



AGENDA ITEM EXECUTIVE SUMMARY

Agenda Item:	2017 Geotechnical Services and Construction Materials Testing		
Presenter & Title:	Brian L. Schiber, P.E. ADPW/City Engineer		
Date:	July 5, 2017		
Please Check Appropriate Box:			
<input checked="" type="checkbox"/>	Committee of the Whole Meeting		Special Committee of the Whole Meeting
<input checked="" type="checkbox"/>	City Council Meeting		Special City Council Meeting
	Public Hearing		Other -
Associated Strategic Plan Goal/Objective: Plan Vision 5, Goal I			
Estimated Cost: \$50,000		Budgeted? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Other Funding? <input type="checkbox"/> Yes <input type="checkbox"/> No
If "Other Funding," please explain how the item will be funded:			
Executive Summary:			
<p>Three (3) proposals were opened and read aloud on June 29, 2017 and are as summarized on the attached bid tab. The lowest proposal was \$40,580.00 submitted by Rubino Engineering Inc. of Elgin, IL. Their proposal is below the budgeted amount of \$50,000. This company has performed similar work for the City of Geneva in the past and has performed in a satisfactory manner. Their employees and their laboratory are certified by IDOT and AASHTO to provide the necessary geotechnical services and construction material testing required by the City.</p>			
Attachments: <i>(please list)</i>			
<ul style="list-style-type: none"> • Resolution • Bid Tabulations 			
Recommendation / Suggested Action: <i>(how item should be listed on agenda)</i>			
<p>In consideration of the above information, I respectfully recommend that the City of Geneva City Council award the contract for the 2017 Geotechnical Services and Construction Materials Testing to Rubino Engineering Inc. in a not to exceed amount of \$40,580.00.</p>			

RESOLUTION NO. 2017-75

**RESOLUTION AUTHORIZING EXECUTION OF
Contract with Rubino Engineering for the 2017 Geotechnical Services and Construction
Materials Testing**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GENEVA, KANE COUNTY, ILLINOIS, as follows:

SECTION 1: The City Administrator is hereby authorized to execute the contract, on behalf of the City of Geneva, for the 2017 Geotechnical Services and Construction Materials Testing with Rubino Engineering, in the form attached hereto as Exhibit "A", relating to the 2017 Geotechnical Services and Construction Materials Testing.

SECTION 2: This Resolution shall become effective from and after its passage as in accordance with law.

PASSED by the City Council of the City of Geneva, Kane County, Illinois, this 17th day of July, 2017

AYES: __ NAYS: __ ABSENT: __ ABSTAINING: __ HOLDING OFFICE: __

Approved by me this ____ day of _____, 2017.

Mayor

ATTEST:

City Clerk

2017 GEOTECH AND MATERIAL TESTING SERVICES PROPOSAL TABULATION			RUBINO		SEECO CONSULTANTS INC.		GEOCON PROF. SERVICES	
GEOTECHNICAL SERVICES	UNITS	EST. QTY.	UNIT PRICE	COST	UNIT PRICE	COST	UNIT PRICE	COST
ENGINEERING:								
Chief Engineer	HR	4.00	90.00	360.00	\$180.00	\$ 720.00	\$125.00	500.00
Senior Engineer	HR	4.00	90.00	360.00	\$130.00	\$ 520.00	\$125.00	500.00
Project Engineer	HR	10.00	80.00	800.00	\$120.00	\$ 1,200.00	\$95.00	950.00
Staff Engineer	HR	10.00	80.00	800.00	\$105.00	\$ 1,050.00	\$95.00	950.00
Engineering Technician	HR	20.00	80.00	1,600.00	\$99.00	\$ 1,980.00	\$95.00	1,900.00
						\$ -		-
SUBSURFACE EXPLORATION:								
Mobilization	EA	2.00	500.00	1,000.00	\$450.00	\$ 900.00	\$450.00	900.00
Borings (0 to 10 feet deep)	FT	200.00	19.00	3,800.00	\$26.00	\$ 5,200.00	\$22.00	4,400.00
						\$ -		-
LABORATORY TESTING:								
Moisture Content	EA	80.00	3.00	240.00	\$8.00	\$ 640.00	\$15.00	1,200.00
Atterberg Limits (LL & PL)	EA	10.00	25.00	250.00	\$95.00	\$ 950.00	\$125.00	1,250.00
Combined Hydrometer & Sieve Analysis	EA	10.00	55.00	550.00	\$190.00	\$ 1,900.00	\$240.00	2,400.00
Sieve Analysis (washed)	EA	4.00	45.00	180.00	\$100.00	\$ 400.00	\$120.00	480.00
Unconfined Compression	EA	10.00	10.00	100.00	\$2.00	\$ 20.00	\$100.00	1,000.00
Density Determination	EA	4.00	5.00	20.00	\$15.00	\$ 60.00	\$45.00	180.00
Unconsolidated - Underdrain Triaxial Test (ASTM D 2850)	EA	5.00	70.00	350.00	\$350.00	\$ 1,750.00	\$600.00	3,000.00
PREPARE LABORATORY SUMMARY REPORT						\$ -		
GEOTECH TOTALS				\$ 10,410.00		\$ 17,290.00		\$ 19,610.00
Thin Wall Tube	EA	10.00					\$ 30.00	\$ 300.00
Extrude and Classify TWT	EA	10.00					\$ 40.00	\$ 400.00
CONSTRUCTION MATERIAL TESTING								
Laboratory Testing Services:								
Compression Testing of PCC Cylinders per ASTM procedures	EA	120.00	\$ 16.00	\$ 1,920.00	\$ 17.00	\$ 2,040.00	\$ 15.00	\$ 1,800.00
Cylinder Pick-up	EA	20.00	\$ 80.00	\$ 1,600.00	\$ 90.00	\$ 1,800.00	\$ 280.00	\$ 5,600.00
Maximum Theoretical Specific Gravity	EA	25.00	\$ 90.00	\$ 2,250.00	\$ 80.00	\$ 2,000.00	\$ 120.00	\$ 3,000.00
Bulk Specific Gravity	EA	25.00	\$ 80.00	\$ 2,000.00	\$ 60.00	\$ 1,500.00	\$ 110.00	\$ 2,750.00
Ignition Oven Test	EA	20.00	\$ 75.00	\$ 1,500.00	\$ 150.00	\$ 3,000.00	\$ 215.00	\$ 4,300.00
Core Thickness & Density Determination	EA	40.00	\$ 20.00	\$ 800.00	\$ 45.00	\$ 1,800.00	\$ 50.00	\$ 2,000.00
Sieve Analysis	EA	10.00	\$ 45.00	\$ 450.00	\$ 100.00	\$ 1,000.00	\$ 130.00	\$ 1,300.00
						\$ -		
Field Testing:								
Technician (on Site for PCC and HMA)	HR	225.00	\$ 82.00	\$ 18,450.00	\$ 110.00	\$ 24,750.00	\$ 120.00	\$ 27,000.00
						\$ -		
Engineering Services								
Project Engineer	HR	15.00	\$ 80.00	\$ 1,200.00	\$ 110.00	\$ 1,650.00	\$ 150.00	\$ 2,250.00
						\$ -		
TESTING TOTALS				\$ 30,170.00		\$ 39,540.00		\$ 50,000.00
COMBINED TOTALS				\$ 40,580.00		\$ 56,830.00		\$ 70,310.00

ADDITIONAL COSTS ADDED BY SUBMITTER
CORRECTIONS

To: Mr. C. Elton Orozco
 City of Geneva
 Public Works Department
 1800 South Street
 Geneva, IL 60134

Re: 2017 Construction Materials Testing and
 Geotechnical Services
 Geneva, IL

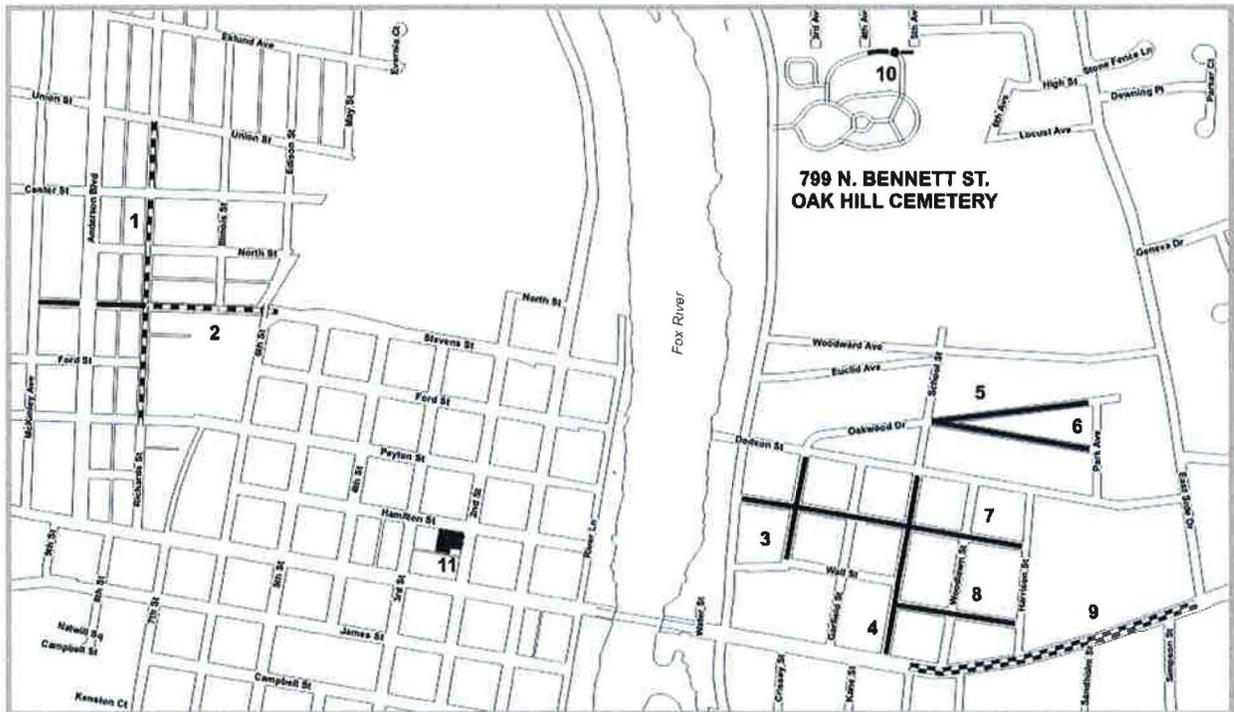
Rubino Proposal No. Q17.275

Dear Mr. Orozco,

Rubino Engineering, Inc. is pleased to submit the following information about our firm in response to the request for proposal entitled, **“2017 Construction Material Testing and Geotechnical Services”**.

Rubino understands the City of Geneva is planning to repave/reconstruct approximately 3 miles of roadway in addition to other street maintenance projects throughout the City in the 2017-2018 fiscal year. These projects will need material testing, subsurface exploration and geotechnical work.

NO.	STREET NAME	FROM	TO
1	RICHARDS STREET	UNION STREET	PEYTON STREET
2	STEVENS STREET	SIXTH STREET	MCKINLEY AVENUE
3	HOWARD STREET	DODSON STREET	WALL STREET
4	SCHOOL STREET	DODSON STREET	STATE STREET
5	OAKWOOD DRIVE	PARK AVENUE	SCHOOL STREET
6	AUSTIN AVENUE	PARK AVENUE	SCHOOL STREET
7	JEFFERSON STREET	HARRISON STREET	BENNETT STREET
8	SUMMIT STREET	HARRISON STREET	SCHOOL STREET
9	STATE STREET (Patching)	EAST SIDE DRIVE	NEBRASKA STREET
10	OAK HILL CEMETERY	FIFTH AVENUE	FOURTH AVENUE
11	HAMILTON ST (Parking Lot)	SECOND STREET	THIRD STREET



Rubino appreciates the opportunity to offer our services for these projects and we look forward to the opportunity to work with the City of Geneva again.

Respectfully submitted,
RUBINO ENGINEERING, INC.

Michelle A. Lipinski
 Michelle A. Lipinski, PE
 President
michelle.lipinski@rubinoeng.com

Rubino Engineering, Inc. – Corporate History

Established in 2009 by our President, Michelle Lipinski, PE, Rubino Engineering, Inc. (Rubino) provides geotechnical engineering, construction materials testing and structural material investigations throughout the Chicagoland area. Rubino specializes in representing the owner on municipal projects.

Qualifications

include **laboratory certifications** by the American Association of State Highway Transportation Officials (**AASHTO**) and the Illinois Department of Transportation (IDOT). In addition, Rubino is prequalified by IDOT to provide General Geotechnical Services and Quality Assurance of Portland Cement Concrete (PCC), Hot Mix Asphalt (HMA) and Aggregate on IDOT projects.



Geotechnical Engineering & CCDD Services

include drilling and subsurface explorations, in-house drilling (SPT), pavement coring and subgrade stability recommendations, and in-house CCDD sampling, testing, and certification.

Geotechnical Project Approach

- In-house drilling, laboratory, and CCDD Certification
- Detailed reporting with photo documentation
- Effective communication throughout the project
- Friendly, courteous, and knowledgeable staff
- Requests for testing will be scheduled for layout and clearance within 5 days of the request.
- Field work and prelim info is typically completed within 10 days
- Geotechnical report developed in 10 days.

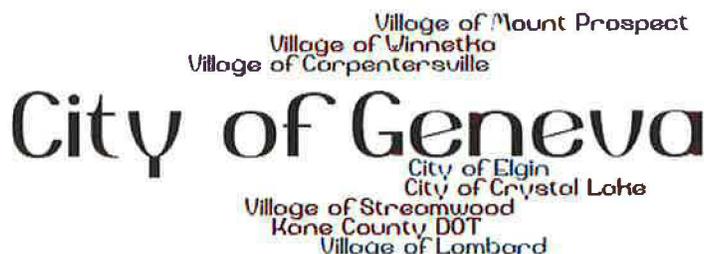


QA Material Testing Services

include quality control/quality assurance (QC/QA) of concrete, soil, and asphalt materials on transportation projects including monitoring the mix production at the production plant.

QA Material Testing Project Approach

- Highly qualified and experienced staff
- Prompt response and flexibility including early or late scheduling changes
- Tim Dunne (847) 343-0749, Field Project Manager, maintains a high level of communication with the **City of Geneva**, the contractor, Quality Control personnel, material producers, and other members of the project team as necessary for the project.
- Field results verbally reported to field representatives and Re-tests performed on failed tests
- Reports reviewed and submitted within 24 hours for field tests and 48 hours for lab tests



Rubino has extensive **EXPERIENCE** performing the above services within the City of Geneva, Kane County, and several other municipalities within the Chicagoland area.



SCHEDULE OF FEES

The work will be accomplished on a unit price basis in accordance with the Rubino Engineering, Inc. Schedule of Fees included below, and will be performed pursuant to the attached General Conditions. Copies of our General Conditions are enclosed herewith and incorporated into this proposal.

The prevailing wage fees charged under this agreement will be adjusted if there is any change in the applicable prevailing wage rate established by the Illinois Department of Labor.

Geotechnical Engineering		
<u>Geotechnical Engineering</u>	Cost	Unit
Chief Engineer	\$90.00	Hour
Senior Engineer	\$90.00	Hour
Project Engineer	\$80.00	Hour
Staff Engineer	\$80.00	Hour
Engineering Technician	\$80.00	Hour
<u>Geotechnical Laboratory Testing</u>		
Moisture Content	\$3.00	Each
Atterberg Limits	\$25.00	Each
Combined Hydrometer & Sieve Analysis	\$55.00	Each
Sieve Analysis – Washed	\$45.00	Each
Unconfined Compression Test	\$10.00	Each
Density Determination	\$5.00	Each
Unconsolidated , un-drained Triaxial Test	\$70.00	Each
Hydrometer Analysis	\$40.00	Each
Standard Proctor	\$125.00	Each
Organic Content	\$10.00	Each
Illinois Bearing Ratio	\$190.00	Each
pH Determination	\$10.00	Each
<u>Geotechnical Drilling</u>		
Mobilization	\$500.00	Each
Boring Layout	\$70.00	Hour
Utility Location	\$40.00	Hour
Drilling	\$19.00	Foot
Pavement Coring	\$90.00	Hour



Construction Materials Testing		
HOT MIX ASPHALT		
<u>HMA Plant Testing</u>		
Technician	\$82.00	Hour
<u>HMA Field Testing</u>		
Technician with Nuclear Gauge	\$82.00	Hour
Vehicle Use	\$55.00	Day
<u>Laboratory Testing</u>		
Asphalt Content (ignition)	\$75.00	Each
Bulk Specific Gravity (gyratory)	\$80.00	Each
Maximum Specific Gravity	\$90.00	Each
Unit Weight – Cores	\$20.00	Each
<u>Engineering</u>		
Senior Engineer (P.E.) - Includes project administration, field /laboratory engineering, mix design review, consultation and report review.	\$90.00	Hour
Project Engineer	\$80.00	Hour

PORTLAND CEMENT CONCRETE		
<u>Plant Testing</u>	Cost	Unit
Technician	\$80.00	Hour
<u>Field Testing</u>		
Technician – Includes slump, air and casting cylinders	\$82.00	Hour
Vehicle Use	\$55.00	Day
Cylinder Pick-Up	\$80.00	Hour
<u>Laboratory Testing</u>		
Cylinder Compressive Strength	\$16.00	Each
<u>Engineering</u>		
Senior Engineer (P.E.) - Includes project administration, field /laboratory engineering, mix design review, consultation and report review	\$90.00	Hour
Project Engineer	\$80.00	Hour
Rubino cordially submits the following additional costs which may be incurred. Minimum Daily Charge: 4 hours Portal to Portal Saturday Overtime Multiplier: 1.4 Sunday and Holiday Overtime Multiplier: 1.8		



ESTIMATE OF COST

Rubino Engineering, Inc.'s fees will be determined by the actual amount of technical time expended for this project and the amount of laboratory testing performed by the client's request. Quantities were provided to Rubino by the City of Geneva for the purpose of preparing this proposal.

**2017 City of Geneva
 Construction Material Testing Services**

Laboratory Testing Services	Quantity	Unit Rate	Total
Compression Testing of PCC Cylinders per ASTM	120 each	\$16.00	\$1,920.00
PCC Cylinder Pick-up	20 each	\$80.00	\$1,600.00
Maximum Theoretical Specific Gravity	25 each	\$90.00	\$2,250.00
Bulk Specific Gravity	25 each	\$80.00	\$2,000.00
Ignition Oven Test	20 each	\$75.00	\$1,500.00
Core Thickness & Density Determination	40 each	\$20.00	\$800.00
Sieve Analysis	10 each	\$45.00	\$450.00
Field Testing			
Engineering Technician Material Tester I	225 hours	\$82.00	\$18,450.00
Engineering Services			
Project Engineer	15 hours	\$80.00	\$1,200.00
Construction Material Testing Services Estimated Total:			\$30,170.00

Geotechnical Engineering Services

Engineering Services	Quantity	Unit Rate	Total
Chief Engineer	4 hours	\$90.00	\$360.00
Senior Engineer	4 hours	\$90.00	\$360.00
Project Engineer	10 hours	\$80.00	\$800.00
Staff Engineer	10 hours	\$80.00	\$800.00
Engineering Technician	20 hours	\$80.00	\$1,600.00
Subsurface Exploration			
Mobilization	2 each	\$500.00	\$1,000.00
Borings (0-10 feet deep)	200 feet	\$19.00	\$3,800.00
Geotechnical Laboratory Testing Services			
Moisture Content Test	80 each	\$3.00	\$240.00
Atterberg Limits (LL & PL)	10 each	\$25.00	\$250.00
Combined Hydrometer & Sieve Analysis	10 each	\$55.00	\$550.00
Sieve Analysis	4 each	\$45.00	\$180.00
Unconfined Compression Test	10 each	\$10.00	\$100.00
Density Determination	4 each	\$5.00	\$20.00
Unconsolidated - undrained Triaxial Test	5 each	\$70.00	\$350.00
Geotechnical Engineering Estimated Total:			\$10,410.00

Rubino Engineering, Inc. will proceed with the planned work only after receiving a signed copy of this proposal. Please complete the attached Project Data Sheet before returning the proposal to enable your file to be properly established.



AUTHORIZATION AND PROPOSAL ACCEPTANCE

If this proposal is acceptable to you, Rubino Engineering, Inc. will perform the work in accordance with the attached General Conditions that are incorporated into and made a part of this proposal. Please sign below as notice to proceed and return one copy of this proposal intact to our office. We will proceed with the work upon receipt of signed authorization.

AGREED TO, THIS	<u>17th</u>	DAY OF	<u>July</u>	, 20 <u>17</u> .
BY (please print):	<u>Stephanie K. Dawkins</u>			
TITLE:	<u>City Administrator</u>			
COMPANY:	<u>City of Geneva, Illinois</u>			
SIGNATURE:	<u>[Handwritten Signature]</u>			

PROJECT INFORMATION:

- Project Name: 2017 Construction Material Testing + Geotechnical Services
- Project Location: Various Streets in the City of Geneva
- Your Job No.: _____ Purchase Order No.: _____
- Project Manager: C. Elton Orozco Telephone No.: 630-232-1279
- Site Contact: C. Elton Orozco Telephone No.: 630-742-7534
- Number and Distribution of Reports:
(1) Copies To: C. Elton Orozco () Copies To: _____

Attn: _____ Attn: _____
Email: corozco@geneva.il.us Email: _____

IDOT Section No.: _____	IDOT Contract No.: _____
IDOT Route No.: _____	County: _____
IDOT Job No.: _____	IDOT Project No.: _____
City: _____	QC Plan(s) Attached: <input type="checkbox"/>

- Invoicing Address: 1800 South Street
Geneva IL 60134

Attn: _____
Email: _____
- Other Pertinent Information Or Previous Subsurface Information Available:



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.

