



June 12, 2025

Letter No. 199  
BY-CRE-02838

Evelyn Pao, P.E., Project Director  
Washington State Department of Transportation  
18911 N Creek Pkwy S, Suite 150  
Bothell, WA 98011

Reference: Contract No.: 9727  
I-405, Brickyard to SR 527 Improvement Project

**Subject: Notice of Protest 002: Owner Delayed BRT Station Design Delivery**  
**Reference: §1-04.5 (2) Procedure, Protest, and Dispute by the Design-Builder**

Dear Ms. Pao:

As directed by WSDOT in Supplemental Letter No. 9727-114, Skanska is hereby submitting the requested supplemental information in support of the claim, received from our Design Subcontractor AECOM, for additional time and associated costs. In Skanska's opinion, we consider this protest to have merit and asks WSDOT to consider merit related to the following issues that delayed the delivery of the BRT Station design:

- WSDOT's reopening of 40 RCSR comments previously closed by Sound Transit (ST);
- The Building vs Non-Building classification determination;
- The duration required to close 50 additional RCSR comments, which were escalated to WSDOT on April 2, 2025 and remain unresolved.

Skanska supports AECOM's position regarding the justification for change, as outlined in Attachment 1. After review of this document, Skanska contends that the contract review periods were exceeded, particular to the Non-Building Designation and the review iterations were beyond that which is allowable per the contract.

Due to the issues identified in AECOM's letter, Skanska experienced a delay to the project's overall critical path. A detailed schedule analysis is included herein to substantiate the impact of this delay.

The first schedule snippet provided illustrates the original baseline schedule path for the Brickyard Station start, demonstrating that Skanska was on track to achieve RFC for the Stations by February 2025.



ORIGINAL PLAN - BRICKYARD	24-Jun	24-Jul	24-Aug	24-Sep	24-Oct	24-Nov	24-Dec	25-Jan	25-Feb	25-Mar	25-Apr	25-May	25-Jun	25-Jul
Design PCK 7 Prelim Submit	█													
Design PCK 7 Prelim CR		█												
Design PCK 7 Final Prepare			█	█	█	█								
Design PCK 7 Final Submit							█	█						
Design PCK 7 Final CR									█					
Design PCK 7 RFC										█				
Station/Ped Bridge Construction Begin											█	█	█	█

The second snippet reflects the actual impacts incurred, with red cells indicating additional work activities required to complete the design that extended the overall duration of the Brickyard BRT Station design and thus has pushed the start date for beginning construction on the Brickyard BRT Station. The following snippet includes the duration for the additional information AECOM was originally required to provide for the BRT Stations that was missing in the original submittal. This is not considered to be part of any delay as this period was the responsibility of the Design-Builder.

ACTUAL RESULTS - BRICKYARD	24-Jun	24-Jul	24-Aug	24-Sep	24-Oct	24-Nov	24-Dec	25-Jan	25-Feb	25-Mar	25-Apr	25-May	25-Jun	25-Jul
Design PCK 7 Prelim Submit	█													
Design PCK 7 Prelim CR		█												
Design PCK 7 Final Prepare			█	█	█	█								
Design PCK 7 Final Submit							█	█						
Provide Supplemental Required Information for DP7 (DB Resp)							█	█						
ST Noted Discrepancy in Building/Non-Building Designation							█	█						
Workshops to Demonstrate Non-Building Designation							█	█	█	█				
Design PCK 7 Final CR Initial								█	█					
2nd Round of Arch Comments Reopened after Closure										█	█	█	█	
Complete Arch Comment Resolution Process for 2nd Time										█	█	█	█	
Non-Building Designation Confirmed										█	█	█	█	
Complete Structural CR/Design Post Non-Building Confirmation											█	█	█	█
Design PCK 7 RFC														█
Station/Ped Bridge Construction Begin														█

As shown, the RFC package for the Stations has slipped from the end of February to the end of July 2025, representing a total delay of four months in the finalization of the RFC package. However, due to available float in the original schedule, the actual start date for station construction has shifted from the end of April to the end of July 2025—reflecting a three-month delay to the critical path and full exhaustion of the originally built-in float. Skanska does not fully understand the complete impact of this delay until remaining issues noted in the Attachment 1 are resolved and the BRT stations are released for construction at which time a Time Impact Analysis will be produced.

As a result, Skanska’s estimated cost for this issue is **\$1,236,713**, which includes subcontractor costs and Design-Build Overhead & Profit (DB OH&P).

Please contact us if additional information or clarification is required.

Sincerely,

Patrick Prendergast, Project Executive

Skanska USA Civil  
 18911 N Creek Pkwy S, Suite 300  
 Bothell, WA 98011



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6/12/2025

**Via E-mail**

Patrick Prendergast  
Contractor's Representative  
Skanska USA Civil West California  
District Inc.  
18911 N Creek Pkwy, Suite 300  
Bothell, WA 98011  
Patrick.Prendergast@skanska.com

**Project:** I-405, Brickyard to SR 527 Improvement Project

Contract No: 009727

**RE:** Claim Notice & Response re: WSDOT/ST Comment Resolution Delay

Dear Mr. Prendergast:

In accordance with the claim procedures outlined in Section 1-04.5 of the RFP: Procedure, Protest, and Dispute by the Design-Builder and the terms of the Design Subcontract including, but not limited to Articles 3, 4, and 8, AECOM hereby provides this Claim Notice relating to delays arising from the Washington State Department of Transportation ("WSDOT") and Sound Transit's ("ST") Reopening of Closed Review Comments, delay in decision on Building/Non-Building determination, delay in Closing 50 Escalated Comment and a corresponding request for an equitable time extension and additional costs. We request that Skanska promptly provide this letter to WSDOT's Engineer for a Written Determination regarding AECOM's requests.

**Written statements and supporting documents to supplement the Written Protest:**

- (a) The date and nature of the protested order, direction, instruction, interpretation, or determination.
- (b) A full discussion of the circumstances which caused the protest, including names of Persons involved, time, duration and nature of the Work involved, and a review of the Contract Documents/Design Documents referenced to support the protest.
- (c) The estimated dollar cost, if any, of the protested Work and a detailed breakdown showing how that estimate was determined.
- (d) An analysis of the progress schedule showing the schedule change or disruption if the Design-Builder is asserting a schedule change or disruption.

**I. WSDOT reopening 40 ST review comments on the RCSR Form for the BRT Station Final Submittal**

***a. Date and nature of the protested order, direction, instruction, interpretation or determination***

On March 12, 2025, WSDOT notified the DB Team via email WSDOT had reopened 40 comments on the BRT Station Final Submittal RCSR form. These 40 comments had been previously closed by ST reviewer.

The DB Team had been working in good faith with the ST reviewer to close these comments utilizing CRM's and updated plan sets. It is the DB Team's position WSDOT should not have reopened these comments and this action directly resulted in cost and schedule impacts to the DB Team.

***b. A full discussion of the circumstances which caused the protest including names of Persons involved, time, duration and nature of the Work involved, and a review of the Contract Documents/Design Documents referenced to support the protest.***

In the WSDOT/DB Team issues meeting on March 12, 2025, WSDOT raised their concern that ST Reviewers were not coordinating internally [within ST] with regards to if other ST discipline reviewers were included in comment closeout. On March 12, 2025, WSDOT notified the DB Team via email WSDOT had reopened 40 comments on the BRT Station Final Submittal RCSR form. These 40 comments had been previously closed by ST reviewer after weeks of meetings and emails with the DB Team. WSDOT stated they:

“...elected to change her [Youn Lee] response code to represent more accurately the status of those comments. Comments that resulted in review and further OTS comments, coordination, or deviations will remain open as a C until the OTS comments/coordination/ deviation are resolved.”

It is the DB Team's position it is not the DB Team's responsibility to ensure ST reviewers are coordinating within their own organization/team when reviewing and closing comments. The DB Team coordinates with the person/reviewer who makes the comment and works to provide information/updated plans and details for the person/reviewer to close the comment. The DB Team had been working in good faith with the ST reviewer to close these comments. The DB Team held multiple comment resolution meetings with the ST reviewer to provide responses and backup for them to close their comments. AT ST's request, the DB Team also provided BB Sessions with updated PDF's of the plans and specifications to be utilized for ST to review updated drawings for comment closeout. WSDOT and ST were invited to the CRMs and as detailed below, eleven CRMs were held with ST and WSDOT. In some instances, WSDOT was not in attendance. In other cases, Youn Lee was the only WSDOT attending the CRM meetings.

The DB Team first started coordinating with WSDOT/ST on 12/20/24 to respond to and address comments. On 1/31/25 the DB Team started providing updated drawings for WSDOT/ST to review and close comments. WSDOT is responsible for managing and oversight of their third-party stakeholders during the comment process. However, WSDOT waited until 3/12/25 - almost 12 weeks after the comment resolution process started and almost 6 weeks after the first updated plan set was provided for review before it raised a concern about how ST was closing the RCSR comments. At no time during the 12 weeks the DB Team had been working to close comments, utilizing ST requested BB Sessions, CRMs, TF Meetings, and updated RCSR forms did WSDOT mention the process was not acceptable.

Names of Persons involved:

DB Team: Kyle Sharrer, Dan Leachman, Ryan Abraham, Dorota Maliszewska, Carla Norris, Iman Rejai  
WSDOT: Sonia Berriz, Janka Lovering, Michael Balash, Youn Lee

Time/Duration:

12/13/24	DB Team received WSDOT RCSR comments on the Final Design Submittal.
12/20/24	CRM with DB Team and WSDOT/ST to clarify some review comments.
12/30/24	DB Team submitted responses on the RCSR Form to WSDOT comments.
1/15/25	CRM with DB Team and WSDOT/ST
1/22/25	CRM with DB Team and WSDOT/ST
1/31/25	11:00am to 12:15pm: CRM with DB Team and WSDOT/ST
1/31/25	2:00pm to 3:10pm: CRM with DB Team and WSDOT/ST
1/31/25	DB Team provided updated drawings for WSDOT/ST review in a BB session.
2/5/25	CRM with DB Team and WSDOT/ST

2/5/25	DB Team provided updated RCSR form for ST to review and provide responses.
2/6/25	DB Team provided updated drawings for WSDOT/ST review in a BB session
2/7/25	DB Team received updated RCSR Form from WSDOT/ST with responses.
2/12/25	CRM with DB Team and WSDOT/ST
2/14/25	8:30am to 9:30am CRM with DB Team and WSDOT/ST
2/14/25	2:00pm to 3:30pm CRM with DB Team and WSDOT/ST
2/14/25	DB Team provided link to new BB Session with updated PDF's of Arch Set PDF and Specifications PDF for WSDOT/ST to review for comment closeout.
2/21/25	CRM with DB Team and WSDOT/ST
2/21/25	WSDOT/ST provided updated RCSR form with updated ST responses based upon 2/21/25 CRM held with DB Team and ST.
2/27/25	DB Team provided WSDOT & ST with updated responses to comments and link to BB Session with updated PDF's of Arch Set PDF and Wayfinding/Signage PDF
3/3/25	CRM with DB Team and WSDOT/ST
3/3/25	DB Team received email from Youn Lee/ST with RCSR comments/closure based upon 3/3/25 CRM held with DB Team and ST.
3/8/25	DB Team provided WSDOT & ST with updated responses to comments and link to BB Session with updated PDF's of Arch Set
3/12/25	DB Team requested current status of comment approval and requested a CRM for 3/13 or 3/14 to review outstanding comments.
3/12/25	DB Team received email from WSDOT reopening 40 ST comments
3/14/25	DB Team responded to WSDOT regarding reopening of the 40 ST comments. DB Team provided a PDF of the current plan set and requested WSDOT to review the reopened comments vs the current plan set. DB Team's position was the comments have been addressed in the current plan set, meet the contract requirements and should be closed.
3/21/25– 5/30/25	DB Team held many CRM's and provided updated drawings to close out the comments which had been reopened.

Total Duration for this issue: 12/20/24 to 5/30/25 = 161 Calendar Days

The DB Team expended 880 hours responding to reopened comments and additional CRM's. The DB Team incurred a delay of 8 weeks to the design schedule as resources were utilized to coordinate, respond, provided additionally requested drawings/details and attend meetings to close these comments. These resources were therefore diverted from closing other comments and finalizing the RFC submittal. This issue delayed our ability to deliver the RFC documents to Skanska.

Nature of the Work Involved:

Design of Vertical Construction elements for BRT Stations (Architecture Plans, Details, Renderings, and Specifications) Interdiscipline Coordination, Project Management, Coordination Meetings.

Contract Documents/Design Documents:

Section 2.31 Vertical Construction

- Architecture Plans, Details, Renderings, and Specifications for BRT facilities

**c. The estimated dollar cost, if any, of the protested Work and a detailed breakdown showing how that estimate was determined.**

Estimated staff hours supporting this issue are listed below. The estimated dollar cost is still being evaluated as there are still outstanding issues with this item.

<b>Item No.</b>	<b>Staff</b>	<b>Hours</b>	<b>\$ Amount</b>
1	Ryan Abraham	16	\$ 6,488
2	Carla Norris	32	\$ 6,458
3	Dorota Maliszewska	160	\$ 24,536
4	Sergio Moran Rojas	320	\$ 37,414
5	Yulia Konnova	320	\$ 33,169
6	Iman Rejai	32	\$ 12,947
	Total	880	\$ 121,012

*Table 1 - Engineering Labor*

## II. Building – Non-Building determination

### a. *Date and nature of the protested order, direction, instruction, interpretation or determination.*

On 12/13/24 WSDOT provided RCSR responses on the Final Design Submittal for the BRT station structural design and drawings. WSDOT's interpretation/determination was the vertical structural design did not meet the contract requirements. WSDOT's interpretation of the contract requirements is the vertical structures should be designed to Chapter 12 of the ASCE 7-16 code.

### b. *A full discussion of the circumstances which caused the protest including names of Persons involved, time, duration and nature of the Work involved, and a review of the Contract Documents/Design Documents referenced to support the protest.*

#### Circumstances which caused the protest:

DB Team submitted the Preliminary Design Submittal for the BRT stations on 5/22/24. Within the submittal included a Design Narrative Summary which discussed the design methodology to be used for the design of the BRT vertical structures. The methodology stated the structures were to be designed as a Non-Building and would be designed per Chapter 15 of the ASCE 7-16 code. WSDOT provided responses to the Preliminary Design Submittal on 6/13/24 via ProCore in the Project RCSR Form. WSDOT did not provide any comments on this methodology of the vertical structure design. The DB Team advanced the vertical structures toward the final Design Submittal following the methodology as stated in the Design Narrative Summary provided in the Preliminary Submittal Package.

DB Team submitted the Final Design Submittal for the BRT stations on 11/13/24. The submittal included structural calculations which followed the methodology per Chapter 15 of the ASCE 7-16 code. The submittal included structural drawings which were detailed per the requirements of Chapter 15 of the ASCE 7-16 code. WSDOT provided responses to the Final Design Submittal on 12/13/24 via ProCore in the Project RCSR Form. WSDOT provided comments stating the structural design was not per the applicable Chapter of the ASCE 7-16 code. The WSDOT provided comments stating the design and drawings needed to be updated to be per Chapter 12 of the ASCE 7-16 code.

From 1/8/25 to 3/5/25 the DB Team submitted documents supporting the methodology used, responded to WSDOT's comments/question and attended meetings with WSDOT, and in some cases ST or ST's representative attended, to discuss the contract requirements and each parties' position on this issue. On 3/31/25 WSDOT informed the DB Team WSDOT would accept the design as provided by the DB Team.

#### Names of Persons involved:

DB Team: Pat Prendergast, Kyle Sharrer, Dan Leachman, Ryan Prescott, Ryan Abraham, Jon Guerrero, Kerry Fearington, Laith Hajsaid  
WSDOT: Sonia Berriz, Dan Holmquist, Evelyn Pao, Michael Balash, Paul Cornish, Bob Pielow

#### Time/Duration

12/13/24	DB Team received WSDOT RCSR comments on the Final Design Submittal
12/30/24	DB Team submitted responses on the RCSR Form to WSDOT comments
1/8/25	DB Team send document outlining our position on the issue
1/29/25	WSDOT provided a response to the DB Team position
2/4/25	DB Team send document outlining our position on the issue
2/5/25	WSDOT, ST, and DB Team held a meeting to discuss our positions.
2/19/25	WSDOT and DB Team held a meeting to discuss our positions.
2/24/25	DB Team send document outlining our position on the issue (Response to Bob Pielow email provided on 2/18/25)
2/26/25	WSDOT asked additional questions regarding the seismic design

3/5/25 DB Team send document outlining our position on the issue  
 3/31/25 WSDOT provided a response stating WSDOT accepted the DB Team's position, and the design would be accepted.

Total Duration for this issue: 1/8/25 to 3/31/25 = 82 Calendar Days

The DB Team expended 374 hours responding to WSDOT comments and questions. The DB Team incurred a delay of 10 weeks to the design schedule as resources were utilized to prepare, coordinate, respond, and attend meetings regarding this issue. The Design Team was also not able to advance key elements of the structure and station design while this issue was outstanding. Critical design work did not progress and these resources were not able to close other comments and finalize the RFC submittal. This issue delayed our ability to deliver the RFC documents to Skanska.

Nature of the Work Involved:

Structural Analysis, Structural Design, Construction Drawing Detailing (CAD), Interdiscipline Coordination, Project Management, Coordination Meeting.

Contract Documents/Design Documents  
 ASCE 7-16 code

**c. The estimated dollar cost, if any, of the protested Work and a detailed breakdown showing how that estimate was determined.**

Estimated staff hours supporting this issue are listed below. The estimated dollar cost is still being evaluated as there are still outstanding issues with this item.

Item No.	Staff	Hours	\$ Amount
1	Ryan Abraham	64	\$ 25,950
2	Jon Guerrero	30	\$ 6,055
3	Kerry Fearington	160	\$ 24,536
4	Laith Hajsaid	120	\$ 14,030
	Total	374	\$ 70,571

Table 2 - Engineering Labor

### III. Extended and Unreasonable Duration to close 50 escalated comments

#### ***a. Date and nature of the protested order, direction, instruction, interpretation or determination***

ST was tardy and, in some cases, non-responsive to the DB Team in trying to close ST RCSR comments on the BRT Station Final submittal. A list of 50 comments were sent to WSDOT on 4/2/25 requesting WSDOT to review the comments and engage with ST to close comments. Of the 50 sent on 4/2/25, as of 6/4/25, 63 days since escalation to WSDOT, 13 are still open. The average number of days to close the 37 comments is over 38 days. These extended periods to close RCSR comments have caused a delay to the DB Team.

#### ***b. A full discussion of the circumstances which caused the protest including names of Persons involved, time, duration and nature of the Work involved, and a review of the Contract Documents/Design Documents referenced to support the protest.***

##### Circumstances which caused the protest:

Through January and February of 2025, the DB Team had been providing responses and updated drawings/details to ST Reviewers with the goal of closing RCSR comments on the BRT Stations Final Submittal to proceed to the RFC submittal. The DB Team provided an updated set of drawings on 3/6/25 to ST to review and close comments. After 30 days many RCSR comments remained open as ST was slow and, in some cases, non-responsive to the DB Team working to close the RCSR comments. On 4/2/25 the DB Team sent an email to WSDOT with a list of 50 RCSR comments asking for WSDOT to discuss with ST to close. It was the DB Team's position all the information to close these comments had been provided.

As of 6/4/25, 13 comments are still open resulting in 63 days outstanding. For these comments, ST has requested a full set of drawings to review to close these specific comments. This request is unnecessary and unreasonable -- updated drawing sets have been provided on 4/30/25 and again on 5/30/25. The DB Team has attempted to discuss and close these comments via email and CRMs but have not been successful due to ST's lack of cooperation and response. It is the DB Team's position the provided drawings meet the contract requirements and ST has the information needed to review and close the comments.

Of the 37 comments that are closed, the average number of days to close a comment was over 38 days. This is after a 2-month period which the DB Team has been working with ST to address and close RCSR comments. The average number of days to get the comments closed after the 4/2/25 email escalating the issue was over 17 days.

In many cases, ST provided new comments for the DB Team to address in this comment resolution phase. For example, ST provided additional comments on 4/21/25, which is 46 days after ST received and updated set on 3/6/25.

It is the DB Team's position the tardiness of ST closing comments and added new comments has delayed the project and added additional cost. Attached is an exhibit showing the 50 comments with of the dates of comment closure and the durations, illustrating ST's lack of diligence in closing comments.

##### Names of Persons involved:

DB Team: Kyle Sharrer, Dan Leachman, Ryan Abraham, Dorota Maliszewska, Carla Norris, Iman Rejai  
WSDOT: Sonia Berriz, Janka Lovering, Michael Balash, Youn Lee, various WSDOT and ST Reviewers

Time/Duration:

12/13/24 DB Team received WSDOT RCSR comments on the Final Design Submittal.  
12/20/24 CRM with DB Team and WSDOT/ST to clarify some review comments.  
12/30/24 DB Team submitted responses on the RCSR Form to WSDOT comments.  
Jan – Feb '25 DB Team utilized email, CRM's and TF meetings to discuss RCSR comments with WSDOT and ST and provide responses to comments and updated drawings.  
3/6/25 DB Team provided updated drawings for comment closeout  
4/2/25 DB Team wrote email to WSDOT requesting WSDOT to discuss 50 RCSR comments with ST for closure.  
3/7 – 6/4 DB Team coordinated with ST to close comments, of the 50 escalated, 37 closed in an average duration of 38.5 days, and as of 6/4, 13 still open for 63 days.

Total Duration for this issue: 3/6/25 to 6/4/25 = 90 Calendar Days (ongoing)

As of 6/4/25, the DB Team incurred a delay of 4 weeks to the design schedule as delayed comment closure delays the RFC Submittal. The final duration of the delay is yet to be determined as not all of these escalated comments have been closed. This issue is delaying our ability to deliver the RFC documents to Skanska.

Nature of the Work Involved

Design of Vertical Construction elements for BRT Stations (Architecture Plans, Details, Renderings, and Specifications) Interdiscipline Coordination, Project Management, Coordination Meetings, Comment Resolution Meetings.

Contract Documents/Design Documents:

Section 2.31 Vertical Construction  
Architecture Plans, Details, Renderings, and Specifications for BRT facilities

***c. The estimated dollar cost, if any, of the protested Work and a detailed breakdown showing how that estimate was determined.***

The final cost of the delay is yet to be determined as not all of these escalated comments have been closed. The estimated dollar cost is still being evaluated as there are still outstanding issues with this item.

Item No.	Staff	Hours	\$ Amount
1	Ryan Abraham	16	\$ 6,488
2	Carla Norris	32	\$ 6,458
3	Dorota Maliszewska	40	\$ 6,134
4	Jason Chiu	40	\$ 8,548
5	Kerry Fearington	40	\$ 6,134
6	Iman Rejai	32	\$ 3,741
	Total	200	\$ 37,504

Table 3 - 50 Escalated Comments

**IV. Summary**

The culmination of these three items have caused an overall delay of the design submittal by 12 weeks. In addition to the costs incurred for each item, this results in the following project overhead costs and ODC's:

Item No.	Staff	Weeks	\$ Amount
1	Project Overhead Costs - Labor	12	\$ 719,452
2	ODCs	12	\$ 73,539
	Total		\$ 792,990

Table 4 - Delay Costs

The following table summarizes the costs for each item previously described and provides the total cost for these issues.

Item No.	Description	\$ Amount
1	ST Comment Closure Delay	\$ 121,012
2	Building/Non-Building Delay	\$ 70,571
3	50 Escalated Comment Closure Delay	\$ 37,504
4	Delay Costs	\$ 792,990
	Total	\$ 1,022,077

Table 5 - Total Request

**d. An analysis of the progress schedule showing the schedule change or disruption if the Design-Builder is asserting a schedule change or disruption.**

See Skanska documentation for this information.

This Claim Notice is without prejudice to, and with a full reservation of, AECOM's rights, remedies, causes of action, and defenses under the Subcontract, at law, in equity, or otherwise. Nothing in this letter shall be interpreted as a modification or waiver, or an estoppel of AECOM's right to assert the same.

I appreciate your prompt attention to this matter. If you have any questions, please do not hesitate to contact me directly.

Yours sincerely,

**AECOM Technical Services, Inc.**



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Vice President  
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E: [Ryan.Abraham@aecom.com](mailto:Ryan.Abraham@aecom.com)

**cc:** E. Grant, J. Waldron, R. Patterson  
**Attachments:** Detailed Worksheet of History of 50 Escalated Comments

