

**STATE OF RHODE ISLAND
PROVIDENCE, SC.**

SUPERIOR COURT

**STATE OF RHODE ISLAND)
)
VS.)
)
AECOM TECHNICAL SERVICES, INC.,)
AETNI BRIDGE COMPANY,)
ARIES SUPPORT SERVICES, INC)
BARLETTA HEAVY DIVISION, INC.,)
BARLETTA/AETNI I-195 WASHINGTON)
BRIDGE NORTH PHASE 2 JV,)
COLLINS ENGINEERS &)
CONSULTANTS, INC.)
JACOBS ENGINEERING GROUP, INC.)
MICHAEL BAKER INTERNATIONAL INC.)
PRIME AE GROUP, INC.)
STEERE ENGINEERING, INC.)
TRANSYSTEMS CORPORATION, and)
VANISSE HANGEN BRUSTLIN, INC.)**

C.A. No. PC-2024-4526

**DEFENDANT, ARIES SUPPORT SERVICES, INC.’S MEMORANDUM
IN SUPPORT OF ITS MOTION FOR JUDGMENT ON THE PLEADINGS**

FACTS

Through its complaint, plaintiff offers little in the way of facts to support any claims against Aries Support Services, Inc. Indeed, the sole paragraph which contains any factual claim relating to Aries is paragraph 60 of its complaint which reads as follows:

60. AECOM’s subconsultants on the project were (a) Steere; (b) Prime; and (c) Aries Support Services, who AECOM represented possessed “the experience, knowledge, and character to qualify them for the particular duties they perform.”

Despite the paucity of alleged facts supporting its claims against Aries, plaintiff seeks damages from Aries through Count II of its complaint. Count II seeks recovery under a theory of Negligence:

COUNT II

Negligence

AECOM, Steere, Prime, and Aries Support Services

100. The State repeats, realleges, and incorporates all the preceding allegations in paragraphs 1 through 95.

101. AECOM, Steere, Prime, and Aries Support Services owed the State a duty to conform to the standard of skill, care, and diligence exercised by the average professional engineering, consulting, construction, inspection, and design firm.

102. AECOM, Steere, Prime, and Aries Support Services breached their duty of care by, *inter alia*, negligently failing to ...`

103. In addition, AECOM was negligent in its inspections of the Washington Bridge in April 2014, and on July 28, 2015, October 27, 2017, July 24, 2019, July 22, 2020, and July 21, 2023.

...

105. As a direct and proximate result of the negligence of AECOM, Steere, Prime, and Aries Support Services, the State has suffered and will continue to suffer both physical damages to its property and economic damages well in excess of the amount necessary to satisfy the jurisdiction of this Court.

106. AECOM, Steere, Prime, and Aries Support Services are joint tortfeasors as to the State of Rhode Island and are jointly and severally liable for all resulting damages.

WHEREFORE, the State of Rhode Island demands judgment against AECOM, Steere, Prime, and Aries Support Services, jointly and severally, for all of its damages plus interest, costs, and reasonable attorneys' fees.

Plaintiff also seeks a declaration that plaintiff is entitled to indemnity from Aries "to the extent that in the future the State may be held to be liable to one or more third parties..." Count XIX, Para 184. Finally, Plaintiff seeks a declaration that it is entitled to contribution from Aries "to the extent that in the future, the State may be held liable to one or more third parties as a tortfeasor..." Count XX, Para. 188.

Aries's performed its work pursuant to a contract entered between it and AECOM

Technical Services, Inc. dated March 17, 2024. A copy of the contract is attached as Exhibit A. As set forth below, recovery for negligence as claimed in Count II is unavailable under the economic loss doctrine. In addition, Declaratory Judgment relating to future claims for indemnity and contribution are unavailable for the many reasons set forth by co-defendants in connection with their motions to dismiss these counts.

ARGUMENT

I. Count II is barred under the economic loss doctrine.

The damages claimed on the face of the Complaint are purely economic losses. These damages are: “physical damage to its property [i.e. the bridge itself] and for the economic losses it has and will in the future suffer.” Complaint, Para 106. In civil actions involving contracts, “[w]hen parties have contracted to protect against potential economic liability, as is the case in the construction industry, contract principles override [. . .] tort principles [. . .] and, thus, purely economic damages are not recoverable.” *Franklin Grove Corporation v. Drexel*, 936 A.2d 1272, 1275 (R.I. 2007) (internal quotation omitted). As the *Franklin Grove* Court noted, “Our rationale for abiding by the economic loss doctrine centers on the notion that commercial transactions are more appropriately suited to resolution through the law of contract, than through the law of tort.” *Id.* at 1275. Accordingly, the economic loss doctrine bars plaintiffs from “recovering purely economic losses in a negligence cause of action.” *Boston Inv. Prop. # 1 State*, 658 A.2d at 517. Economic loss is defined as “costs associated with repair and-or replacement of a defective product, or loss of profits consequent thereto, apart from any injury or damage to other property.” *Hart Engineering Co. v. FMC Corp.*, 593 F. Supp. 1471, 1481 n. 11 (D.R.I. 1984); *Gail Frances, Inc. v. Alaska Diesel Elec., Inc.*, 62 F. Supp. 2d 511, 517 (D.R.I. 1999). Because the State seeks purely economic damages, its remedy lies exclusively in contract law.

That there is no privity between the State and Aries does not prevent application of the economic loss doctrine. *Hexagon Holdings, Inc. v. Carlisle Syntec Inc.*, 199 A.3d 1034 (R.I. 2019) is dispositive. *Hexagon* involved a series of claims by a commercial building owner against the subcontractor which installed a roofing system alleging, among other things, negligence. Id. at 1036-37. The plaintiff building owner (Hexagon) had a contract with general contractor A/Z Construction, which in turn had a contract with the defendant subcontractor McKenna. Id. There was no contract between the plaintiff building owner and the defendant subcontractor. Id. Despite the absence of privity of contract, and despite the fact that the plaintiff building owner could not sue the defendant subcontractor in breach of contract, the Rhode Island Supreme Court applied the economic loss doctrine to dismiss the sole remaining claim of negligence. Id. at 1042-43.

Accordingly, Count II of plaintiff's complaint fails to state a cause of action against Aries and judgment should enter.

II. Counts XIX and XX of plaintiff's complaint should be dismissed for all the reasons set forth in memoranda filed by other defendants.

Aries submits that Judgment should enter in its favor on Count XIX and XX for all the reasons set forth by co-defendants in their memoranda and joins the co-defendants in asserting those arguments.

Defendant, Aries Support Services, Inc.,
By its attorneys,

/s/ John F. Kelleher
John F. Kelleher, Esq. (3854)
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CERTIFICATION

I hereby certify that on November 8, 2024, a copy of the within document was served upon all counsel of record through the Court's electronic filing system.

/s/ John F. Kelleher

Exhibit A



ARIES

SUPPORT SERVICES INC.

**876 East Road
Tiverton, Rhode Island 02878**

**401-625-9879
Fax 401-625-5319**

August 6, 2013
Revised October 7, 2013
Revised November 6, 2013

Mr. Robert Wright, P.E.
AECOM
10 Orms Street, Suite 405
Providence, Rhode Island 02904

Re: Engineering Support Services
Washington Bridge Inspection
East Providence/Providence, Rhode Island
Quotation No. 130802-2, revision 1

Dear Mr. Wright:

At your request, we are pleased to provide our price quotation for the Engineering Support Services associated with your upcoming inspection of the Washington Bridge in East Providence/Providence, Rhode Island.

ARIES Support Services Inc. (ARIES) will provide qualified personnel to obtain concrete samples and perform field and laboratory testing. Work will be in accordance with your request and the attached Scope of Work. Invoicing will be according to the Fee Schedule and will reflect only actual quantities.

Additionally, ARIES will provide a qualified field crew to install, maintain and remove the equipment necessary for the required lane closures. All work will be in accordance with the latest revision of the Manual of Uniform Traffic Control Devices and performed in a manner imposing the least disruption of the flow of traffic as possible.

Lane closure equipment will include, but not be limited to, reflective cones, temporary signs, portable sign stands, flashing arrowboards and truck-mounted attenuators, as necessary. The attached Fee Schedule provides a per day cost for lane closures and additional MPOT equipment. Unit pricing for MPOT does not include the scheduling and cost of police detail officers and cruisers.

ARIES will proceed with the scope of work on verbal authorization. However, please confirm your acceptance of this agreement by signing and returning this proposal, intact, retaining a copy for your records.

We appreciate the opportunity to provide this price quotation and look forward to contributing to the successful completion of this project. Please call with any questions or concerns.

Respectfully submitted,
ARIES SUPPORT SERVICES INC.

Pamela Olsen
President

August 6, 2013
Revised October 7, 2013
Revised November 6, 2013

Washington Bridge

Quotation No. 130802-2, r1

SCOPE OF WORK

General

Test locations will be under the direction of AECOM personnel. All concrete test locations will be patched with non-shrink grout.

Concrete Cores will be extracted and tested for compressive strength in accordance with ASTM C42.

Chloride Content will be determined in accordance with AASHTO T260 for Total Chloride Ion Content. Tests will be performed at two depths from the top surface of the concrete per location to provide a means of determining the chloride intrusion.

Petrographic Examination will be performed in accordance with ASTM C856. Thin sections will be prepared for the determination of air content, mixture proportions, presence of chemical attack, freeze-thaw damage, durability and probable future performance of the concrete represented by the sample. This method also includes the determination whether alkali-silica reactions (ASR) are present in the concrete.

Ground Penetrating Radar of the deck will be performed by NDT Corporation. Total square footage for GPR cover is will be approximately 140,000SF. Two technicians will be on site to obtain longitudinal lines of data in each lane the length of the bridge, including curb lines, with cross lines at the joints between spans. The report will have a discussion of the GPR testing method and the results for the deck, transverse deck joints and along curbs. A deck plan will be incorporated in the report with GPR lines of coverage and locations that the GPR results indicate delamination, water infiltration and accumulation into the deck concrete and areas of cracked fractured and deteriorating concrete.

Lead Paint Testing will be performed by Alpha Environmental in accordance with Rhode Island Regulations for Lead Poisoning Prevention (R23-24.6-PB), DEM and all inspections shall include XRF testing and collection of 6 paint chip samples for laboratory analysis of lead. Written work specifications shall be provided based on findings.

FEE SCHEDULE

MPOT I-195	10 nights @ \$3,250/night	\$32,500
MPOT Secondary Roadways	6 days @ \$1,950/day	\$ 7,800
Field Coring Crew	5 nights @ \$1,650/night	\$ 8,250
Field Coring Crew	2 day @ \$1,500/day	\$ 3,000
Chloride Ion Content	68 each @ \$90/each	\$ 6,120
Compressive Strength	34 each @ \$90/each	\$ 3,060
GPR Survey	1 each @ \$20,560/each	\$20,950
Lead Paint Testing	1 each @ \$650/each	\$ 650
Petrographic Examination	6 each @ \$1,650/each	\$ 9,900
Towable Light Tower	10 nights@ \$475/night	\$ 4,750
TOTAL ESTIMATED COST		\$ 96,980

ADDITIONAL INFORMATION

- 1) Unit rates are inclusive of travel time and mileage.
- 2) Access to beams for paint sampling to be provided by others.
- 3) Cost for site inspections and project monitoring of paint removal, if necessary, will be provided upon request.
- 4) Cancellation of services must be received a minimum of 4 hours prior to scheduled services and during our normal business hours (7 a.m. – 5 p.m.) or be subject to a minimum charge equal to half of the daily rate.
- 5) Rates for additional services shall be quoted upon request.

August 6, 2013
Revised October 7, 2013

Washington Bridge

Quotation No. 130802-2, r1

AUTHORIZATION

Please acknowledge your acceptance of the unit pricing and terms of ARIES Quotation No. 130802-2, r1 (revised October 7, 2013) by signing below and returning to our office. Please allow two weeks for scheduling of services.

Accepted this 17 day of MARCH, 2013~~4~~

By: 

Firm: AECOM