

3/31/2021

Congratulations on the award for the «ProjectDescription»!

To facilitate accurate and timely payment, please have the person responsible for billing review Attachment D: Payment Procedure Checklist, which lists applicable accounting and management controls. If you have any questions or concerns, please contact the Project Manager named in the Agreement or the Contract Administrator at 734-427-9111.

Paperwork that must be returned:

- 1) Insurance documentation compliant with Attachment B and the other contract documents. Contractor must receive the insurance documentation before the work begins on site—no exceptions**
- 2) A completed Attachment F**
- 3) A current W9**

**This office will reject invoices that do not comply with the items a) above; b) outlined in Attachment D; and c) in the other contract documents.*

Email contract documents to: contracts@aristeo.com

Email invoicing to: subap@aristeo.com

Attachment D: Payment Procedure Checklist

Please submit a preliminary schedule of values to the Project Manager for approval prior to the first invoice.

Invoices will not be processed until Subcontractor returns a signed Agreement, certificate of insurance and related documentation, and a completed Attachment F.

Submitting Monthly Invoices

- 1) Identify the Agreement No. on invoices. If unsure of the Agreement No., please contact the Contract Administrator.
- 2) Only invoice work in place for the base schedule of values, and if applicable, change orders. Only fully signed change orders may be invoiced; invoicing of unsigned or partially signed change orders is not allowed.
- 3) Include an accurate, current, and notarized sworn statement with each submitted invoice.

Mandatory Due Dates

- 4) **On or before the 10th of each month**
 - a) Submit a pencil copy invoice(s) (if applicable) by Bill Group to the Project Manager, which forecasts through that month's end. If a pencil copy is received after the due date, it will not be included in the invoicing to the Owner or processed for payment.
- 5) **On or before the 25th of each month**
 - a) Submit fully executed formal invoice by Bill Group to subap@aristeo.com.

An executed formal invoice includes a signed and notarized AIA and sworn statement.

If the Project Manager does not advise as to the status of a pencil copy invoice, assume approval and submit the executed formal invoicing.

Payment

- 6) A waiver will be sent to for Subcontractor's signature, and upon receipt of the completed waiver, Subcontractor's check will be released.

Professional Services Agreement

Job No.: «Project»	Phase Code: «udSubPhase»
PSA Date: 3/31/2021	Agreement No.: «SL»
Project: «ProjectDescription»	Prime Contractor: «udPrimeCont»
Owner: «Owner»	Project Manager: «ProjectManager»
Project Location: «JobShipAddress» «JobShipCity», «JobShipState» «JobShipZip»	Architect/Engineer: «ArchEngName»

This is an agreement (the “**Agreement**”) between Contractor and Subcontractor for the consideration of: **«TotalSubcontract»**.

This Agreement is one of the following contract types:

Time and Material Unit Price Lump Sum

The authorized Representative for «FirmName» is «ContactFName».

The authorized Representative for «OurCompany» is «ProjectManager».

The Agreement incorporates and includes the following documents whether in hard copy or digital format:

1. this Agreement
2. Attachment A: Scope of Work
3. Attachment B: Insurance Requirements
4. Attachment C: Agreement Terms
5. Attachment D: Payment Procedure Checklist
6. Attachment E: Environmental Checklist
7. Attachment F: Diversity Commitment Worksheet
8. Drawings and Specifications (including all modifying documents issued on or before the PSA Date)
9. Prime Contract
10. Project manuals and other documents made available to Subcontractor to bid against for the Work
11. Post-bid review documents provided by Contractor to Subcontractor before the Agreement is signed by both parties
12. Progress Schedule
13. All documents directly or indirectly incorporated by reference regardless of tier

No payments will issue until Subcontractor returns a signed, unmodified Agreement to Contractor. The parties are signing the Agreement on the PSA Date.

«FirmName»
(the “**Subcontractor**”)

Aristeo Construction Company
(the “**Contractor**”)

Signature

BY (Type or print signer’s name and title)

Address and email contact:

«FirmAddress»

«FirmCity», «FirmState» «FirmZip»

«EMail»

Signature

«ProjectManager», Project Manager

BY (Type or print signer’s name and title)

Address and email contact:

«CompanyAddress»

«CompanyCity», «CompanyState» «CompanyZip»

«EmailPM»

Attachment A: Scope of Work

Subcontractor shall include and perform the following and as otherwise described in this Agreement:

«udSubScope»

Inclusions:

«udInclusions»

Subcontractor and its employee shall comply with all of the protective measures outlined in the Aristeo Construction COVID-19 Work Plan (the "Work Plan") as if Subcontractor was the author of the Work Plan. The Work Plan's protective measures are minimum requirements, and Contractor does not represent that the measures are fully protective of Subcontractor and its employees. Subcontractor shall independently determine the sufficiency of protective measures for performing the Subcontract and may implement measures more stringent than the Work Plan to provide sufficient safety controls for it and its employees to perform the Subcontract. At a minimum, Subcontractor shall provide its employees with PPE, disinfectant, and hand sanitizer. Contractor shall provide hand wash stations and marked disposal cans for use at the project.

Including but not limited to:

- Coordination with all other trades as required for the complete and proper execution of the work.
- Provide daily clean-up of all identifiable debris. Debris shall not be allowed to accumulate anywhere on site.

Attachment B: Insurance Requirements

Before mobilization to the Project Location or otherwise commencing the Work, Subcontractor included in its pricing and shall a) procure and maintain at its expense all insurance of the type and minimum coverages stated in this attachment and the Agreement; and b) cause to be furnished a certificate of insurance in the ACORD format and stating policy numbers including expiration dates and endorsements or other amending documents to demonstrate such insurance coverages meet the requirements. Subcontractor may meet minimum coverage limits by either primary policies or a combination of primary policies with the balance covered by an excess or umbrella policy. Contractor does not state that the listed policy requirements or limits of protection are adequate to satisfy Subcontractor's interests. Subcontractor shall determine if coverages are in effect and satisfactory for the risk management goals of Subcontractor. Insurance providers must be domiciled in the U.S. and have an A.M. Best Co. rating of AVIII or better. Subcontractor's policies shall not require or bind Contractor to arbitration before any tribunal, including any foreign tribunal.

1) Commercial General Liability Insurance including the following coverages:

- a) Premises / Operations Liability
- b) Explosion, Collapse and Underground Hazards
- c) Products / Completed Operations Hazards
- d) Contractual Liability Coverage
- e) Personal Injury Liability
- f) Independent Contractors

The limits of insurance must be equal to or greater than the following:

udGLGenAgg	General Aggregate on a Per Project Basis (Other than Products / Completed Operations)
\$ 2,000,000	Products / Completed Operations Aggregate
\$ 1,000,000	Personal and Advertising Injury
udGLPerOccur	Each Occurrence

Products / Completed Operations coverage, including an additional insured endorsement covering the Additional Insureds, shall remain in effect for the longer of the period required by the Agreement or the last applicable statutes of limitations or repose for construction defects and products liability claims in the state where the Work is performed.

If the Work requires operations within 50 feet of a railroad, subject to the standard policy terms, the definition of an insured contract in the General Liability policy will be amended to delete the exception in connection with construction or demolition on or within 50 feet of a railroad.

If the Work requires operations within 50 feet of a railroad and it is stipulated by the railroad entity that Subcontractor provide a Railroad Protective Liability policy in the name of the specific railroad entity for performing work on the railroad right-of-way, this policy will be procured and maintained.

2) Business Automobile Insurance including the following coverages:

- a) Owned Vehicles
- b) Non-Owned Vehicles
- c) Hired Vehicles
- d) Each of the above listed coverages must provide coverage in the following minimum limits:
udGLPerOccur Bodily Injury & Property Damage each accident

3) Workers Compensation & Employers Liability Insurance including the following coverages:

- a) Statutory Workers Compensation Coverage in accordance with the laws of the state within whose jurisdiction the work is performed. If the work of this contract falls within the purview of the United States Longshoremen's and Harbor Workers' Compensation Act, The Jones Act or the Federal Employer's Liability Act, Subcontractor shall extend coverage to provide and maintain in effect during the period covered by this Agreement by endorsement, insurance against the liability imposed under these acts as applicable, including sole proprietors and corporate officers performing work at the Project Location, \$1,000,000.00 (or Statutory Minimum). In the case of any damages or benefits payable by or for Contractor or Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts, Subcontractor expressly waives any limitation on its liability under any workers compensation acts, disability, acts, or other employee benefit acts. This term will explicitly apply to, but will not be limited to, any 'third party over' claims. Subcontractor agrees that no act shall preclude such third-party indemnity actions against it.
- b) Employers Liability Coverage having a minimum of \$1,000,000.00 each accident including Occupational Disease.
- c) Policy to be endorsed with waiver of subrogation in favor of Contractor and Owner.
- d) Policy coverage is for Subcontractor's employees as well as personnel from a professional employer organization, an employee leasing company, and other similar services.

4) Excess Or Umbrella Liability Insurance including the following coverages:

Excess or Umbrella coverage is to be excess over paragraph 1), paragraph 2), and Employers Liability in paragraph 3) or per Owner requirements «udUmbLialns». Coverage under an excess or umbrella policy must be as broad as the coverage provided by primary policies.

5) Trucking/Cargo Insurance including the following coverages:

If the Agreement involves trucking/hauling services, Subcontractor shall provide Motor Truck Cargo Liability Insurance covering Subcontractor for loss of or damage to all Contractor owned, leased, and rented property/cargo whether in transit or under the Subcontractor's care/custody. Policy limits are to equal the value or replacement cost of the insured cargo/matter. Subcontractor shall comply with federal and state regulations and provide the MCS-90 endorsement if transporting Hazardous Material. Certificate is to be issued without a tariff clause.

6) Professional Liability including the following coverages:

If the Agreement involves Professional Services, Subcontractor shall provide Professional Liability (Errors & Omissions) Insurance in an amount equal to or greater than «udProLiabIns» per claims made for damages caused by any error, act, or omission of Subcontractor or of any other person for whose errors, acts, or omissions Subcontractor may be liable arising out of the performance of services in a professional capacity. This coverage period will continue until 3 years after final payment, and if Subcontractor terminates coverage at any time before the coverage period expires, Subcontractor shall provide evidence of continuing coverage for the required limit amount or obtain extended reporting period coverage ("tail cover") for a coverage period equal to or greater than 3 years. Subcontractor will furnish a copy of the Professional Liability policy on request.

7) Environmental/Pollution Liability Insurance including the following coverages:

If the Agreement involves Hazardous Material including a) remediation; b) abatement; c) handling; or d) otherwise exposure to causing a pollution event, Subcontractor shall provide Pollution / Environmental Liability in the amount of «udEnvPollLiabIns» each claim, aggregate or otherwise specified if Owner's requirement is greater. The coverage will remain in effect for 3 years following completion at a minimum.

Trucking/Cargo Insurance applies if transporting Hazardous Material.

8) Installation Floater/Builders Risk/Responsibility For Property Installed Or Being Installed including the following coverages:

If the Agreement involves equipment or materials that are to be permanently installed, Subcontractor shall provide an Installation Floater policy with limits to reflect one or both of the contract value and any equipment in Subcontractor's care, custody, or control. If during construction there is a loss or damage to Subcontractor's equipment, material, or contract work, Subcontractor shall first seek recovery from its property insurance coverage. In cases of claims paid by Owner's or Contractor's Builders Risk Insurance coverage, Subcontractor shall pay any deductibles and self-insured retentions applied to insured losses under those policies, which arise from Subcontractor's Work.

9) Miscellaneous Requirements:

Regardless of other insurance, these coverages are on a primary and non-contributory basis. All Additional Insureds are to be covered for all liability arising from the Agreement to the full limits carried by Subcontractor—not just to those required by this Agreement. Subcontractor will attach to its certificate of insurance a copy of the policy endorsements under which the Additional Insureds (except for Professional Liability and Workers Compensation) are added as additional insureds, and in the case of the General Liability policy, by utilizing ISO endorsement forms that are at least as broad in additional insured coverages as a) CG 20 10 11 85; b) CG 20 10 10 01 and 20 37 10 01 combined; or c) equivalents in coverage in every respect as to option a) or b). The policies shall not eliminate or restrict coverage for claims or suits between "named insureds" and additional insureds. Subcontractor shall obtain and provide endorsements that waive subrogation and provide continued coverage in favor of the Additional Insureds. The policies shall provide a 30-calendar-day-advance notice of when protection provided under these policies will cancel, reduce, or otherwise change. Equivalent insurance coverages must be obtained from each of Subcontractor's Subordinate Parties, if any, before a Subordinate Party commences work at the Project or Subcontractor shall obtain insurance covering such Subordinate Parties. Receipt by Contractor of a non-conforming certificate of insurance, endorsement, or other documentation without objection, or Contractor's failure to collect a certificate of insurance, endorsement, or other documentation shall not waive or alter Subcontractor's duty to comply with the insurance requirements.

If Subcontractor fails to procure and maintain any required insurance coverages, Contractor may procure and maintain the required insurance coverages for and in the name of Subcontractor. For those insurance coverages procured by Contractor under this paragraph, Subcontractor shall pay the cost and shall furnish all necessary information to make effective and maintain those insurance coverages. At Contractor's option, Contractor may deduct the cost of insurance coverages purchased on behalf of Subcontractor, and Contractor may deduct those costs from any amounts that are then due or will become due to Subcontractor under this Agreement or other contracts between Contractor and Subcontractor.

Additional Insureds: «udAddInsuredforContract»

Reference Job # «Project»

Certificate Holder: Aristeo Construction, 12811 Farmington Rd., Livonia, MI 48150

Fax Certificate to: 734-793-5536 Email Certificate to: contracts@aristeo.com

Attachment C: Agreement Terms

ARTICLE 1 DEFINITIONS

- 1.1. The following definitions apply to the document having the title "Agreement" and the Agreement's Attachments.
- 1.1.1. "Agreement" has the meaning stated throughout the Agreement and includes all documents incorporated by reference.
- 1.1.2. "Agreement Price" means the amount to be paid to Subcontractor under the Agreement, from funds received from or on behalf of Owner, for Subcontractor's proper performance of its Work.
- 1.1.3. "Change Order" means a written document signed by Contractor and Subcontractor where they have agreed to change the scope, price, time for performance, or other terms of the Agreement.
- 1.1.4. "Contractor" means the entity issuing this Agreement, and the term "Contractor" is used regardless of whether the actual role is as general contractor, construction manager, design/builder, subcontractor, or otherwise.
- 1.1.5. "Drawings" means the graphic and pictorial portions of the Agreement's Work.
- 1.1.6. "Indemnitees" means Contractor and its agents, owners, officers, members, partners, affiliates, consultants, employees, and successors as well as all parties that the Prime Contract expressly identifies as indemnitees that Subcontractor is responsible to.
- 1.1.7. "Owner" means the party with whom Contractor has entered into the Prime Contract with respect to the Project.
- 1.1.8. "Prime Contract" means the contract between Contractor and Owner for the Project including all changes to that contract through the PSA Date. The Prime Contract is available to Subcontractor on request, and regardless of whether Subcontractor receives the Prime Contract, Subcontractor is bound to the Prime Contract as clarified by paragraph 3.1 and elsewhere in the Agreement.
- 1.1.9. "Project" means the project identified in the Agreement for services.
- 1.1.10. "Specifications" means written requirements for the Work and performance of related services.
- 1.1.11. "Subcontractor" means the entity that this Agreement issued to and includes that entity's Subordinate Parties.
- 1.1.12. "Subordinate Parties" means Subcontractor's employees, workers, laborers, agents, consultants, suppliers, subcontractors, or other parties, where these parties are at any tier at or under Subcontractor, that perform, assist with, or otherwise are involved in the Work.
- 1.1.13. Along with as stated elsewhere within the Agreement, "Work" means all duties, work, responsibilities, and obligations performed or to be performed by Subcontractor under the Agreement.
- 1.2. If the Agreement contains words or abbreviations that are undefined but have well known technical, trade, or construction industry meanings, those meanings apply.
- 1.3. The use of "including" means "including, but not limited to" and other forms of the verb "to include" are to be interpreted similarly; and references to "or" shall be deemed to be disjunctive but not necessarily exclusive (i.e., unless the context unambiguously dictates otherwise, "or" shall be interpreted to mean "and/or" rather than "either/or").
- 1.4. Where a period of time is specified to run from or after a given day or the day of an act or event, it is to be calculated exclusive of such day; and where a period of time is specified as commencing on a given day or the day of an act or event, it is to be calculated inclusive of such day.

ARTICLE 2 GENERAL

- 2.1. **General Obligations.** In Contractor's agreement with Owner, Contractor shall provide professional services as part of the performance of its work and in connection with the construction means, methods, techniques, sequences, and procedures it shall utilize on the Project. As a result, Contractor has engaged Subcontractor to provide those professional services as further described in Attachment A and elsewhere.
- 2.2. **Team Relationship.** Contractor and Subcontractor agree to proceed with performing the professional services required by this Agreement on a basis of trust, good faith, fair dealing, and cooperation, and each of them shall take all actions deemed by either as reasonably necessary to complete these services in an economical and timely manner.
- 2.3. **Extent of Agreement.** This Agreement represents the entire agreement between Contractor and Subcontractor and supersedes all prior offers, proposals, negotiations, representations, terms, and agreements. If a conflict arises between terms in any documents that are a part of the Agreement, the terms that govern are those that a) confer the greatest rights or remedies to Contractor; or b) impose the greatest duty, standard, burden, or other obligation on Subcontractor; if any document of the Agreement including those incorporated by reference at any tier also include a conflict-resolution term, the conflict resolution term in this paragraph governs and takes precedence over all other conflict-resolution terms. Information identified in one term and not identified in another is not to be deemed a conflict or inconsistency.
- 2.4. **Acceptance.** Subcontractor's signature on the Agreement or Subcontractor's commencement of any Work is Subcontractor's acceptance of this Agreement as written. Should Subcontractor commence any Work that relates to this Agreement and then later sign this Agreement, Subcontractor's performance prior to that signature is governed by this Agreement. This Agreement may only be modified by a subsequent writing signed by Contractor's authorized representative.
- 2.5. **Communications.** Unless authorized by Contractor, all communications with the Owner, Contractor, or other parties for the Project shall be exclusively routed through Contractor. Contractor shall facilitate the exchange of information among the Owner, Subcontractor, and other parties as necessary for the coordination of the Work.

ARTICLE 3
SUBCONTRACTOR'S RESPONSIBILITIES

- 3.1. Work.** Subcontractor shall perform the Work under the general direction of Contractor and shall cooperate with Contractor so Contractor may fulfill its obligations to Owner. In relation to the Work involved with this Agreement, Subcontractor adopts all obligations, responsibilities, and limitations of rights toward Contractor, which Contractor adopts under the Prime Contract toward Owner, and Contractor acquires all rights and remedies as to Subcontractor, which Owner acquired as to Contractor under the Prime Contract. If the Prime Contract states or implies Subcontractor obligations and burdens, Subcontractor must perform those obligations and bear those burdens as part of Subcontractor's performance of this Agreement. The Agreement Price is inclusive of all forms of cost escalation in connection with the Work.
- 3.2. Reports.** Subcontractor shall submit all written reports required by Contractor.
- 3.2.1.** Subcontractor shall treat such written reports as confidential information, and shall only distribute its reports to Contractor and to those parties if authorized by Contractor in writing.
- 3.2.2.** Subcontractor shall retain, for the benefit of Contractor, copies of all reports and distribution lists, and such supporting data as Contractor requests, for a period of seven years, following completing services under this Agreement.
- 3.3. Obligations of Others.** Subcontractor assumes no duties, responsibilities, or obligations regarding the Project that by contract are assigned to the designers, surveyors, governmental authorities, or other parties.
- 3.4. Limitations.** Subcontractor shall not a) modify any requirement of the Drawings, Specifications, and other Agreement documents; and b) assume responsibility for Contractor's or its other subcontractors' means, methods, techniques, sequences, and procedures of construction or safety programs. Unless such rights are provided in Attachment A, Subcontractor c) shall not supervise or direct Contractor's personnel, its subcontractors, or any facet of Contractor's work; d) accept or reject the Work including any materials or labor; e) reject or modify Contractor's means and methods; and f) stop Contractor's work.
- 3.5. Standard of Care.** For the engineering, design, surveying, and other professional services outlined in Attachment A and elsewhere in the Agreement (the "Professional Services"), the following requirements apply:
- 3.5.1.** Subcontractor shall cause all Professional Services to comply with the requirements of the Agreement and all laws, regulations, ordinances, other legislation, and requirements of governmental authorities and agencies having jurisdiction over the design, construction, existence, or use of the Project. Subcontractor shall cause all such services to be provided by a properly licensed design professional (the "Professional"), whose signature and seal shall appear on all drawings, calculations, specifications, certifications, submittals, and other documentation prepared by a Professional. Contractor shall be entitled to rely upon the adequacy, accuracy, and completeness of the services, certifications, or approvals performed by a Professional.
- 3.5.2.** Subcontractor shall cause all Professional Services to be provided with all due care that would be followed for a comparable project by a skilled professional working in the same field and the same region where the Project is located.
- 3.5.3.** Subcontractor shall cause the installation, if any, and design of all Subcontractor-designed work to interface properly with the design and construction of the entire Project.
- 3.5.4.** Subcontractor shall maintain, at its own expense, all licenses and certifications necessary to perform the Professional Services.
- 3.5.5.** For shop drawings and other submittals that are prepared and relate to the Work designed or certified by a Professional, this documentation shall bear that Professional's written approval when submitted to Contractor for submission to the designated reviewing parties.
- 3.5.6.** Owner shall acquire and retain all rights, including copyright, to the drawings, specifications, and other documents prepared by and for Subcontractor through this Agreement.
- 3.5.7.** Subcontractor shall not be responsible for the a) errors or omissions of any other party or parties involved in the design or manufacture of the Project; or b) failure of any contractor or subcontractor or manufacturer to comply with Subcontractor's written or oral recommendations. Subcontractor shall be responsible for all claims, losses, or delays resulting from its errors and omissions.
- 3.6. Safety.** To protect persons and property, Subcontractor shall establish a safety program implementing safety measures, policies, and standards conforming to a) those required or recommended by governmental and quasi-governmental authorities having jurisdiction; b) Contractor's health and safety manual and other safety requirements and procedures for the Project; c) all other requirements and procedures of Owner and others for the Project; and d) requirements and procedures of this Agreement. Subcontractor assumes responsibility for all jobsite safety related to Subcontractor and arising from its Work. Subcontractor disclaims any authority over or responsibility for the safety of personnel engaged in performance of Contractor's work at the Project Location except that Subcontractor shall have authority over and responsibility for the safety of Subordinate Parties. Subcontractor shall indemnify Contractor against fines or penalties imposed because of safety violations, but only if such fines or penalties are caused by Subcontractor's failure to comply with applicable safety requirements.
- 3.7. Right to Subcontract Work.** Subcontractor may only subcontract its obligations under this Agreement with Contractor's prior written approval.
- 3.8. Authorized Representative.** Subcontractor shall designate in writing a person empowered to act as Subcontractor's representative regarding its performance of this Agreement. Such person shall have complete authority to bind Subcontractor under this Agreement.
- 3.9. Independent Contractor.** Subcontractor agrees that it is an independent contractor, and nothing contained in this Agreement or any other agreement is to be deemed to create the relationship of principal and agent, or employer and employee, between Subcontractor and Contractor. None of the Subordinate Parties shall at any time represent themselves as an employee of Contractor. Subcontractor shall act in a manner consistent with that of being an independent contractor in the performance of its services, including the filing and payment of any and all federal, state, and local income and self-employment taxes; unemployment taxes; workers compensation premiums; license fees; registration fees; insurance premiums, etc.

3.10. Confidentiality. Confidential information provided pursuant to or prior to this Agreement is not to be reproduced or disclosed to others or used for other purposes without Contractor's written permission. If required by the Prime Contract or a separate agreement between Owner and Contractor, all information about this Project shall be kept strictly confidential by Subcontractor unless otherwise prohibited by applicable law. If Subcontractor is compelled to produce confidential information by law, Subcontractor shall provide notice of same to Contractor to afford Contractor the opportunity to protect such confidential information prior to Subcontractor's disclosure. If Subcontractor discloses confidential information and Contractor did not authorize that disclosure, Subcontractor shall immediately notify Contractor of the unauthorized disclosure and details pertaining to what Subcontractor disclosed, to whom, and when the disclosure occurred. Subcontractor shall be responsible to Contractor and Owner for all unauthorized disclosures.

ARTICLE 4 CONTRACTOR'S RESPONSIBILITIES

4.1. Information. Contractor shall provide Subcontractor with project documents and other available project information requested in writing by Subcontractor. Contractor shall provide timely notice to Subcontractor of changes made to the Drawings, Specifications, or other documents for the Project.

4.2. Access. To assist Subcontractor in performing all tasks reasonably necessary to complete services under this Agreement, Contractor shall provide Subcontractor with reasonable access to the Project and shall facilitate Subcontractor's access to all shops, yards, or other sites where materials for the Project are being prepared or stored.

4.3. Authorized Representative. Contractor shall designate in writing a person empowered to act as Contractor's representative. Such person shall have complete authority to transmit instructions to, receive information and data from, interpret and define Contractor's policies and decisions regarding the Project, and order, at Contractor's expense, any additional services which Contractor may request of Subcontractor.

4.4. Schedule. Time is of the essence for this Agreement. Accordingly, Subcontractor shall perform this Agreement's services with reasonable diligence and expediency consistent with sound professional practices.

4.4.1. Within seven calendar days of signing this Agreement, Subcontractor shall prepare and submit its proposed schedule of work for Contractor's use in preparing the schedule for performance of Contractor's work (the "**Progress Schedule**"). Subcontractor's proposed schedule shall include all pertinent project dates and periods required to meet Owner's guidelines and milestone dates, including reasonable allowances for review and approval periods required by public authorities having jurisdiction over the Project. Contractor shall utilize the proposed schedule to the extent feasible to develop the Progress Schedule, and shall consult with and seek mutual consent from Subcontractor on any adjustments prior to issuing the Progress Schedule. But Contractor shall have the right to determine and, if necessary, change the a) time, order, and priority to perform various portions of the Work; and b) all other matters relative to the Work. Subcontractor shall provide its services under that Progress Schedule. Contractor may revise and update the Progress Schedule as Contractor's work progresses, and may equitably adjust the Progress Schedule to account for changes in scope, character, or size of the Project or for delays or disruptions beyond Subcontractor's reasonable control.

4.4.2. Contractor shall provide Subcontractor with notice of the required performance of all services to allow Subcontractor a reasonable period within which to coordinate the allocation to Subordinate Parties. Subcontractor shall adhere to the Progress Schedule so as not to hinder, disrupt, or delay Contractor's work on the Project.

4.5. Samples. If Subcontractor is providing testing services, Contractor shall provide and deliver to Subcontractor, for testing, representative samples of materials Contractor proposes to use with relevant data pertaining to those materials unless such samples are to be obtained by Subcontractor under this Agreement. Contractor shall provide all labor and facilities on and off the Project as may be needed by Subcontractor to obtain samples and to store and cure such samples that must remain at the Project Location prior to testing.

ARTICLE 5 INDEMNITY, INSURANCE AND WAIVERS

5.1. Indemnity. To the fullest extent permitted by law, Subcontractor shall indemnify, defend, and hold harmless the Indemnitees from all losses, claims, lawsuits, causes of action, damages, liabilities, injuries, royalties, penalties, fines, interest, taxes, reasonable attorney fees, costs, settlements, and other expenses that the Indemnitees might incur by reason of:

5.1.1. the Professional Services;

5.1.2. all bodily injury, property damage, and other harms arising out of or in connection with the Agreement even if caused by an Indemnitee, however and notwithstanding the conflict-resolution term in this Attachment C, Subcontractor's indemnity and defense obligations to the Indemnitees are modified and limited to the least burdensome of the following:

5.1.2.1 the extent that the written provisions of the Prime Contract obligate Contractor to indemnify and defend others for bodily injury, property damage, and other harms notwithstanding the choice of law terms in this Attachment C; or

5.1.2.2 the extent allowable under applicable law as Contractor and Subcontractor both acknowledge and agree that both will or could work in multiple jurisdictions where such jurisdictions might, and have, enacted and adopted anti-indemnity and similar limiting statutes and interpretive case law that comparatively differ among such jurisdictions, so to realize contracting efficiencies, Contractor and Subcontractor have agreed to this term with the specific intent of adapting and limiting Subcontractor's indemnity and defense obligations to that allowable under such applicable law to otherwise prevent a finding that such applicable law voids, renders unenforceable, or otherwise bars a Subcontractor indemnity or defense obligation associated with and sought by an Indemnitee through this Agreement.

For the avoidance of doubt as to paragraph 5.1.2 including its subparagraphs, Subcontractor has no obligation to indemnify or defend Contractor for the tortious conduct of Contractor or Contractor's agents, owners, officers, members, partners, affiliates, consultants, employees, and successors.

- 5.1.3. Subcontractor's assumption of responsibility or liability;
- 5.1.4. Subcontractor's infringement of intellectual property rights;
- 5.1.5. Contractor's enforcement of this article; and
- 5.1.6. Subcontractor's breach or failure to comply with this Agreement (collectively for paragraph 5.1 including its subparagraphs, the "Indemnity Obligations").

The Indemnity Obligations shall not be limited by any assertion or finding that an Indemnitee is liable because of a non-delegable duty.

If Subcontractor fails to indemnify or defend an Indemnitee, then a) that Indemnitee may defend itself with counsel of its choosing at Subcontractor's sole expense without recovery from or through Contractor; b) that Indemnitee may settle any claim on whatever terms as it deems appropriate in its reasonable judgment; and c) Subcontractor shall be bound and liable to the Indemnitee for any defense asserted by the Indemnitee, any settlement, and any judgment or award entered. Subcontractor shall obtain an Indemnitee's written consent prior to entering any settlement on behalf of an Indemnitee.

The insurance requirements in Attachment B and elsewhere (the "Insurance Obligations") are in addition to and are an alternative obligation to the Indemnity Obligations. The Insurance Obligations and claims for coverage do not alter, limit, or waive the Indemnity Obligations; the Indemnity Obligations do not alter, limit, or waive the Insurance Obligations.

5.2. Insurance. Subcontractor shall maintain the insurance coverages stated in Attachment B and shall provide to Contractor all documentation evidencing such coverage.

5.3. Mutual Waiver of Consequential Damages. To the extent the Prime Contract provides for a mutual waiver of consequential damages by Owner and Contractor, Contractor and Subcontractor similarly waive claims against each other for any consequential damages that may arise out of or relate to this Agreement. To the extent applicable, this mutual waiver applies to consequential damages due to termination by Contractor or Owner under this Agreement or the Prime Contract.

5.3.1. Subcontractor shall obtain from its Subordinate Parties mutual waivers of consequential damages that correspond to Subcontractor's waiver of consequential damages.

5.3.2. Notwithstanding the conditional mutual waiver of consequential damages in paragraph 5.3 above, damages for which Contractor is liable to Owner, including those related to paragraph 5.1, are not consequential damages for the purpose of this waiver. Similarly, to the extent agreements between Subcontractor and its Subordinate Parties provide for a mutual waiver of consequential damages caused by Owner and Contractor, damages for which Subcontractor is liable to Subordinate Parties due to the fault of Owner or Contractor are not consequential damages for the purpose of this waiver.

ARTICLE 6

PAYMENT AND CHANGES

6.1. Procedures. Contractor agrees to pay in accordance with Attachment A for all services provided by Subcontractor and for all permitted reimbursable expenses incurred by Subcontractor. Payment to Subcontractor shall be due 30 calendar days after Subcontractor achieves complete compliance with the requirements of paragraph 6.2.

6.2. Progress and Final Payments. Progress payments and final payment are each subject to a) approval of the Work by Contractor and Owner's representative, to the extent required by the Prime Contract; b) a properly executed sworn statement and a partial or a final construction lien/payment bond waiver, as the case may be, in a form substantially complying with applicable state law; c) construction lien/payment bond waivers appropriate to the stage of the Work from all Subordinate Parties; d) submittal of all other documentation required by this Agreement; and e) compliance by Subcontractor with all other Agreement requirements.

6.3. Changes. Contractor might order changes to this Agreement. Upon a need to perform changes as the Project progresses, Subcontractor shall provide written notice to Contractor. No changes to this Agreement may be made except through a written Change Order signed by Subcontractor and Contractor. Subcontractor shall not be entitled to compensation for any additional work performed without the prior issuance of a written Change Order signed by the parties.

ARTICLE 7

DISPUTE RESOLUTION

7.1. Initial Dispute Resolution. If a dispute arises out of or relates to this Agreement or its breach, the parties shall first endeavor to settle the dispute through direct discussions. If the dispute cannot be settled through direct discussions, the parties shall endeavor to settle the dispute by mediation under the Construction Industry Mediation Rules of the American Arbitration Association. The location of the mediation shall be the Project Location. Once a party files a request for mediation with the other party and with the American Arbitration Association, the parties agree to commence such mediation within 30 calendar days of filing the request. Either party may terminate the mediation after the first session, but the decision to terminate must be delivered in person to the other party and the mediator. Engaging in mediation is a condition precedent to pursuing any form of binding dispute resolution.

7.2. Performance Continuation and Payment. Unless otherwise agreed in writing, Subcontractor shall continue to perform the services under this Agreement during all dispute resolution proceedings. Contractor shall continue to make payments under this Agreement provided Subcontractor continues to perform.

7.3. Multiparty Proceeding. To the extent disputes between Contractor and Subcontractor involve in whole or in part disputes between Owner and Contractor, disputes between Contractor and Subcontractor shall be decided by the same tribunal and in the same forum as disputes between Owner and Contractor.

7.4. Disputes Between Contractor and Subcontractor. If the provisions for resolution of disputes between Owner and Contractor do not permit consolidation or joinder with disputes of third parties, such as Subcontractor, resolution of disputes between Contractor and Subcontractor involving in whole or in part disputes between Owner and Contractor shall be stayed pending conclusion of any dispute resolution proceeding between Owner and Contractor. When those proceedings are concluded, disputes between Contractor and Subcontractor shall be submitted again to mediation under paragraph 7.1. Disputes not resolved by mediation shall be decided in the manner selected in the Prime Contract.

7.5. Costs of Dispute Resolution. In the event of any action or proceeding between the parties, the non-prevailing party shall pay all of the prevailing party's costs and expenses unless the non-prevailing party improves its position by at least 20% as compared to the other party's latest settlement proposal.

ARTICLE 8 TERMINATION

8.1. Termination by Either Party. If a party materially breaches this Agreement's terms, the nonbreaching party may terminate this Agreement once it has provided written notice to the breaching party and seven calendar days have elapsed since the nonbreaching party provided that notice. If Contractor terminates this Agreement for cause, Subcontractor shall not be entitled to receive any further payments under this Agreement until the work is finished and accepted by Owner and Contractor receives final payment from Owner. If the unpaid balance of the sum to be paid under this Agreement exceeds the expenses Contractor incurs for completing Subcontractor's work, Contractor shall pay such excess to Subcontractor; but if those expenses exceed such unpaid balance, then Subcontractor shall pay the difference to Contractor.

8.2. Termination for Contractor's Convenience. Contractor may, without cause, terminate this Agreement once Contractor has provided written notice to Subcontractor and seven calendar days have elapsed since Contractor provided that notice. If this Agreement is so terminated, Subcontractor may recover from Contractor payment for all services performed under this Agreement, all costs resulting from the termination, plus a reasonable profit on Work performed, provided that Subcontractor has delivered to Contractor all documents and information prepared by Subcontractor for the Project. Subcontractor shall not be entitled to receive nor shall Contractor pay any amount directly or indirectly attributable to lost profit or overhead attributable to unperformed Work.

ARTICLE 9 MISCELLANEOUS PROVISIONS

9.1. Assignment. Neither party may assign its interest in this Agreement without the express written approval of the other party.

9.2. Severability. The partial or complete invalidity of any one or more provisions of this Agreement shall not affect the validity or continuing force and effect of any other provision.

9.3. No Waiver of Performance. The failure of either party to insist, in any one or more instances, on performing any of the terms, covenants or conditions of this Agreement, or to exercise its rights, is not be deemed a waiver or relinquishment of such term, covenant, condition, or right regarding further performance.

9.4. Effect of Headings. The headings to the paragraphs of this Agreement are for convenience only and have no effect on the meaning of the terms of the Agreement.

9.5. Joint Drafting. The parties expressly agree that they jointly drafted this Agreement, and that they both had opportunity to negotiate its terms and obtain counsels' assistance in reviewing its terms prior to acceptance. Therefore, this Agreement is to be construed neither against nor in favor of either party and is to be construed in a neutral manner.

9.6. Venue and Choice of Law. The exclusive venue and jurisdiction for all binding dispute resolution procedures is the state of the Project Location. All disputes are exclusively governed by the laws of the state of the Project Location.

9.7. Compliance. Subcontractor shall comply with all applicable Executive Orders, laws, regulations, ordinances, rules, other legislation, and requirements of governmental authorities and agencies having jurisdiction including where any of the same relates to Equal Employment Opportunity.

9.8. Counterparts and Signatures in Digital Format. This Agreement may be signed in any number of counterparts where each may be delivered as an original, facsimile transmission, or by electronic transmission of a file such as pdf, tiff, or similar format (the "Digital Format"). Each such counterpart is an original, and all counterparts taken together are of one and the same instrument. The exchange of an Agreement or Change Order containing handwritten or digital signatures by facsimile transmission, by e-mail in Digital Format, or by any other electronic means intended to preserve the original graphic and pictorial appearance of an Agreement or Change Order, or by the combination of such means, is the effective delivery to Contractor and Subcontractor of an offer and acceptance of an Agreement or Change Order, may be used in lieu of the original Agreement or Change Order for all purposes, and is legally binding for all purposes as an Agreement or Change Order containing original, handwritten signatures.

Attachment E: Environmental Checklist

- 1) Subcontractors/suppliers must comply with all relevant environmental legislation and the consequences of noncompliance.
- 2) Subcontractors/suppliers must comply with and ensure their Subordinate Parties comply with the Aristeo Operating System (AOS) and Environmental Policy.
- 3) Subcontractors/suppliers shall not allow discharge to drains or sewers or both without prior approval from the Contractor and Owner.
- 4) Subcontractors/suppliers must provide adequate spill/release prevention for bulk materials.
- 5) Subcontractors/suppliers shall promptly notify Contractor's supervisor/representative and Owner of any spills, releases, or other environmental incidents.
- 6) Subcontractors/suppliers shall promptly notify Contractor's supervisor/representative of any abnormal conditions found. Visibly discolored soils with a discernible odor, heavily stained concrete, or other environmental impacts must not be disturbed and brought to the attention of Contractor's supervisor/representative.
- 7) Subcontractors/suppliers must properly label, store, and dispose of all waste materials generated from their activities.
- 8) Subcontractors/suppliers shall be required to prepare and maintain records pertaining to the work performed in accordance with the environmental regulatory requirements including record retention.
- 9) Subcontractors/suppliers shall ensure that all employees are properly trained on procedures such as the proper handling of materials and equipment, proper response to incidents involving their material, and general information relating to the AOS Environmental Requirements.
- 10) Subcontractors/suppliers shall obtain, before commencing work, all the necessary environmental approvals or permits and present copies of these permits to Contractor.
- 11) Subcontractors/suppliers understand that Contractor may interrupt the subcontractor/supplier activities that violate AOS policies or legal requirements.

Attachment F: Diversity Commitment Worksheet

Diversity Goals by Owner:

FCA-8.5% MBE, 3% WBE, and 1% VBE
 Ford-6% MBE, 3% WBE, 2% VBE, 1% Other, or 12% Combined
 General Motors-8% MBE and WBE Combined
 Toyota-5% MBE, 2% WBE, 5% VBE or Other
 DTE-20% MBE, WBE, and VBE Combined
 Other-6% MBE, WBE, and VBE Combined

Subcontractor Name «FirmName»

Agreement Number «SL»

Name of Diversity Supplier	Type	Nature of Work	Dollar Value
Total:			

Type = **MBE** (Minority Business Enterprise), **WBE** (Women Business Enterprise), **VBE** (Veteran Business Enterprise)

The minority companies listed above must be registered with a nationally recognized agency and a copy of their certificate must accompany this form.

***This form must be submitted with Subcontractor’s signed Agreement.
Subcontractor will not receive payment until this document is returned to Contractor’s office.***

Contractor and its affiliates are committed to developing growth among small and disadvantaged businesses including minority, women, and veteran-owned construction firms.

Contractor thanks Subcontractor in advance for its commitment to help Contractor meet its supplier diversity goals.