

STATE OF RHODE ISLAND
PROVIDENCE, SC

SUPERIOR COURT

STATE OF RHODE ISLAND,

Plaintiff,

v.

AECOM TECHNICAL SERVICES, INC.,
AETNA BRIDGE COMPANY,
ARIES SUPPORT SERVICES INC.,
BARLETTA HEAVY DIVISION, INC.,
BARLETTA/AETNA I-195 WASHINGTON
BRIDGE NORTH PHASE 2 JV,
COLLINS ENGINEERS, INC.,
COMMONWEALTH ENGINEERS &
CONSULTANTS, INC.,
JACOBS ENGINEERING GROUP, INC.,
MICHAEL BAKER INTERNATIONAL, INC.,
PRIME AE GROUP, INC.,
STEERE ENGINEERING, INC.,
TRANSYSTEMS CORPORATION, and
VANASSE HANGEN BRUSTLIN, INC.,

Defendants.

C.A. No. PC-2024-04526

JURY TRIAL DEMANDED

**DEFENDANT BARLETTA/AETNA I-195 WASHINGTON BRIDGE NORTH PHASE 2
JV's (the "JV") ANSWER, AFFIRMATIVE DEFENSES, AND COUNTERCLAIM**

JV'S ANSWER TO THE STATE'S AMENDED COMPLAINT

INTRODUCTION

As to the section titled Introduction in the State's Complaint, the JV lacks sufficient information or belief to either admit or deny the allegations of this section.

PARTIES

A. The Plaintiff

1. Admitted that the State of Rhode Island is identified as the Plaintiff. The JV lacks sufficient information or belief to either admit or deny the remaining allegations of this paragraph.

B. The Defendants

2. The JV lacks sufficient information or belief to either admit or deny the allegations of this paragraph.

3. Admitted.

4. The JV lacks sufficient information or belief to either admit or deny the allegations of this paragraph.

5. Admitted that Defendant Barletta Heavy Division, Inc. is a corporation organized and existing under the laws of the Commonwealth of Massachusetts, with its principal place of business located therein, and is registered to do business in the State of Rhode Island. Otherwise, the JV lacks sufficient information or belief to either admit or deny the allegations of this paragraph.

6. Admitted that the JV is a joint venture between Barletta and Aetna. Admitted as to the existence of a joint venture agreement between Barletta and Aetna, dated June 23, 2020. The allegation regarding jurisdiction calls for a legal conclusion to which no response is required. To

the extent a response is required, the JV lacks sufficient information or belief to either admit or deny the allegations of this paragraph.

7. The JV lacks sufficient information or belief to either admit or deny the allegations of this paragraph.

8. The JV lacks sufficient information or belief to either admit or deny the allegations of this paragraph.

9. The JV lacks sufficient information or belief to either admit or deny the allegations of this paragraph.

10. The JV lacks sufficient information or belief to either admit or deny the allegations of this paragraph.

11. The JV lacks sufficient information or belief to either admit or deny the allegations of this paragraph.

12. The JV lacks sufficient information or belief to either admit or deny the allegations of this paragraph.

13. The JV lacks sufficient information or belief to either admit or deny the allegations of this paragraph.

14. Admitted that Defendant Vanesse Hangen Brustlin, Inc. is a corporation organized and existing under the laws of the Commonwealth of Massachusetts and is registered to do business in the State of Rhode Island. Otherwise, the JV lacks sufficient information or belief to either admit or deny the remaining allegations of this paragraph.

JURISDICTION AND VENUE

15. This paragraph calls for a legal conclusion to which no response is required. To the extent that a response is required, the JV lacks sufficient information or belief to either admit or

deny the allegations of this paragraph.

16. With respect to the JV, this paragraph contains a legal conclusion and therefore does not require a response. To the extent this paragraph refers to other parties, and to the extent a response is required from the JV, the JV is without sufficient knowledge or information to either admit or deny the allegations contained in this paragraph concerning other parties and leaves the State to its proof thereof.

17. This paragraph calls for a legal conclusion to which no response is required. To the extent that a response is required, the JV denies the allegations of this paragraph.

FACTS

A. The Design and Construction of the Washington Bridge

18. The JV lacks sufficient information or belief to either admit or deny the allegations of this paragraph.

19. The JV lacks sufficient information or belief to either admit or deny the allegations of this paragraph.

20. Admitted that the Washington Bridge has an extremely unusual design. Otherwise, the JV lacks sufficient information or belief to either admit or deny the allegations of this paragraph.

21. Admitted.

22. Admitted only that the Washington Bridge contained both unbalanced and balanced cantilevers, as set forth in the Original Design. It is further admitted that the configuration of the beams is “unusual” and “unique.”

23. The JV lacks sufficient information or belief to either admit or deny the allegations of this paragraph.

24. The JV lacks sufficient information or belief to either admit or deny the allegations of this paragraph.

25. The JV lacks sufficient information or belief to either admit or deny the allegations of this paragraph.

26. The JV lacks sufficient information or belief to either admit or deny the allegations of this paragraph.

27. The JV lacks sufficient information or belief to either admit or deny the allegations of this paragraph.

28. The JV lacks sufficient information or belief to either admit or deny the allegations of this paragraph.

29. The JV lacks sufficient information or belief to either admit or deny the allegations of this paragraph.

30. The JV lacks sufficient information or belief to either admit or deny the allegations of this paragraph.

31. Admitted.

32. Admitted.

B. The Lichtenstein Report

33. Admitted that the bridge has been inspected a number of times but the JV lacks sufficient information or belief to know when the first inspection relevant to this case took place.

34. Admitted.

35. Admitted.

36. The Lichtenstein Report speaks for itself and the JV denies any allegations inconsistent with the terms of the report.

37. The Lichtenstein Report speaks for itself and the JV denies any allegations inconsistent with the terms of the report.

38. The Lichtenstein Report speaks for itself and the JV denies any allegations inconsistent with the terms of the report.

39. The Lichtenstein Report speaks for itself and the JV denies any allegations inconsistent with the terms of the report.

C. The 1996-1998 Rehabilitation of the Washington Bridge

40. The JV lacks sufficient information or belief to either admit or deny the allegations of this paragraph.

41. The JV lacks sufficient information or belief to either admit or deny the allegations of this paragraph.

D. The 2011 MBI Inspection

42. The JV lacks sufficient information or belief to either admit or deny the allegations of this paragraph.

43. The JV lacks sufficient information or belief to either admit or deny the allegations of this paragraph.

44. The MBI inspection report speaks for itself. To the extent a response is required, the JV lacks sufficient information or belief to either admit or deny the allegations of this paragraph.

45. The JV lacks sufficient information or belief to either admit or deny the allegations of this paragraph.

E. The State Engages AECOM for the Complete Design of the Rehabilitation of the Washington Bridge: A Design-Bid-Build Project

46. The RFP entitled “Complete Design Services for the Rehabilitation of the Washington Bridge North No. 700 – Mainline, Approach and Ramp Bridges and East Providence, Rhode Island” speaks for itself. Thus, denied as to allegations inconsistent with the RFP.

47. The RFP Speaks for itself. Thus, denied as it relates to the State’s characterization of the RFP.

48. The RFP Speaks for itself. Thus, denied as it relates to the State’s characterization of the RFP.

49. The RFP Speaks for itself. Thus, denied as it relates to the State’s characterization of the RFP.

50. The RFP Speaks for itself. Thus, denied as it relates to the State’s characterization of the RFP.

51. The RFP Speaks for itself. Thus, denied as it relates to the State’s characterization of the RFP.

52. The RFP Speaks for itself. Thus, denied as it relates to the State’s characterization of the RFP.

53. The RFP Speaks for itself. Thus, denied as it relates to the State’s characterization of the RFP.

54. The RFP Speaks for itself. Thus, denied as it relates to the State’s characterization of the RFP.

55. The JV lacks sufficient information or belief to either admit or deny the allegations of this paragraph.

56. The JV lacks sufficient information or belief to either admit or deny the allegations of this paragraph.

57. The JV lacks sufficient information or belief to either admit or deny the allegations of this paragraph.

58. The JV lacks sufficient information or belief to either admit or deny the allegations of this paragraph.

59. The JV lacks sufficient information or belief to either admit or deny the allegations of this paragraph.

60. The JV lacks sufficient information or belief to either admit or deny the allegations of this paragraph.

F. AECOM Inspects the Washington Bridge and Transmits Its Technical Evaluation Report and Its Inspection Report

61. The JV lacks sufficient information or belief to either admit or deny the allegations of this paragraph.

G. RIDOT Receives and Relies on AECOM's Final Construction Plans

62. The JV lacks sufficient information or belief to either admit or deny the allegations of this paragraph.

63. The JV lacks sufficient information or belief to either admit or deny the allegations of this paragraph.

64. The JV lacks sufficient information or belief to either admit or deny the allegations of this paragraph.

65. The JV lacks sufficient information or belief to either admit or deny the allegations of this paragraph.

H. The Cardi Corporation Contract

66. The State's contract with Cardi Corporation speaks for itself. Thus, denied as to the

State's characterization of the contract.

67. The JV lacks sufficient information or belief to either admit or deny the allegations of this paragraph.

I. Other Inspections of the Washington Bridge

68. The JV lacks sufficient information or belief to either admit or deny the allegations of this paragraph.

69. The JV lacks sufficient information or belief to either admit or deny the allegations of this paragraph.

70. The JV lacks sufficient information or belief to either admit or deny the allegations of this paragraph.

71. The JV lacks sufficient information or belief to either admit or deny the allegations of this paragraph.

72. The JV lacks sufficient information or belief to either admit or deny the allegations of this paragraph.

73. The JV lacks sufficient information or belief to either admit or deny the allegations of this paragraph.

74. The JV lacks sufficient information or belief to either admit or deny the allegations of this paragraph.

75. The JV lacks sufficient information or belief to either admit or deny the allegations of this paragraph.

***J. A Second Attempt at Rehabilitation of the Washington Bridge:
A Design-Build Rehabilitation Project***

76. The JV lacks sufficient information or belief to either admit or deny the allegations

of this paragraph.

77. The JV lacks sufficient information or belief to either admit or deny the allegations of this paragraph.

***K. The Joint Venture Embarks on the Design-Build
of the Washington Bridge***

78. Admitted.

79. The 2021 RFP speaks for itself. Thus, denied as to the State's characterization of the 2021 RFP.

80. The 2021 RFP speaks for itself. Thus, denied as to the State's characterization of the 2021 RFP.

81. The 2021 RFP speaks for itself. Thus, denied as to the State's characterization of the 2021 RFP.

82. Admitted that the JV submitted a Design-Build proposal on July 2, 2021. Otherwise, denied as to the State's characterization of the Design-Build proposal.

83. The JV's proposal speaks for itself. Thus, denied as to the State's characterization of the JV's proposal.

84. The JV's proposal speaks for itself. Thus, denied as to the State's characterization of the JV's proposal.

85. The JV's proposal speaks for itself. Thus, denied as to the State's characterization of the JV's proposal.

86. The JV's proposal speaks for itself. Thus, denied as to the State's characterization of the JV's proposal.

87. Denied.

88. The JV's proposal speaks for itself. Thus, denied as to the State's characterization

of the JV's proposal.

89. The JV's proposal speaks for itself. Thus, denied as to the State's characterization of the JV's proposal.

90. Admitted that the RIDOT awarded the project to the JV. The JV lacks sufficient information or belief to either admit or deny the remain allegations of this paragraph.

91. Admitted that the JV issued rehabilitation plans stamped by VHB, Barletta, and Aetna. Otherwise, denied.

L. The Emergency Closure of the Washington Bridge

92. Admitted.

93. Admitted.

94. Admitted.

95. The JV lacks sufficient information or belief to either admit or deny the allegations of this paragraph.

M. Physical Wear and Tear Damage to Eastbound Washington Bridge

96. The JV lacks sufficient information or belief to either admit or deny the allegations of this paragraph.

97. The JV lacks sufficient information or belief to either admit or deny the allegations of this paragraph.

98. The JV lacks sufficient information or belief to either admit or deny the allegations of this paragraph.

99. The JV lacks sufficient information or belief to either admit or deny the allegations of this paragraph.

100. Admitted.

101. Admitted that traffic was rerouted from the Washington Bridge onto the Eastbound Washington Bridge after the emergency closure of the Washington Bridge. Otherwise, denied.

102. The JV lacks sufficient information or belief to either admit or deny the allegations of this paragraph.

103. The JV lacks sufficient information or belief to either admit or deny the allegations of this paragraph.

104. The JV lacks sufficient information or belief to either admit or deny the allegations of this paragraph.

105. The JV lacks sufficient information or belief to either admit or deny the allegations of this paragraph.

106. The JV lacks sufficient information or belief to either admit or deny the allegations of this paragraph.

CAUSES OF ACTION

COUNT I

Breach of Contract (2014)

AECOM

107. The JV repeats and realleges paragraphs 1-106 above.

108. The allegations of this paragraph are directed at another Defendant and therefore the JV need not respond.

109. The allegations of this paragraph are directed at another Defendant and therefore the JV need not respond.

110. The allegations of this paragraph are directed at another Defendant and therefore the JV need not respond.

COUNT II

Negligence

AECOM, Steere, Prime, and Aries Support Services

111. The JV repeats and realleges paragraphs 1-106.

112. The allegations of this paragraph are directed at another Defendant and therefore the JV need not respond.

113. The allegations of this paragraph are directed at another Defendant and therefore the JV need not respond.

114. The allegations of this paragraph are directed at another Defendant and therefore the JV need not respond.

115. The allegations of this paragraph are directed at another Defendant and therefore the JV need not respond.

116. The allegations of this paragraph are directed at another Defendant and therefore the JV need not respond.

117. The allegations of this paragraph are directed at another Defendant and therefore the JV need not respond.

118. The allegations of this paragraph are directed at another Defendant and therefore the JV need not respond.

COUNT III

Negligence

Commonwealth Engineers (2019 and 2023 Inspections)

119. The JV repeats and realleges paragraphs 1-106.

120. The allegations of this paragraph are directed at another Defendant and therefore the JV need not respond.

121. The allegations of this paragraph are directed at another Defendant and therefore the JV need not respond.

122. The allegations of this paragraph are directed at another Defendant and therefore the JV need not respond.

123. The allegations of this paragraph are directed at another Defendant and therefore the JV need not respond.

124. The allegations of this paragraph are directed at another Defendant and therefore the JV need not respond.

COUNT IV
Breach of Contract (2019)
AECOM

125. The JV repeats and realleges paragraphs 1-106.

126. The allegations of this paragraph are directed at another Defendant and therefore the JV need not respond.

127. The allegations of this paragraph are directed at another Defendant and therefore the JV need not respond.

128. The allegations of this paragraph are directed at another Defendant and therefore the JV need not respond.

COUNT V
Breach of Fiduciary Duty
AECOM

129. The JV repeats and realleges paragraphs 1-106.

130. The allegations of this paragraph are directed at another Defendant and therefore the JV need not respond.

131. The allegations of this paragraph are directed at another Defendant and therefore the JV need not respond.

132. The allegations of this paragraph are directed at another Defendant and therefore

the JV need not respond.

133. The allegations of this paragraph are directed at another Defendant and therefore the JV need not respond.

134. The allegations of this paragraph are directed at another Defendant and therefore the JV need not respond.

135. The allegations of this paragraph are directed at another Defendant and therefore the JV need not respond.

COUNT VI
Breach of Contract
TranSystems (2016 and 2022 Inspections)

136. The JV repeats and realleges paragraphs 1-106.

137. The allegations of this paragraph are directed at another Defendant and therefore the JV need not respond.

138. The allegations of this paragraph are directed at another Defendant and therefore the JV need not respond.

139. The allegations of this paragraph are directed at another Defendant and therefore the JV need not respond.

140. The allegations of this paragraph are directed at another Defendant and therefore the JV need not respond.

COUNT VII
Negligence
TranSystems (2016 and 2022 Inspections)

141. The JV repeats and realleges paragraphs 1-106.

142. The allegations of this paragraph are directed at another Defendant and therefore the JV need not respond.

143. The allegations of this paragraph are directed at another Defendant and therefore the JV need not respond.

144. The allegations of this paragraph are directed at another Defendant and therefore the JV need not respond.

COUNT VIII
Breach of Contract
Collins (2017 Inspection)

145. The JV repeats and realleges paragraphs 1-106.

146. The allegations of this paragraph are directed at another Defendant and therefore the JV need not respond.

147. The allegations of this paragraph are directed at another Defendant and therefore the JV need not respond.

148. The allegations of this paragraph are directed at another Defendant and therefore the JV need not respond.

149. The allegations of this paragraph are directed at another Defendant and therefore the JV need not respond.

COUNT IX
Negligence
Collins (2017 Inspection)

150. The JV repeats and realleges paragraphs 1-106.

151. The allegations of this paragraph are directed at another Defendant and therefore the JV need not respond.

152. The allegations of this paragraph are directed at another Defendant and therefore the JV need not respond.

153. The allegations of this paragraph are directed at another Defendant and therefore

the JV need not respond.

COUNT X
Breach of Contract
AECOM (2017, 2019, 2020, 2023 Inspections)

154. The JV repeats and realleges paragraphs 1-106.

155. The allegations of this paragraph are directed at another Defendant and therefore the JV need not respond.

156. The allegations of this paragraph are directed at another Defendant and therefore the JV need not respond.

157. The allegations of this paragraph are directed at another Defendant and therefore the JV need not respond.

158. The allegations of this paragraph are directed at another Defendant and therefore the JV need not respond.

COUNT XI
Breach of Contract
MBI (2018 Inspection)

159. The JV repeats and realleges paragraphs 1-106.

160. The allegations of this paragraph are directed at another Defendant and therefore the JV need not respond.

161. The allegations of this paragraph are directed at another Defendant and therefore the JV need not respond.

162. The allegations of this paragraph are directed at another Defendant and therefore the JV need not respond.

163. The allegations of this paragraph are directed at another Defendant and therefore the JV need not respond.

COUNT XII
Negligence
MBI (2018 Inspection)

164. The JV repeats and realleges paragraphs 1-106.

165. The allegations of this paragraph are directed at another Defendant and therefore the JV need not respond.

166. The allegations of this paragraph are directed at another Defendant and therefore the JV need not respond.

167. The allegations of this paragraph are directed at another Defendant and therefore the JV need not respond.

COUNT XIII
Breach of Contract
Jacobs Engineering (2021 Inspection)

168. The JV repeats and realleges paragraphs 1-106.

169. The allegations of this paragraph are directed at another Defendant and therefore the JV need not respond.

170. The allegations of this paragraph are directed at another Defendant and therefore the JV need not respond.

171. The allegations of this paragraph are directed at another Defendant and therefore the JV need not respond.

172. The allegations of this paragraph are directed at another Defendant and therefore the JV need not respond.

COUNT XIV
Negligence
Jacobs Engineering (2021 Inspection)

173. The JV repeats and realleges paragraphs 1-106.

174. The allegations of this paragraph are directed at another Defendant and therefore the JV need not respond.

175. The allegations of this paragraph are directed at another Defendant and therefore the JV need not respond.

176. The allegations of this paragraph are directed at another Defendant and therefore the JV need not respond.

177. The allegations of this paragraph are directed at another Defendant and therefore the JV need not respond.

COUNT XV
Breach of Contract
The Joint Venture, Barletta, and Aetna (2021 Design-Build Contract)

178. The JV repeats and realleges paragraphs 1-106.

179. Admitted.

180. Denied.

181. Denied.

182. To the extent it directs allegations against other Defendants, the JV need not respond. To the extent the JV needs to respond to the allegations directed against it, it denies them.

COUNT XVI
Negligence
The Joint Venture, Barletta, Aetna, VHB, and Commonwealth Engineers

183. The JV repeats and realleges paragraphs 1-106.

184. Admitted that the JV's standard of care obligations are set forth in the 2021 Design-Build Contract between the JV and the State. Otherwise, denied. To the extent it directs allegations against other Defendants, the JV need not respond.

185. This paragraph, including subparts, directs allegations against other Defendants.

Accordingly, the JV need not respond. To the extent a response is required, the JV lacks sufficient information or belief to either admit or deny the allegations of this paragraph.

186. To the extent it directs allegations against other Defendants, the JV need not respond. To the extent the JV needs to respond to the allegations directed against it, it denies them.

187. The 2021 Design-Build Contract speaks for itself. Thus, denied as it relates to the State's characterization of the 2021 Design-Build Contract.

188. To the extent it directs allegations against other Defendants, the JV need not respond. To the extent the JV needs to respond to the allegations directed against it, it denies them.

189. To the extent it directs allegations against other Defendants, the JV need not respond. To the extent the JV needs to respond to the allegations directed against it, it denies them.

COUNT XVII
Contractual Indemnity
AECOM, Aetna, Barletta, and the Joint Venture

190. The JV repeats and realleges paragraphs 1-106.

191. The JV lacks sufficient information or belief to either admit or deny the allegations of this paragraph.

192. Admitted that the JV's contractual indemnity obligations are set forth in the 2021 Design-Build Contract between the JV and the State. Otherwise, denied.

193. To the extent this paragraph directs allegations against other Defendants, the JV need not respond. Admitted that the JV's contractual indemnity obligations are set forth in the 2021 Design-Build Contract between the JV and the State. Otherwise, denied.

194. To the extent this paragraph directs allegations against other Defendants, the JV need not respond. To the extent the JV needs to respond to the allegations directed against it, it denies them.

195. To the extent it directs allegations against other Defendants, the JV need not respond. To the extent the JV needs to respond to the allegations directed against it, it denies them.

COUNT XVIII

Declaratory Judgment Regarding Contractual Indemnity

AECOM, Aetna, Barletta, and the Joint Venture

196. The JV repeats and realleges paragraphs 1-106 and 191 through 195.

197. To the extent this paragraph directs allegations against other Defendants, the JV need not respond. To the extent the JV needs to respond to the allegations directed against it, it denies them.

198. To the extent this paragraph directs allegations against other Defendants, the JV need not respond. To the extent the JV needs to respond to the allegations directed against it, it denies them.

199. To the extent this paragraph directs allegations against other Defendants, the JV need not respond. To the extent the JV needs to respond to the allegations directed against it, it denies them.

COUNT XIX

Declaratory Judgment Regarding Non-Contractual Indemnity

All Defendants

200. The JV repeats and realleges paragraphs 1-106.

201. To the extent this paragraph directs allegations against other Defendants, the JV need not respond. To the extent the JV needs to respond to the allegations directed against it, it denies them.

202. To the extent this paragraph directs allegations against other Defendants, the JV need not respond. To the extent the JV needs to respond to the allegations directed against it, it denies them.

203. To the extent this paragraph directs allegations against other Defendants, the JV need not respond. To the extent the JV needs to respond to the allegations directed against it, it denies them.

COUNT XX
Declaratory Judgment Regarding Contribution
All Defendants

204. The JV repeats and realleges paragraphs 1-106.

205. To the extent this paragraph directs allegations against other Defendants, the JV need not respond. To the extent the JV needs to respond to the allegations directed against it, it denies them.

206. To the extent this paragraph directs allegations against other Defendants, the JV need not respond. To the extent the JV needs to respond to the allegations directed against it, it denies them.

207. To the extent this paragraph directs allegations against other Defendants, the JV need not respond. To the extent the JV needs to respond to the allegations directed against it, it denies them.

COUNT XXI
Negligent Misrepresentation
AECOM

208. The JV repeats and realleges paragraphs 1-106.

209. The allegations of this paragraph are directed at another Defendant and therefore the JV need not respond.

210. The allegations of this paragraph are directed at another Defendant and therefore the JV need not respond.

211. The allegations of this paragraph are directed at another Defendant and therefore

the JV need not respond.

212. The allegations of this paragraph are directed at another Defendant and therefore the JV need not respond.

213. The allegations of this paragraph are directed at another Defendant and therefore the JV need not respond.

COUNT XXII
Negligent Misrepresentation
The Joint Venture, Barletta, and Aetna

214. The JV repeats and realleges paragraphs 1-106.

215. To the extent this paragraph directs allegations against other Defendants, the JV need not respond. To the extent the JV needs to respond to the allegations directed against it, it denies them.

216. To the extent this paragraph directs allegations against other Defendants, the JV need not respond. To the extent the JV needs to respond to the allegations directed against it, it denies them.

217. To the extent this paragraph directs allegations against other Defendants, the JV need not respond. To the extent the JV needs to respond to the allegations directed against it, it denies them.

218. To the extent this paragraph directs allegations against other Defendants, the JV need not respond. To the extent the JV needs to respond to the allegations directed against it, it denies them.

219. To the extent this paragraph directs allegations against other Defendants, the JV need not respond. To the extent the JV needs to respond to the allegations directed against it, it denies them.

220. To the extent this paragraph directs allegations against other Defendants, the JV need not respond. To the extent the JV needs to respond to the allegations directed against it, it denies them.

JURY DEMAND

The JV demands a trial by jury on all of the State's claims so triable.

JV'S AFFIRMATIVE DEFENSES TO THE STATE'S AMENDED COMPLAINT

1. The State fails to state a claim for which relief may be granted.
2. The State's claims are barred because the damages complained of are the result of actions or omissions of the State or others over whom the JV had no direction, responsibility, or control.
3. The State's claims are barred and/or any damages alleged against the JV should be reduced by the comparative and/or contributory negligence of the State or others over whom the JV had no direction, responsibility, or control.
4. The State's claims are barred, in part or in whole, by the applicable statute of limitations and statute of repose.
5. The State's claims are barred, in part or in whole, by a failure of consideration.
6. The State's claims are barred, in part or in whole, by the doctrine of waiver.
7. The State's claims are barred, in part or in whole, by the doctrine of estoppel.
8. The State's claims are barred, in part or in whole, by the doctrine of unclean hands.
9. The State's claims are barred, in part or in whole, by the State's failure to mitigate its damages.
10. The State's claims are barred, in part or in whole, by assumption of risk.

11. The State's claims are barred, in part or in whole, by the doctrine of laches.
12. The State's claims are barred, in part or in whole, due to the State's spoliation of evidence.
13. The State's claims are barred, in part or in whole, by the economic loss doctrine.
14. The State's claims are barred because the State materially breached the 2021 Design-Build Contract first, relieving the JV of further performance obligations.
15. The State's claims are barred because the State breached the implied covenant of good faith and fair dealing.
16. The State's claims are barred by the doctrine of mutual mistake of material fact.
17. The State's claims are barred by the doctrine of unilateral mistake of material fact.
18. The State's claims are barred due to the State's misrepresentations as to the condition of the Washington Bridge in the 2021 RFP.
19. The State's claims are barred because the State breached the 2021 Design-Build Contract by failing to properly investigate the condition of the Washington Bridge before issuing the 2021 RFP.
20. The JV reserves its right to rely upon any other defenses as they may become available or apparent during discovery and the course of this proceeding and reserves its right to amend this Answer and Affirmative Defenses.

JV'S COUNTERCLAIM AGAINST THE STATE

Barletta/Aetna I-195 Washington Bridge North Phase 2 JV ("JV"), by and through its undersigned counsel, hereby brings the following counterclaims against the State of Rhode Island. In support, the JV states as follows:

1. The JV is a joint venture between Barletta Heavy Division Inc. ("Barletta") and

Aetna Bridge Company (“Aetna”), pursuant to a Joint Venture Agreement dated June 23, 2020.

2. The State of Rhode Island (“State”) at all times herein acted through the Rhode Island Department of Transportation (“RIDOT”). The State and RIDOT are collectively referred to as “RIDOT.”

3. This Court has jurisdiction over the subject matter of this lawsuit, pursuant to R.I. Gen. Laws § 8-2-14.

4. RIDOT has consented to this Court’s jurisdiction and venue.

5. Venue is further appropriate in this Court pursuant to R.I. Gen. Laws § 9-4-4.

6. RIDOT owned, operated, and maintained the Washington Bridge North No. 700 (“Washington Bridge”).

7. RIDOT contracts with private companies to test, inspect, and report on the condition of its property.

8. In 1992, Lichtenstein, a private company engaged by RIDOT, issued a detailed report to RIDOT (“1992 Lichtenstein report”) that recommended, *inter alia*, that RIDOT perform additional radiographic and other testing to evaluate the strength of the key structural components of the Washington Bridge before any future attempts to rehabilitate the bridge.

9. Upon information and belief, despite the passage of reasonable time since the 1992 Lichtenstein report to perform the recommended testing before any future rehabilitation attempts, RIDOT did not contract for such testing between 1999 and when the bridge was closed on December 11, 2023.

10. RIDOT knew or should have known, or ought to have known, that the Washington Bridge incorporated a unique design that limited the ability to determine its condition from visual inspections alone.

11. Radiographic, ground penetrating radar (“GPR”), ultrasonic shear wave tomography (“MIRA”), and/or other testing was available to evaluate the true condition of the Washington Bridge after 1999 and before March 17, 2021. Upon information and belief, RIDOT did not request radiographic, MIRA, GPR, or other available testing after the 1996-1998 rehabilitation project, and before March 17, 2021, despite the 1992 Lichtenstein report recommendations.

12. On or about March 17, 2021 RIDOT issued a Request for Proposals (“RFP”) known as RFP/Bid No. 7611889, entitled “Best Value Design-Build Procurement for Bridge Group 57T-10: I-95 Washington North Phase 2” (the “2021 RFP”), for a design and construction project known as the I-95 Washington North Phase 2 Project (“Project”).

13. The 2021 RFP required rehabilitation of the Washington Bridge.

14. The RFP did not include a copy of the 1992 Lichtenstein report, nor did the State disclose its knowledge of the 1992 Lichtenstein report recommendations.

15. The 2021 RFP provided prospective proposers with guiding design documents known as the Base Technical Concept (“BTC”).

16. The BTC set the design threshold for the Project, which prospective proposers were required to advance if awarded the Project.

17. The BTC defined the scope of the Project.

18. The BTC defined the minimum baseline design requirements for the Project.

19. Proposals in response to the 2021 RFP were required to be based on the BTC.

20. The BTC did not identify any structural deficiencies with the tie-down rods or prestressed concrete beams at Piers 6 and 7 of the Washington Bridge or elsewhere.

21. The BTC did not identify any structural deficiencies with the post-tensioning

system of the Washington Bridge.

22. The BTC did not require any retrofit or remediation of the tie-down rods at Piers 6 or 7 or the post-tensioning system of the Washington Bridge.

23. RIDOT, despite not performing recommended testing, expressly and/or impliedly represented to proposers that the Washington Bridge could be rehabilitated.

24. RIDOT did not request that proposers design a replacement for the Washington Bridge.

25. On or about July 2, 2021, the JV submitted a Design-Build proposal in response to the 2021 RFP.

26. On or about September 1, 2021, RIDOT awarded the Project to the JV, and RIDOT and the JV executed the contract for the Project (“2021 Design-Build Contract”).

27. The 2021 Design-Build Contract required the JV to advance the BTC.

28. The JV advanced the BTC.

29. On or about October 19, 2023, the JV issued rehabilitation plans (“Rehabilitation Plans”) in accordance with the 2021 Design-Build Contract.

30. RIDOT reviewed and approved the Rehabilitation Plans.

31. On December 8, 2023, Vanasse Hangen Brustlin, Inc. (“VHB”) identified tie-down rod failures at Pier 7 and compromised tie-down rods at Pier 6 of the Washington Bridge.

32. Based on VHB’s observations, RIDOT issued an emergency declaration on December 11, 2023, at 3:00 p.m., closing the Washington Bridge.

33. Following the post-closure investigation, which included GPR, MIRA, and other testing, RIDOT determined that the Washington Bridge could not be rehabilitated and must be demolished and replaced due to widespread structural deficiencies identified by the post-December

2023 inspections and testing.

34. On April 11, 2024, RIDOT terminated the 2021 Design-Build Contract.

35. All conditions precedent to the filing of this action have occurred, been performed or have been waived by the parties.

COUNT I
(BREACH OF CONTRACT AND BREACH OF IMPLIED
COVENANT OF GOOD FAITH AND FAIR DEALING)

36. The JV incorporates paragraphs 1 through 35 as if fully set forth herein.

37. This is a claim brought by the JV against RIDOT for breach of the valid and enforceable 2021 Design-Build Contract and the covenant of good faith and fair dealing implied therein.

38. RIDOT failed to perform all of its duties under the 2021 Design-Build Contract.

39. The JV fully performed its obligations under the 2021 Design-Build Contract, in reliance on RIDOT's representations regarding the Washington Bridge.

40. RIDOT materially breached the 2021 Design-Build Contract by failing to perform all of its duties under the 2021 Design-Build Contract, including, but not limited to, failing to pay the JV in full and not disclosing its superior knowledge of the Lichtenstein report or the report's testing recommendations to bidders.

41. Additionally, there exists an implied covenant of good faith and fair dealing that RIDOT will not do anything to injure the right of the JV to receive the benefit of the 2021 Design-Build Contract.

42. As an owner of property, RIDOT had a duty to reasonably investigate the condition of its property before engaging in an RFP process to rehabilitate the Washington Bridge. Because RIDOT was on notice of the deficiencies and recommendations noted in the 1992 Lichtenstein

report, RIDOT had a duty to investigate the condition of the Washington Bridge beyond visual inspections alone.

43. RIDOT had a duty to report the true condition of the bridge to all prospective bidders, including the JV, during the RFP process. RIDOT could have reported the true condition of the bridge by following the recommendations in the Lichtenstein report and doing the recommended (and available) testing before issuing the 2021 RFP.

44. RIDOT breached its respective duty of good faith and fair dealing owed to bidders, including the JV, by failing to properly investigate the condition of the Washington Bridge before issuing the 2021 RFP and entering the 2021 Design-Build Contract. The testing performed after the bridge closure could have been performed by RIDOT before the issuance of the 2021 RFP.

45. RIDOT's failure to properly investigate the condition of the Washington Bridge and report the true condition of the bridge in the 2021 RFP resulted in a deprivation of the JV's intended benefits under the 2021 Design-Build Contract.

46. RIDOT has failed to cure its material breach of contract and breach of the implied covenant of good faith and fair dealing.

47. RIDOT's material breaches relieved the JV of its performance obligations.

48. As a direct and proximate result of RIDOT's breach, the JV suffered damages.

WHEREFORE, the JV demands a judgment against RIDOT for all of its damages plus interest.

COUNT II
(DIFFERING SITE CONDITION)

49. The JV incorporates paragraphs 1 through 35 as if fully set forth herein.

50. This is a claim for Differing Site Condition ("DSC") in connection with the 2021 Design-Build Contract, brought by the JV against RIDOT.

51. The 2021 Design-Build Contract included representations regarding the Project's site conditions and specifically stated that DSCs would be addressed according to the terms of the 2021 Design-Build Contract. 2021 Design-Build Contract, Part 2, 104.3 (DIFFERING SITE CONDITIONS).

52. On or about December 2023, the JV encountered a DSC at Piers 6 and 7 of the Washington Bridge.

53. The DSC impacted the JV's design and construction of the Project.

54. The JV notified RIDOT of the DSC and its impact to the Project.

55. RIDOT has not compensated the JV for the DSC.

56. As a direct and proximate result of RIDOT's breach, the JV suffered damages.

WHEREFORE, the JV demands a judgment against RIDOT for all of its damages plus interest.

**COUNT III
(BREACH OF IMPLIED WARRANTY)**

57. The JV incorporates paragraphs 1 through 35 as if fully set forth herein.

58. RIDOT impliedly warranted that if the JV met the BTC, a satisfactory Project would result.

59. The JV reasonably relied on the BTC in the performance of its duties under the 2021 Design-Build Contract.

60. The JV met or exceeded the BTC through its design as required by the 2021 Design-Build Contract.

61. RIDOT breached the implied warranty because the BTC did not yield a satisfactory result.

62. As a direct and proximate result of RIDOT's breach, the JV suffered damages.

WHEREFORE, the JV demands a judgment against RIDOT, for all of its damages plus interest.

**COUNT IV
(BREACH OF EXPRESS WARRANTY)**

63. The JV incorporates paragraphs 1 through 35 as if fully set forth herein.

64. RIDOT expressly warranted that the Project was achievable.

65. The JV reasonably relied on RIDOT's representations in the 2021 RFP in the performance of its duties under the 2021 Design-Build Contract.

66. RIDOT breached the express warranty because the Project was not achievable.

67. As a direct and proximate result of RIDOT's breach, the JV suffered damages.

WHEREFORE, the JV demands a judgment against RIDOT, for all of its damages plus interest.

**COUNT V
(DECLARATORY JUDGMENT)**

68. The JV incorporates paragraphs 1 through 35 as if fully set forth herein.

69. There exists an actual and legal controversy between the JV and RIDOT regarding whether the 2021 Design-Build Contract between the parties:

- a. Required that the Washington Bridge be rehabilitated, not demolished and rebuilt;
- b. Required the JV to advance the BTC, which contemplated that the Washington Bridge be rehabilitated;
- c. Required RIDOT to disclose its superior knowledge of the condition of the Washington Bridge by providing all bidders, including the JV, with the 1992 Lichtenstein report in the 2021 RFP materials;

- d. Sufficiently disclosed the true condition of the Washington Bridge when extensive additional testing performed by RIDOT post-closure revealed the bridge could not be rehabilitated;
- e. Required the JV to evaluate whether the Washington Bridge could be rehabilitated;
- f. Contemplated extensive pre-bid testing when the JV was not provided with sufficient time or a stipend to perform the same testing that was done post-closure before submitting a bid;
- g. Allowed the JV to rely upon the materials included in the 2021 RFP package to advance the concept of rehabilitation;
- h. Failed to provide a basis for recovery of damages when RIDOT has sufficient funds to rebuild the bridge at no additional cost to the taxpayers and therefore has suffered no damages under the 2021 Design-Build Contract.

70. The controversy is ripe for this Court's determination.

71. The requested declaration deals with a present and ascertained set of facts and involves a present controversy as to the state of the facts. The JV's rights are dependent on the law applicable to these facts.

72. The request for declaratory relief is not for an advisory legal opinion. There is a bona fide, actual, present, and practical need for the declaration.

WHEREFORE, the JV demands a declaratory judgment declaring that the 2021 Design-Build Contract: (i) required that the Washington Bridge be rehabilitated; (ii) required the JV to advance the BTC; (iii) required RIDOT to disclose the 1992 Lichtenstein report in the 2021 RFP materials; (iv) did not sufficiently disclose the true condition of the Washington Bridge; (v) did not require the JV to evaluate whether the Washington Bridge could be rehabilitated; (vi) did not contemplate extensive

pre-bid testing by the JV; (vii) allowed the JV to rely upon the materials included in the 2021 RFP to advance the concept of rehabilitation; and (viii) failed to provide a basis for recovery of damages when RIDOT has sufficient funds to rebuild the bridge at no additional cost to the taxpayers.

Dated: June 12, 2025

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on the 12th day of June, 2025, I electronically filed and served this document through the electronic filing system on counsel of record. The document is available for viewing and/or downloading from the Rhode Island Judiciary's electronic filing system.

/s/ Jeffrey B. Pine