

**RESOLUTION**  
**R 63-24**

**A RESOLUTION AUTHORIZING AN AGREEMENT**

**Geotechnical Engineering, Construction Material Testing, and Environmental Services**

**WHEREAS**, the Corporate Authorities of the Village of Lombard have received a proposed Agreement between the Village of Lombard and Rubino Engineering Inc. regarding providing services related to Geotechnical Engineering, Construction Material Testing and Environmental Services as attached hereto, marked Exhibit "A" and made part hereof (the "Agreement"); and

**WHEREAS**, the Corporate Authorities deem it to be in the best interests of the Village of Lombard to approve said Agreement;

NOW, THEREFORE, BE IT RESOLVED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF LOMBARD, DU PAGE COUNTY, ILLINOIS as follows:

**SECTION 1:** That the Agreement attached hereto as Exhibit "A" is hereby approved.

**SECTION 2:** That the Village President and the Village Clerk be and hereby are authorized and directed to execute the Agreement attached hereto as Exhibit "A", as well as any and all other documents necessary to carry out the provisions of said Agreement.

Adopted this 21<sup>st</sup> day of November 2024, pursuant to a roll call vote as follows:

Ayes: Trustee LaVaque, Puccio, Dudek, Militello and Bachner

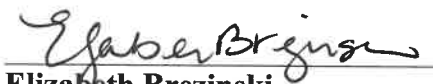
Nays: None

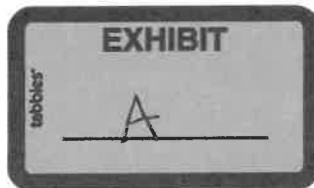
Absent: None

Approved by me this 21<sup>st</sup> day of November 2024.

  
\_\_\_\_\_  
**Keith T. Giagnorio**  
**Village President**

ATTEST:

  
\_\_\_\_\_  
**Elizabeth Brezinski**  
**Village Clerk**



Legistar: 240365

## VILLAGE OF LOMBARD CONTRACT

### CONTRACT DOCUMENT NUMBER M-24-01

This Agreement is made this 21<sup>st</sup> day of November 2024, between and shall be binding upon the Village of Lombard, an Illinois Municipal Corporation hereinafter referred to as the "VILLAGE" and Rubino Engineering Inc. hereinafter referred to as the "ENGINEER" and its successors.

Witnessed, that in consideration of the mutual promises of the parties delineated in the Contract Documents, the ENGINEER agrees to perform the services and the VILLAGE agrees to pay for the following services as set forth in the Contract Documents:

Geotechnical Engineering, Construction Material Testing and Environmental Services

1. This Agreement shall embrace and include all of the applicable Contract Documents listed below as if attached hereto or repeated herein:
  - a) Geotechnical Engineering, Construction Material Testing and Environmental Services Request for Proposal dated October 7, 2024 consisting of the following:

- Cover Sheet
- Table of Contents
- Solicitation Letter
- General Provisions
- Special Provisions
- Request For Proposal
- Submittal Requirement Instructions & Examples
- Proposal Form
- Appendix 1 – Fee Submittal Requirements
- Appendix 2 - Sample Form of Contract
- Appendix 3 - Engineer's Certification Form
- Appendix 4 - Local Government Prompt Payment Act
- Appendix 5 – Submittal Requirement Templates

- b) ENGINEER's Proposal dated November 7, 2024.
    - c) Required Certificates and Signatures and Certificate of Insurance.
    - d) ENGINEER's Fee Schedule.
  2. The VILLAGE agrees to pay, and the ENGINEER agrees to accept as full payment for the services, which are the subject matter of this contract in accordance with the General Provisions.
  3. This Contract represents the entire agreement between the parties and may not be modified without the written approval of both parties.

IN WITNESS WHEREOF, the Village of Lombard, Illinois by Keith Giagnorio, Village President, and the ENGINEER have hereunto set their hands this 21<sup>st</sup> day of November 2024.

If an individual or partnership, all individual names of each partner shall be signed or if a corporation, an officer duly authorized shall sign here:

Accepted this 8th day of November, 2024.

Individual or Partnership \_\_\_\_\_ Corporation X \_\_\_\_\_

By Michelle Lipinski Michelle Lipinski, P.E. / President \_\_\_\_\_  
Position/Title

By \_\_\_\_\_ Position/Title

RUBINO ENGINEERING INC.

THE VILLAGE OF LOMBARD, ILLINOIS

Accepted this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
Keith Giagnorio, Village President

Attest:

\_\_\_\_\_  
Elizabeth Brezinski, Village Clerk

## VILLAGE OF LOMBARD ENGINEER'S CERTIFICATION

Michelle Lipinski, having been first duly sworn depose and states as follows:  
(Officer or Owner of Company)

Rubino Engineering Inc., having submitted a proposal for:

Geotechnical Engineering, Construction Material Testing and Environmental Services

Contract to the Village of Lombard, hereby certifies that said ENGINEER:

1. has a written sexual harassment policy in place in full compliance with 775 ILCS 5/2-105(A) (4).
  2. is not delinquent in the payment of any tax administered by the Illinois Department of Revenue, or if it is:
    - a. it is contesting its liability for the tax or the amount of tax in accordance with procedures established by the approve Revenue Act; or
    - b. it has entered into an agreement with the Department of Revenue for payment of all taxes due and is currently in compliance with that agreement.
  3. is in full compliance with the Federal Highway Administration Rules on Controlled Substances and Alcohol Use and Testing, 49 CFR Parts 40 and 382 and that
- \_\_\_\_\_ (Name  
of employee/driver or "all employee drivers")  
is/are currently participating in a drug and alcohol testing program pursuant to the  
aforementioned rules.

By:

*Michelle Dipinski*  
Authorized Agent of ENGINEER

Subscribed and sworn to  
before me this 8<sup>th</sup>  
day of November, 2024.

  
Notary Public



## COST PROPOSAL

November 12th, 2024

To: David Gorman, P.E.  
Assistant Director of Public Works  
Lombard Public Works Department  
1051 S. Hammerschmidt Avenue  
Lombard, IL 60148

Re: Consulting Engineering Services  
Geotechnical and Material Testing Fee  
Schedule

Proposed 2025 Rate Sheets

Via email: [GormanD@villageoflombard.org](mailto:GormanD@villageoflombard.org)

Dear Mr. Gorman,

Rubino Engineering, Inc. is pleased to submit the following 2025 rate sheets to provide Consulting Engineering Services - Soils and Material Testing on various transportation related projects in Lombard, Illinois.

Rubino Engineering, Inc. proposes to provide experienced, technical personnel to perform the requested testing in general accordance with the client-provided project specifications. If any of the above information is incorrect, please notify us.

### PROJECT SCHEDULING

Please book material testing services prior to 4pm the day before testing is needed via our website:

<https://rubinoeng.com/schedule-field-testing>

The office and field project manager will be notified, and you will receive a confirmation email and possibly a follow up phone call or email for additional project information.

Changes to the schedule or cancellations: [scheduling@rubinoeng.com](mailto:scheduling@rubinoeng.com)

Please call the office with any questions or changes to the schedule between 8am to 4pm.

### CLOSING

Rubino appreciates the opportunity to offer our services for this project and we look forward to working with your company. Please contact me with any questions.

Respectfully submitted,

**RUBINO ENGINEERING, INC.**



Michelle A. Lipinski, PE  
President

RUBINO ENGINEERING, INC. IS:  
AN AASHTO-ACCREDITED LABORATORY  
IDOT PREQUALIFIED  
IDOT DBE-CERTIFIED (100% WOMAN-OWNED)

**Rubino Engineering, Inc.**

**Schedule of Construction Materials Testing Services & Fees through December 31, 2025 (Illinois Prevailing Wage)**

**LABORATORY TESTING SERVICES**

|   |              |           |
|---|--------------|-----------|
| Compression testing of concrete, mortar and grout specimens by ASTM procedures  | Per Cylinder | \$ 19.50  |
| Pick-up of test cylinders and transportation to lab (min. 2), or cancellation hours (min. 4)<br>(Does not include vehicle charge) | Per hour     | \$ 112.00 |
| Density relationship of soils   |              |           |
| ASTM D698 - AASHTO T99 (Standard Proctor)   | Each         | \$ 267.00 |
| ASTM D1557 - AASHTO T180 (Modified Proctor)   | Each         | \$ 311.50 |
| Asphalt   |              |           |
| Maximum Theoretical Specific Gravity  | Each         | \$ 155.75 |
| Bulk Specific Gravity   | Each         | \$ 133.50 |
| Ignition Oven Test / Reflux Extraction + Sieve Analysis   | Each         | \$ 178.00 |
| Core Densities  | Each         | \$ 44.50  |
| Sieve Analysis (Washed)   | Each         | \$ 111.25 |
| Sample preparation for the above tests  | Each         | \$ 55.00  |

**MATERIAL TESTER - 1** - Hand coring and drilling for testing of materials; field inspection of uncured concrete and asphalt.

|   |           |
|---|-----------|
| Per Hour  | \$ 112.00 |
| Per Hour Overtime (before 7am, after 3pm and Saturdays) | \$ 168.00 |
| Per Hour Overtime Sundays and Holidays                  | \$ 224.00 |

**MATERIAL TESTER - 2** - Field inspection of fireproofing, masonry, soil, facade, formwork, cured concrete, and concrete and asphalt batch plants; adjusting proportions of bituminous mixtures.

|   |           |
|---|-----------|
| Per Hour  | \$ 118.00 |
| Per Hour Overtime (before 7am, after 3pm and Saturdays) | \$ 177.00 |
| Per Hour Overtime Sundays and Holidays                  | \$ 236.00 |

**EQUIPMENT CHARGES**

|                             |         |          |
|-----------------------------|---------|----------|
| Vehicle Charge - Round Trip | Per Day | \$ 65.00 |
| Nuclear Density Gauge       | Per Day | \$ 46.00 |
| DCP Equipment               | Per Day | \$ 20.00 |

**ENGINEERING SERVICES**

|                          |          |           |
|--------------------------|----------|-----------|
| Principal Engineer       | Per Hour | \$ 185.00 |
| Project Engineer/Manager | Per Hour | \$ 136.00 |

**Rubino Engineering, Inc.**  
**2025 Schedule of Geotechnical Services & Fees**

**ENGINEERING**

Professional and Technical Services for site evaluation, field supervision, analysis of test data and engineering recommendations and consultation:

|   |          |    |        |
|---|----------|----|--------|
| Principal Engineer  | Per Hour | \$ | 185.00 |
| Project Engineer/Manager  | Per Hour | \$ | 135.00 |
| Engineering Field Technician / Field Engineer / Field Geologist | Per Hour | \$ | 115.00 |

**SUBSURFACE EXPLORATION**

|   |          |    |        |
|---|----------|----|--------|
| Mobilization and moving of truck-mounted drilling equipment and crew (50-mile radius) | Per Trip | \$ | 650.00 |
| Hourly Rate Drilling  | Per Hour | \$ | 475.00 |
| Thin Wall Tubes (ASTM D-1587)   | Each     | \$ | 50.00  |

**CORING SERVICES**

|                |          |    |        |
|----------------|----------|----|--------|
| Pavement Cores | Per Core | \$ | 225.00 |
|----------------|----------|----|--------|

**LABORATORY TESTING**

|   |      |    |        |
|---|------|----|--------|
| Moisture Content Test / Visual Classification         | Each | \$ | 8.90   |
| Atterberg Limits Determination (LL, PL)               | Each | \$ | 65.00  |
| Combined Hydrometer & Sieve Analysis                  | Each | \$ | 130.00 |
| Sieve Analysis (washed)                               | Each | \$ | 111.25 |
| Organic Content Determination Test (loss on ignition) | Each | \$ | 15.00  |
| pH Testing  | Each | \$ | 15.00  |

**CCDD TESTING**

|   |          |    |          |
|---|----------|----|----------|
| CCDD 662 (PIP Evaluation, pH, and LPC Form 662)     | Lump Sum | \$ | 1,200.00 |
| CCDD 663 Lab (Soil Analytical testing for form 663) | Lump Sum | \$ | 650.00   |
| CCDD 663 Report (Form LPC 663 and Report)           | Lump Sum | \$ | 1,400.00 |

**FEE REMARKS**

- 1) All fees and services are provided in accordance with the attached Rubino General Conditions.
- 2) Unit prices/rates are in effect for 6 months from the date of this proposal and are subject to change without notice thereafter.
- 3) Overtime rates are applicable for services performed in excess of 8 hours per day Monday through Friday, before 7:00 AM or after 3:00 PM, and for all hours worked on Saturdays, Sundays and holidays. The overtime rate is 1.5 times the applicable hourly rate.
- 4) All rates are billed on a portal-to-portal basis.
- 5) Standby time due to delays beyond Rubino's control will be charged at the applicable hourly rate.
- 6) Transportation and per diem are charged at the applicable rates.
- 7) Rates involving mileage (including transportation, mobilization, vehicle and trip charges) are subject to change based upon increases in the national average gasoline price.
- 8) A minimum charge of 4 hours applies to field testing and observation services.
- 9) Scheduling or cancellation of field testing and observation services is required no less than the working day prior to the date the services are to be performed. Services cancelled without advance and/or inadequate notice will be assessed a minimum charge of 4 hours.
- 10) For all Rubino services, a project management/engineering review charge will be billed for all reports issued for the scheduling/supervision of personnel and the evaluation/review of data and reports.
- 11) The minimum billing increment for time is a half hour.
- 12) A project set-up charge of a minimum of two hours applies to all projects.
- 13) Professional services rates are exclusive of expert deposition or testimony time.
- 14) This proposal is based on Rubino Engineering, Inc. being scheduled on an on-call basis and letters of certification will not be provided unless Rubino Engineering, Inc. is notified in advance and Rubino Engineering, Inc. is scheduled for full time inspection and testing of the area or item to be certified.
- 15) For sites where drilling is to occur that are not readily accessible to a truck mounted drill rig, rates for rig mobility, site clearing, crew stand-by time, etc. will be charged as applicable.
- 16) If special inspections are required by the city where the construction is to take place, it must be brought to the attention of Rubino Engineering, Inc. prior to the start of construction as additional charges will apply.
- 17) Prevailing wage fees are subject to change based on the Illinois Department of Labor.
- 18) Services and fees not listed on this schedule may be quoted on request.

## GENERAL CONDITIONS

**1. PARTIES AND SCOPE OF SERVICES:** Rubino Engineering, Inc. shall include said company or its particular division, subsidiary or affiliate performing the services. "Services" means the specific geotechnical, analytical, testing or other service to be performed by Rubino Engineering, Inc. as set forth in Rubino Engineering, Inc.'s proposal. Client's acceptance thereof and these General Conditions. Additional services ordered by Client shall also be subject to these General Conditions. "Client" refers to the person or business entity ordering the services to be done by Rubino Engineering, Inc. If Client is ordering the services on behalf of another, Client represents and warrants that it is the duly authorized agent of said party for the purpose of ordering and directing said services. Unless otherwise stated in writing, Client assumes sole responsibility for determining whether the quantity and the nature of the services ordered by the client is adequate and sufficient for Client's intended purpose. Client shall communicate these General Conditions to each and every third party to whom Client transmits any part of Rubino Engineering, Inc.'s services. Rubino Engineering, Inc. shall have no duty or obligation to any third party greater than that set forth in Rubino Engineering, Inc.'s proposal, Client's acceptance thereof and these General Conditions. The ordering of services from Rubino Engineering, Inc., or the reliance on any of Rubino Engineering, Inc.'s work, shall constitute acceptance of the terms of Rubino Engineering, Inc.'s proposal and these General Conditions, regardless of the terms of any subsequently issued document.

**2. TESTS AND INSPECTIONS:** Client shall cause all tests and inspection of the site, materials and work performed by Rubino Engineering, Inc. or others to be timely and properly performed in accordance with the plans, specifications and contract documents and Rubino Engineering, Inc.'s recommendations. No claims for loss, damage or injury shall be brought against Rubino Engineering, Inc. by Client or any third party unless all tests and inspections have been so performed and unless Rubino Engineering, Inc.'s recommendations have been followed. Client agrees to indemnify, defend and hold Rubino Engineering, Inc., its officers, employees and agents harmless from any and all claims, suits, losses, costs and expenses, including, but not limited to, court costs and reasonable attorney's fees in the event that all such tests and inspections are not so performed or Rubino Engineering, Inc.'s recommendations are not so followed except to the extent that such failure is the result of the negligence, willful or wanton act of omission of Rubino Engineering, Inc., its officers, agents or employees, subject to the limitation contained in paragraph 9.

**3. SCHEDULING OF SERVICES:** The services set forth in Rubino Engineering, Inc.'s proposal and Client's acceptance will be accomplished in a timely, workmanlike and professional manner by RUBINO ENGINEERING, INC. personnel at the prices quoted. If Rubino Engineering, Inc. is required to delay commencement of the services or if, upon embarking upon its services, Rubino Engineering, Inc. is required to stop or interrupt the progress of its services as a result of changes in the scope of the services requested by Client, to fulfill the requirements of third parties, interruptions in the progress of construction, or other causes beyond the direct reasonable control of Rubino Engineering, Inc., additional charges will be applicable and payable by Client.

**4. ACCESS TO SITE:** Client will arrange and provide such access to the site as is necessary for Rubino Engineering, Inc. to perform the services. Rubino Engineering, Inc. shall take reasonable measures and precautions to minimize damage to the site and any improvements located thereon as the result of its services or the use of its equipment; however, Rubino Engineering, Inc. has not included in its fee the cost of restoration of damage which may occur. If Client desires or requires Rubino Engineering, Inc. to restore the site to its former condition, upon written request Rubino Engineering, Inc. will perform such additional services as is necessary to do so and Client agrees to pay Rubino Engineering, Inc. for the cost.

**5. CLIENT'S DUTY TO NOTIFY ENGINEER:** Client represents and warrants that it has advised Rubino Engineering, Inc. of any known or suspected hazardous materials, utility lines and pollutants at any site at which Rubino Engineering, Inc. is to perform services hereunder, and unless Rubino Engineering, Inc. has assumed in writing the responsibility of locating subsurface objects, structures, lines or conduits. Rubino Engineering, Inc. may use such information in performing its services and is entitled to rely upon the accuracy and completeness thereof. Client agrees to defend, indemnify and save Rubino Engineering, Inc. harmless from all claims, suits, losses costs and expenses, including reasonable attorney's fees as a result of personal injury, death or property damage occurring with respect to Rubino Engineering, Inc.'s performance of its work and resulting to or caused by contact with subsurface of latent objects, structures, lines or conduits where the actual or potential presence and location thereof were not revealed to Rubino Engineering, Inc. by Client and/or by any of Client's subcontractors or sub consultants

**6. RESPONSIBILITY:** Rubino Engineering, Inc.'s services shall not include determining, supervising or implementing the means, methods, techniques, sequences or procedures of construction. Rubino Engineering, Inc. shall not be responsible for evaluating, reporting or affecting job conditions concerning health, safety or welfare. Rubino Engineering, Inc.'s services or failure to perform same shall not in any way excuse any contractor, subcontractor or supplier from performance of its work in accordance with the contract documents. Rubino Engineering, Inc. has no right or duty to stop the contractor's work.

**7. SAMPLE DISPOSAL:** Unless otherwise agreed in writing, test specimens or samples will be disposed immediately upon completion of the test. All drilling samples or specimens will be disposed sixty (60) days after submission of Rubino Engineering, Inc.'s report.

**8. PAYMENT:** Client shall be invoiced once each month for services performed during the preceding period. Client agrees to pay each invoice within thirty (30) days of its receipt. Client further agrees to pay interest on all amounts invoiced and not paid or objected to for valid cause in writing with said thirty (30) day period at the rate of eighteen (18) percent per annum (or the maximum interest rate permitted under applicable law), until paid. Client agrees to pay Rubino Engineering, Inc.'s cost of collection of all amounts due and unpaid after sixty (60) days, including court costs and reasonable attorney's fees. Rubino Engineering, Inc. shall not be bound by any provision or agreement requiring or providing for arbitration or disputes or controversies arising out of this agreement, any provision wherein Rubino Engineering, Inc. waives any rights to a mechanics' lien, or any provision conditioning Rubino Engineering, Inc.'s right to receive payment for its services upon payment to Client by any third party. These General Conditions are notice, where required, that Rubino Engineering, Inc. shall file a lien whenever necessary to collect past due amounts. Release of such lien shall be given only when payment in full has been received for services duly rendered. Failure to make payment within thirty (30) days of invoice shall constitute a release of Rubino Engineering, Inc. from any and all claims which Client may have, whether in tort, contract or otherwise and whether known or unknown at the time.

**9. STANDARD OF CARE:** RUBINO ENGINEERING, INC.'S SERVICES WILL BE PERFORMED, ITS FINDINGS OBTAINED AND ITS REPORTS PREPARED IN ACCORDANCE WITH ITS PROPOSAL, CLIENT'S ACCEPTANCE THEREOF, THESE GENERAL CONDITIONS AND WITH GENERALLY ACCEPTED PRINCIPLES AND PRACTICES. IN PERFORMING ITS PROFESSIONAL SERVICES, RUBINO ENGINEERING, INC. WILL USE THAT DEGREE OF CARE AND SKILL ORDINARILY EXERCISED UNDER SIMILAR CIRCUMSTANCES BY MEMBERS OF ITS PROFESSION. RUBINO ENGINEERING, INC. MAKES NO WARRANTIES, EITHER EXPRESS OR IMPLIED, IN CONNECTION WITH ITS SERVICES PROVIDED AS SET FORTH IN ITS PROPOSAL, CLIENT'S ACCEPTANCE THEREOF, AND THESE GENERAL CONDITIONS. STATEMENTS MADE IN RUBINO ENGINEERING, INC. REPORTS ARE OPINIONS BASED UPON ENGINEERING JUDGMENT AND ARE NOT TO BE CONSTRUED AS REPRESENTATIONS OF FACT.

SHOULD RUBINO ENGINEERING, INC. OR ANY OF ITS PROFESSIONAL EMPLOYEES BE FOUND TO HAVE BEEN NEGLIGENT IN THE PERFORMANCE OF ITS WORK, OR TO HAVE MADE AND BREACHED ANY EXPRESSED OR IMPLIED WARRANTY, REPRESENTATION OR CONTRACT, CLIENT, ALL PARTIES CLAIMING THROUGH CLIENT AND ALL PARTIES CLAIMING TO HAVE IN ANY WAY RELIED UPON RUBINO ENGINEERING, INC.'S WORK, AGREE THAT THE MAXIMUM AGGREGATE AMOUNT OF THE LIABILITY OF RUBINO ENGINEERING, INC., ITS OFFICERS, EMPLOYEES AND AGENTS SHALL BE LIMITED TO \$10,000.00 OR THE TOTAL AMOUNT OF THE FEE PAID TO RUBINO ENGINEERING, INC. FOR ITS WORK PERFORMED WITH RESPECT TO THE PROJECT, WHICHEVER AMOUNT IS GREATER.

NO ACTION OR CLAIM, WHETHER IN TORT, CONTRACT OR OTHERWISE, MAY BE BROUGHT AGAINST RUBINO ENGINEERING, INC., ARISING FROM OR RELATED TO RUBINO ENGINEERING, INC.'S WORK, MORE THAN TWO (2) YEARS AFTER THE CESSATION OF RUBINO ENGINEERING, INC.'S WORK HEREUNDER.

**10. INDEMNITY:** To the fullest extent permitted by law, Client and Rubino Engineering, Inc. each agree to indemnify the other party and the other party's officers, directors, partners, employees, and representatives, from and against losses, damages, and judgments arising from claims by third parties, including reasonable attorneys' fees and expenses recoverable under applicable law, but only to the extent they are found to be caused by a negligent act, error, or omission of the indemnifying party or any of the indemnifying party's officers, directors, members, partners, agents, employees, subcontractors, or subconsultants in the performance of services under this Agreement. If claims, losses, damages, and judgments are found to be caused by the joint or concurrent negligence of Client and Rubino Engineering, Inc., they shall be borne by each party in proportion to its negligence.

**11. TERMINATION:** This Agreement may be terminated by either party upon seven (7) days' prior written notice. In the event of termination, Rubino Engineering, Inc. shall be compensated by Client for all services performed up to and including the termination date, including reimbursable expenses and for the completion of such services and records as are necessary to place Rubino Engineering, Inc.'s files in order and/or protect its professional reputation. Failure of Client to make payments when due shall be cause for suspension of services or, ultimately, termination, unless and until Rubino Engineering Inc. has been paid in full all amounts due for services, expenses and other related changes.

**12. DISPUTE RESOLUTION:** In the event of a dispute arising out of or relating to this Agreement or the services to be rendered hereunder, the Client and Rubino Engineering, Inc. agree to attempt to resolve such disputes in the following manner: 1) The parties agree to attempt to resolve any and all unsettled claims, counterclaims, disputes and other matters in question through direct negotiations between the appropriate representatives of each party; 2) If such negotiations are not fully successful, the parties agree to submit any and all remaining unsettled claims, counterclaims, disputes and other matters in question to mediation in accordance with the Construction Industry Mediation Rules of the American Arbitration Association, effective as of the date of this Agreement.

**13. WITNESS FEES:** Rubino Engineering, Inc.'s employees shall not be retained as expert witnesses except by separate written agreement. Client agrees to pay Rubino Engineering, Inc.'s legal expenses, administrative costs and fees pursuant to Rubino Engineering, Inc.'s then current fee schedule for Rubino Engineering, Inc. to respond to any subpoena.

**14. NO HIRE:** Client agrees not to hire Rubino Engineering, Inc.'s employees except through Rubino Engineering, Inc. In the event Client hires a Rubino Engineering, Inc. employee, Client shall pay Rubino Engineering, Inc. an amount equal to one-half of the employee's annualized salary, with Rubino Engineering, Inc. waiving other remedies it may have.

**15. HAZARDOUS MATERIALS:** Nothing contained within this agreement shall be construed or interpreted as requiring Rubino Engineering, Inc. to assume the status of an owner, operator, generator, storer, transporter, treater or disposal facility as those terms appear within RCRA, CERCLA, or within any Federal or State statute or regulation governing the generation, transportation, treatment, storage and disposal of pollutants. Client assumes full responsibility for compliance with the provisions of RCRA, CERCLA, and any other Federal or State statute or regulation governing the handling, treatment, storage and disposal of pollutants.

**16. PROVISIONS SEVERABLE:** The parties have entered into this agreement in good faith and it is the specific intent of the parties that the terms of the General Conditions be enforced as written. In the event any of the provisions of these General Conditions should be found to be unenforceable, it shall be stricken and the remaining provisions shall be enforceable.

**17. ENTIRE AGREEMENT:** This agreement constitutes the entire understanding of the parties, and there are no representations, warranties or undertakings made other than as set forth herein. This agreement may be amended, modified or terminated only in writing, signed by each of the parties hereto.