Services are provided under this Agreement, the additional provisions included in **Exhibit D** shall apply. Field Services are defined as services performed on property owned or controlled by CLIENT, any federal, state, or local government or governmental agency, or other third party, and include, but are not limited to: site inspection, site investigation, subsurface investigation, sample collection, or sample testing.

b) If the services of a Licensed Site Professional (LSP), a Licensed Environmental Professional (LEP), or a Licensed Site Remediation Professional (LSRP) are provided under this Agreement, the additional provisions included in **Exhibit E** shall apply.

c) If Engineering Design Services are provided under this Agreement, the additional provisions included in **Exhibit F** shall apply.

d) If Opinions of Probable Construction Cost are provided under this Agreement, the additional provisions included in **Exhibit G** shall apply.

e) If Construction Services are provided under this Agreement, the additional provisions included in **Exhibit H** shall apply.

f) If applicable, all samples collected will be retained for a period of **60 days**, after which time they will be discarded unless other specific instructions as to their disposition are received from the client

15. EXHIBITS

The following Exhibits are attached to and made a part of this Agreement:

_✓_ Exhibit A, Scope of Services and Schedule
_✓_ Exhibit B, Payment Terms
_✓_ Exhibit C, Insurance
_✓_ Exhibit D, Special Provisions for Field Services
___ ~~Exhibit E, Special Provisions for Services of Licensed Site/Environmental/Remediation Professionals~~
_✓_ Exhibit F, Special Provisions for Engineering Design Services
_✓_ Exhibit G, Special Provisions for Opinions of Probable Construction Costs
_✓_ Exhibit H, Special Provisions for Construction Services

(Check all that apply; strike all that do not apply)

16. ACCEPTANCE

The parties hereto have executed this Agreement as of the dates shown below.

For CLIENT:	**For GEI:**
By: _____	By: _____
(Signature)	(Signature)
	Bradley Parlato, PE
(Print Name)	(Print Name)
	Vice President
(Title)	(Title)
	September , 2022
(Date)	(Date)

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EXHIBIT A

Scope of Services and Schedule

See Attached Letter Proposal Dated September 6, 2022.

EXHIBIT B

Payment Terms

Scope of services will be completed as a Lump Sum Contract for a fee of $4,000.00.

An invoice will be submitted upon completion of specified scope of service, as described in the accompanying contract (proposal, project, or agreement document that is signed and dated by GEI and CLIENT).

Payment is due upon receipt of the invoice. Interest will accrue at the rate of 1% of the invoice amount per month, for amounts that remain unpaid more than 30 days after the invoice date. All payments will be made by either check or electronic transfer to the address specified by GEI and will include reference to GEI's invoice number.

EXHIBIT C

Insurance

GEI will carry the following types and amounts of insurance:

A. Worker's Compensation and Employer's Liability (statutory):

1. In accordance with the laws of the state(s) in which services are performed.

B. Commercial General Liability (CGL) Insurance:

1. Bodily Injury and Property Damage Combined: $1,000,000 per occurrence and in aggregate.
2. Including explosion, underground drilling excavation, and collapse hazards.
3. Including an endorsement providing Additional Insured Status to CLIENT under the policy.

C. Comprehensive Automobile Insurance:

1. Bodily Injury and Property Damage Combined: $1,000,000 per accident.
2. Includes all owned, nonowned, and hired vehicles used in connection with the services under this Agreement.

D. Professional Liability Insurance:

1. $1,000,000 per claim and in aggregate.

EXHIBIT D

Special Provisions for Field Services

A. Right of Entry. CLIENT agrees to furnish GEI with right-of-entry and a plan of boundaries of the site where GEI will perform its services. If CLIENT does not own the site, CLIENT represents and warrants that it will obtain permission for GEI's access to the site to conduct site reconnaissance, surveys, borings, and other explorations of the site pursuant to the scope of services in the Agreement. GEI will take reasonable precautions to minimize damage to the site from use of equipment, but GEI is not responsible for damage to the site caused by normal and customary use of equipment. The cost for restoration of damage that may result from GEI's operations has not been included in GEI's fee, unless specifically stated in **Exhibit B**.

B. Underground Structures. CLIENT will identify locations of buried utilities and other underground structures in areas of subsurface exploration. GEI will take reasonable precautions to avoid damage to the buried utilities and other underground structures noted. If locations are not known or cannot be confirmed by CLIENT, then there will be a degree of risk to CLIENT associated with conducting the exploration. In the absence of confirmed underground structure locations, CLIENT agrees to accept the risk of any damages and losses resulting from the exploration work and shall indemnify and hold GEI, its subconsultants and employees harmless from all claims, losses or damages arising from GEI's services involving subsurface exploration.

C. Presence of Hazardous Materials. If unanticipated hazardous waste, oil, asbestos, or other hazardous materials, as defined by federal, state, or local laws or regulations, and if such materials are discovered during GEI's work, CLIENT agrees to negotiate appropriate revisions to the scope, schedule, budget, and terms and conditions of this Agreement. When such hazardous materials are suspected, GEI will have the option to stop work, without financial penalty, until a modification to this Agreement is made or a new Agreement is reached. If a mutually satisfactory Agreement cannot be reached between both parties, this Agreement will be terminated without cause and CLIENT agrees to pay GEI for all services rendered up to the date of termination, including any costs associated with termination.

D. Disposal of Samples and Wastes Containing Regulated Contaminants. In the event that samples collected by GEI or provided by CLIENT, or wastes generated as a result of site investigation activities, contain or potentially contain substances or constituents which are or may be regulated contaminants as defined by federal, state, or local statutes, regulations, or ordinances, including but not limited to samples or wastes containing hazardous materials, said samples or wastes remain the property of CLIENT and CLIENT will have responsibility for them as a generator. If set forth in the Agreement, GEI will, at CLIENT's expense and as CLIENT's appointed agent, perform necessary testing, and either (a) return said samples and wastes to CLIENT, or (b) using a manifest signed by CLIENT as generator, have said samples and/or wastes transported to a location selected by CLIENT for disposal. CLIENT agrees to pay all costs associated with the storage, transport and disposal of said samples and/or wastes. Unless otherwise provided in the Agreement, GEI will not transport, handle, store, or dispose of waste or samples or arrange or subcontract for waste or sample transport, handling, storage, or disposal. CLIENT recognizes and agrees that GEI is working as a bailee and/or agent and at no time assumes title to said waste or samples or any responsibility as generator of said waste or samples. Further, CLIENT agrees to look solely to any transport or disposal entity in the event any claim, cause of action or damages arise from GEI's activities a bailee or agent of

CLIENT under this provision.

E. Contribution of Hazardous Materials. CLIENT agrees that GEI has not contributed to the presence of hazardous wastes, oils, asbestos, biological pollutants such as molds, fungi, spores, bacteria and viruses, and by-products of any such biological organisms, or other hazardous materials that may exist or be discovered in the future at the site. GEI does not assume any liability for the known or unknown presence of such materials. GEI's scope of services does not include the investigation or detection of biological pollutants such as molds, fungi, spores, bacteria and viruses, and by-products of any such biological organisms. CLIENT agrees to indemnify and hold harmless GEI, its subconsultants, subcontractors, agents, and employees from and against all claims, damages, losses, and costs (including reasonable attorneys' fees) that may result from the detection, failure to detect, or from the actual, alleged, or threatened discharge, dispersal, release, escape, or exposure to any solid, liquid, gaseous, or thermal irritant, asbestos in any form, or contaminants including smoke, vapor, soot, fumes, acids, alkalies, chemicals, waste, oil, hazardous materials, or biological pollutants. CLIENT's obligations under this paragraph apply unless such claims, damages, losses, and expenses are caused by GEI's sole negligence or willful misconduct.

~~EXHIBIT E~~

~~Special Provisions for Services of Licensed Site/Environmental Professionals~~

~~For services under this Agreement that require the engagement of a Licensed Site Professional (LSP), a Licensed Environmental Professional (LEP), or a Licensed Site Remediation Professional (LSRP) registered with and subject to the laws and regulations promulgated by the state in which the services are provided (collectively the LSP/LEP/LSRP Program), the following will apply:~~

~~A. Under the LSP/LEP/LSRP Program, the LSP/LEP/LSRP owes professional obligations to the public, including, in some instances, a duty to disclose the existence of certain contaminants to the state in which the services are provided.~~

~~B. CLIENT understands and acknowledges that in the event that the licensed professional's obligations under the LSP/LEP/LSRP Program conflict in any way with the terms and conditions of this Agreement or the wishes or intentions of CLIENT, the licensed professional is bound by law to comply with the requirements of the LSP/LEP/LSRP Program. CLIENT recognizes that the licensed professional is immune from civil liability resulting from any such actual or alleged conflict.~~

~~C. CLIENT agrees to indemnify and hold GEI harmless from any claims, losses, damages, fines, or administrative, civil, or criminal penalties resulting from the licensed professional's fulfillment of the licensed professional's obligations under the LSP/LEP/LSRP Program.~~

EXHIBIT F

Special Provisions for Engineering Design Services

A. Design Without Construction Phase Services. CLIENT understands and agrees that if GEI's services under this Agreement include engineering design and do not include Construction-Related Services, then CLIENT:

1. Assumes all responsibility for interpretation of the construction Contract Documents.
2. Assumes all responsibility for construction observation and review.
3. Waives any claims against GEI that may be in any way connected thereto.

For purposes of this Agreement, Construction-Related Services include, but are not limited to: construction observation; review of the construction contractor's technical submittals; review of the construction contractor's progress; or other construction-phase services.

B. Use of Documents.

1. The actual signed and sealed hardcopy construction Contract Documents including stamped drawings, together with any addenda or revisions, are and will remain the official copies of all documents.
2. All documents including drawings, data, plans, specifications, reports, or other information recorded on or transmitted as Electronic Files are subject to undetectable alteration, either intentional or unintentional, due to transmission, conversion, media degradation, software error, human alteration, or other causes.
3. Electronic Files are provided for convenience and informational purposes only and are not a finished product or Contract Document. GEI makes no representation regarding the accuracy or completeness of any accompanying Electronic Files. GEI may, at its sole discretion, add wording to this effect on electronic file submissions.
4. CLIENT waives any and all claims against GEI that may result in any way from the use or misuse, unauthorized reuse, alteration, addition to, or transfer of the electronic files. CLIENT agrees to indemnify and hold harmless GEI, its officers, directors, employees, agents, or subconsultants, from any claims, losses, damages, or costs (including reasonable attorney's fees) which may arise out of the use or misuse, unauthorized reuse, alteration, addition to, or transfer of electronic files.

EXHIBIT G

Special Provisions for Opinions of Probable Construction Costs

GEI's Opinions of Probable Construction Cost provided under this Agreement are made on the basis of GEI's experience and qualifications, and represent GEI's best judgment as an experienced and qualified professional generally familiar with the industry. However, since GEI has no control over the cost of labor, materials, equipment, or services furnished by others, or over a contractor's methods of determining prices, or over competitive bidding or market conditions, GEI cannot and does not guarantee that proposals, bids, or actual construction costs will not vary from Opinions of Probable Construction Cost prepared by GEI.

If CLIENT wishes greater assurance as to probable construction costs, CLIENT agrees to employ an independent cost estimator.

EXHIBIT H

Special Provisions for Construction Services

In accordance with the scope of services under this Agreement, GEI will provide personnel to observe the specific aspects of construction stated in the Agreement and to ascertain that construction is being performed, in general, in accordance with the approved construction Contract Documents.

A. GEI cannot provide its opinion on the suitability of any part of the work performed unless GEI's personnel make measurements and observations of that part of the construction. By performing construction observation services, GEI does not guarantee the contractor's work. The contractor will remain solely responsible for the accuracy and adequacy of all construction or other activities performed by the contractor, including: methods of construction; supervision of personnel and construction; control of machinery; false work, scaffolding, or other temporary construction aids; safety in, on, or about the job site; and compliance with OSHA and construction safety regulations and any other applicable federal, state, or local laws or regulations.

B. In consideration of any review or evaluation by GEI of the various bidders and bid submissions, and to make recommendations to CLIENT regarding the award of the construction Contract, CLIENT agrees to hold harmless and indemnify GEI for all costs, expenses, damages, and attorneys' fees incurred by GEI as a result of any claims,

allegations, administrative proceedings, or court proceedings arising out of or relating to any bid protest or such other action taken by any person or entity with respect to the review and evaluation of bidders and bid submissions or recommendations concerning the award of the construction Contract. This paragraph will not apply if GEI is adjudicated by a court to have been solely negligent or to have actually engaged in intentional and willful misconduct without legitimate justification, privilege, or immunity; however, CLIENT will be obligated to indemnify GEI until any such final adjudication by a court of competent jurisdiction.