



May 13, 2016
Proposal 610018

Consulting
Engineers and
Scientists

Mr. Kelly Boling, Project Manager
The Trust for Public Land
10 Milk Street, Suite 810
Boston, MA 02108

**RE: Environmental Due Diligence and Remediation Planning
Baumgarten Property – 123 Greenmanville Ave.
Mystic (Town of Stonington), CT**

Dear Mr. Boling:

GEI Consultants, Inc. (GEI) is pleased to provide the following proposal for environmental due diligence and remediation planning services associated with Baumgarten Property located at 123 Greenmanville Ave., Mystic, Town of Stonington, CT (Site).

GEI (previously Atlantic Environmental Services) performed the Phase II Field Investigation on the Baumgarten property in 1995. Early in 2016, GEI was engaged by Fred Baumgarten to review previous environmental reports for the property and provide an understanding of project direction. As such, we have already developed a deep understanding of the specific project needs.

The following costs and scopes of services were previously provided to you as part of a Request for Proposals and submitted on April 29, 2015.

SCOPE OF SERVICES

Task 1 – All Appropriate Inquiry (AAI) – Phase I ESA

We propose to update the 2008 Phase I Environmental Site Assessment (ESA) to All-Appropriate Standards (AAI; ASTM E 1527-13) for a sum not-to exceed fee of \$2,950. This report will be provided as a stand-alone report with references, where applicable, to the prior 2008 Phase I ESA.

The Site Conceptual Model will be updated through a records review and a current Site inspection. The records review will consist of a review of the Town of Stonington municipal records, records maintained at the Connecticut Department of Energy and Environmental Protection, and federal databases through an electronic database search service. The focus of the records review will be on activities that could affect the Site understanding occurring after 2008. However, additional relevant information not included in the 2008 ESA will be provided.

A current site inspection is required to document current Site conditions. The Site inspection will be performed by a Connecticut Licensed Environmental Professional (LEP) which meets the definition of an environmental professional under the AAI specifications. We will also interview the current owner to document recent and historical Site activities.

Three components of the AAI standard will need to be developed since they were not part of the 2008 Phase I ESA: a vapor encroachment report, a data gap section, and more refined description of recognized environmental conditions as defined by the new standard.

We will perform a vapor encroachment report in accordance with the requirements of the ASTM Tier I Vapor Encroachment Screening (E2600-10). We will review the Site and adjacent properties with suspect sources of petroleum and non-petroleum contamination. It is unlikely that such potential sources exist but an assessment of vapor migration is required to meet the new Phase I ESA standard.

The 2008 Phase I ESA does not identify the presence or absence of data gaps. A discussion will be provided of any identified data gaps and their significance to identify conditions indicative of recognized environmental concerns.

Finally, the AAI standard created refinements to the definition of a recognized environmental concern. The standard added the term of a historical recognized environmental concern (HREC) and a controlled recognized environmental concern (CREC). A HREC refers to a past release that has been remediated to below residential standards and given regulatory closure with no use restrictions. The removal of the former underground storage tank may qualify for this distinction. A CREC applies to sites that have received regulatory closure, but are still subject to controls. We are not aware of any institutional or engineered control on the Site and therefore it is unlikely that any CRECs will be identified. Nevertheless, these two additional RECs should be discussed as part of the ESA update.

We will prepare a draft Phase I ESA report, conformant with the ASTM E 1527-13 standards, within three weeks of authorization to proceed. We are willing to discuss an even more expedited timeframe if required. Upon receipt of edits, we can finalize two hard copies and electronic version within seven days.

Task 2 – Regulatory Agency Meeting – Enrollment in CT VRP

We have proposed a fee of \$875 and will be billed on a time and materials basis. The proposed costs include the preparation and attendance of one meeting with the CT DEEP to discuss the feasibility of Site entry into the Voluntary Remediation Program. The meeting will be attended by Fred Johnson, LEP as program manager and Brian Conte, LEP as project manager. Additional project staff may attend at no cost to the project.

Task 3 – Engineer’s Estimate for Presumed Remedy

We have proposed a lump sum not-to-exceed fee of \$5,200 for this task. The scope of work includes two tasks developed in tandem:

1. Generate a cost estimate of the design and deployment of the proposed remedy.
2. Assemble information to support future regulatory submissions.

Our review of the past investigative reports indicates that the use of an engineered control (capping and land use restriction) represents a reasonable and likely remedial approach. Previous investigations have identified discrete areas of fill-related impacts in the shallow soils. An engineered cap is often a good fit for eliminating potential direct contact and compliance with regulatory standards.

Our project team has successfully designed and implemented these controls at many sites throughout the state. Our designs not only address the current regulatory requirements but incorporate current and future use of the property to ensure that the selected option remains a viable long-term strategy.

It is important to consider other remedial approaches which may be less costly and more effective. For example, a redevelopment design could serve a similar purpose as a cap by placing a future structure (i.e. a boathouse) to eliminate the need for an engineered cap. As such, we propose within this task to include an alternatives analysis for several remedial options. This analysis would provide a detailed cost estimate for each remedial option along with a feasibility assessment for implementation.

The analysis would include the following additional components:

- Description of the nature and extent of contamination of the areas subject to the engineered control.
- Compliance of proposed remedial options to current and proposed on-site and off-site land uses.
- Failure of the engineered control would not pose an unacceptable short-term risk to human health or the environment.
- Long-term fiscal and operational maintenance requirements.
- Engineered control has been approved by the CT DEEP in the past.

Assuming the Site enters a formal regulatory program, such as the Voluntary Remediation Program, an alternatives analysis will be a requirement for future regulatory submissions. The information gathered during this task will be easily transferrable to a remedial action plan or request for an engineered control variance. This dual purpose will ultimately save time and resources to move the Site towards successful redevelopment.

We will prepare a draft of the engineer's assessment with alternative analysis, within three weeks of authorization to proceed. Upon authorization, we propose conducting a planning meeting with you to establish future land use scenarios, site considerations, and ability to maintain the engineered control. We can finalize two hard copies and electronic version within seven days.

FEE AND SCHEDULE

The work conducted by GEI will be performed in accordance with the attached "Standard Professional Services Agreement," revised January 14, 2011.

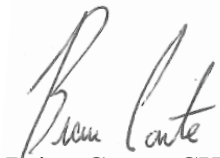
The following table provides the cost, billing structure and approximate timeline for completion:

Task	Cost and Billing Structure	Schedule
Task 1- AAI Phase I ESA	\$2,950 - Lump Sum	Draft report within three weeks of authorization; One week to finalize after receipt of edits.
Task 2 – Regulatory Agency Meeting	\$875 - Time and Materials	Schedule initial meeting within one weeks of authorization.
Task 3 – Engineer's Estimate for Presumed Remedy	\$5,200 - Lump Sum	Draft report within three weeks of finalization of Phase I ESA report; One week to finalize after receipt of edits.

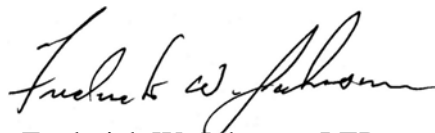
Please contact me at (860) 368-5412 or Fred Johnson at (860) 368-5300 if you have any questions. If this proposal meets your expectations, please return a signed copy of this contract to us for our files.

Thank you for the opportunity to provide these professional services to you. We look forward to working with you in the near future.

Sincerely,
GEI Consultants, Inc.



Brian Conte, CHMM LEP
Project Manager



Frederick W. Johnson, LEP
Senior Vice President, Principal

Enclosures

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STANDARD PROFESSIONAL SERVICES AGREEMENT

1. AGREEMENT.

This Agreement is made and entered into by and between

The Trust for Public Land and Fred Baumgarten (collectively "Client") and
GEI Consultants, Inc.

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. TIMES FOR RENDERING SERVICES.

- a) GEI shall endeavor to perform the services under this Agreement in an orderly and efficient manner, consistent with the schedule or milestone dates provided in **Exhibit A**.
- b) GEI shall not be responsible for delays caused by factors beyond GEI's reasonable control. When such delays beyond GEI's reasonable control occur, CLIENT agrees that GEI shall not be responsible for damages, nor shall GEI be deemed in default of this Agreement.

5. COMPENSATION.

- a) CLIENT agrees to pay GEI in accordance with the payment terms provided in **Exhibit B**.
- 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 45 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 warranties or representations, either expressed 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.

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 any 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 compensation received by GEI under this Agreement, or available proceeds from GEI's insurance, whichever is greater. 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. Notwithstanding the foregoing, the Town of Stonington and friends of Stonington crew may use and rely upon the Project Documents. 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 10 days written notice to GEI.
- b) This Agreement may be terminated by GEI for cause upon 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 90 days following invoice date, by providing a 10-day 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:	<u>Kelly Boling, The Trust for Public Land</u> <hr/> <hr/>
For GEI:	<u>Brian Conte, GEI Consultants, Inc.</u> <hr/> <hr/>

- 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.

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.

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)

ACCEPTANCE.

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

For CLIENT:

By: _____

(Signature)

(Print Name)

(Title)

(Date)

For GEI:

By:  _____

(Signature)

Brian Conte

(Print Name)

Project Manager

(Title)

05/13/2016

(Date)

STANDARD PROFESSIONAL SERVICES AGREEMENT

EXHIBIT A

Scope of Services and Schedule

See Attached Cover Letter

STANDARD PROFESSIONAL SERVICES AGREEMENT

EXHIBIT B

Payment Terms

See attached cover letter attached as Exhibit A and Section 5 of Terms and Conditions

STANDARD PROFESSIONAL SERVICES AGREEMENT

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, non-owned, 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.

STANDARD PROFESSIONAL SERVICES AGREEMENT

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 with the provision that GEI shall notify Fred Baumgarten at least 72 hours before entering the residence, which is leased to a tenant. 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.
- C. Presence of Hazardous Materials. If the services under this Agreement do not include services relating to 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, 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, 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 at no time assumes title to said waste or samples or any responsibility as generator of said waste or samples.

- 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. As a non-profit, TPL cannot assume liability for private entities, as doing so would enter an impermissible private benefit under the I.R.S and Treasury Regs governing 501(c)(3) entities.

STANDARD PROFESSIONAL SERVICES AGREEMENT

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.