



July 16, 2025

Letter No. 213
BY-CRE-03066

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: RE: Response to WSDOT SL No. 9727-123, Notice of Protest 002:
Owner Delayed BRT Station Design Delivery**

Reference: §1-04.5 Procedure, Protest, and Dispute by the Design-Builder

Dear Ms. Pao:

Skanska is in receipt of WSDOT letter SL No. 9727-124, dated June 26th, 2025.

In response, please see the attached letter from Skanska's designer, AECOM Technical Services, Inc. (AECOM) providing supplemental information requested by WSDOT in WSDOT letter SL No. 9727-123.

Please do not hesitate to contact me if you have any questions or concerns.

Sincerely,

Patrick Prendergast, Project Executive

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



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7/16/25

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: Notice of Protest 002: Owner Delayed BRT Station Design Delivery

Dear Mr. Prendergast:

This letter is in response to WSDOT's correspondence WSDOT SL No. 9727-123, dated June 26, 2025 and WSDOT SL No. 9727-124 dated July 2, 2025. In this letter, WSDOT stated the supplemental information provided in Skanska serial letter No. 199 is insufficient to evaluate the protest and fails to include all required information. While AECOM does not agree with WSDOT assessment of the information previously provided, the following supplemental information is provided to response to WSDOT's letter. We request that Skanska promptly provide this letter to WSDOT's Engineer for a Written Determination regarding AECOM's previous request.

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

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

Date: March 12, 2025

Nature of protested order, direction, instruction, interpretation or determination: WSDOT notified the Design-Build (DB) team via email that they had reopened 40 comments on the BRT Station Final Submittal Review Comment Summary and Resolution (RCSR) form. These 40 comments had been previously confirmed as closed by the Sound Transit (ST) reviewer Youn Lee via email on March 3, 2025. The timeline of the impact of this delay caused by WSDOT is outlined in AECOM's original submission. At this writing, despite AECOM continuing to provide timely responses, there are still several comments that have not been closed.

2. Review of Contract Documents/Design Documents referenced to support the protest (i.e.: Why this request is not prohibited by RFP Section 1-04.4.(5) Matters Not Eligible for Change Orders, sub-bullets b, c, d, h, j, k, m, n, o, and p).

The parties' contracting documents provide that the DB team is entitled to a change order when WSDOT modifies the conditions of the Contract Documents, and when there has been a material change to the Technical Proposal, among other grounds. (GP 1-04.4(1)) Here, the General Provisions (GP), which are a part of the Contract Documents provide that WSDOT has a fourteen (14) calendar day review period for all design submittals, with a seven (7) day extension in certain circumstances. (GP 2.28.3.3) The actions taken by WSDOT with regard to re-opening these closed ST comments, far exceeds the contractual requirements and schedule durations agreed to by WSDOT for review of the design. Indeed, as outlined in the previous

submission and in further detail below, it is the extra-contractual actions of WSDOT and WSDOT controlled/managed entities that caused AECOM to incur the additional costs, and require the time extension requested.

As requested by WSDOT, an analysis is provided below that shows none of the exceptions for change order entitlement apply here.

1-04.4(5) Matters Not Eligible for Change Orders

b. Any design changes required by WSDOT as part of the process of reviewing the Design Documents for consistency with the requirements of the Contract Documents, except to the extent directly attributable to errors, omissions, inconsistencies, or other defects in the Basic Configuration as provided herein.

The DB team received RCSR comments from WSDOT reviewers. The DB team coordinated with the WSDOT reviewers and worked in good faith to resolve the comments and update the design and drawings to be in compliance with the contract. The WSDOT reviewers, and specifically ST reviewer Youn Lee, communicated with the DB team to close their comments, thus verifying the design as provided met the contract requirements. Then, in direct contradiction of the General Provisions and other contractually agreed-upon comment review processes, WSDOT re-opened the comments for further review, causing the delay and additional effort. WSDOT had stated they had concerns with their reviewers coordinating internally. If WSDOT had that concern, they should have been providing that oversight and coordination during the comment review and closure process, not after the process was completed. Once reviewed and closed, the comment review process should have ended, permitting the DB team to proceed with RFC. However, this was not the case, and additional non-contractually compliant comments were issued by WSDOT, causing delay as outlined in the original submission.

c. Defects or errors in the Design-Builder's schedule for performance of the Work or changes in the planned sequence of performance of the Work (except to the extent that changes in the planned sequence of performance of the Work arise from causes which otherwise give rise to a right to a Change Order).

The DB team scheduled eleven comment resolution meetings to review and close comments over a period of 12 weeks. This duration is not in dispute. The duration of this dispute is due to WSDOT not providing oversight and coordination with the WSDOT reviewers during these 12 weeks. WSDOT elected to wait until these comments had been reviewed, discussed, and closed before raising their coordination issues. By WSDOT not providing oversight of their WSDOT reviewers during this 12-week period, an additional 8 weeks since AECOM's initial submission, and ongoing have been needed to close these re-opened comments.

d. Action or inaction of a Subcontractor (unless arising from causes which will require a Change Order).

The DB team worked in good faith with the WSDOT review team over 12 weeks to close comments. The eleven comment resolution meetings show a good faith effort to work with WSDOT reviewers to close the comments. Once a WSDOT reviewer closed a comment, the DB team had the understanding the issue was closed, thus no further action was needed. It was only once WSDOT re-opened the comments that the DB team was informed further action was needed, thus adding additional cost and schedule delay.

h. Costs associated with any delay not on the Critical Path.

Per the DB team's schedule, the BRT Stations design and construction are on the critical path.

j. Correction of Nonconforming Work and oversight and related activities in connection therewith by WSDOT (including rejected design submittals).

The DB team scheduled eleven comment resolution meetings to review and close comments over a period of 12 weeks. These 12 weeks were used to update the design to be in conformance with the contract and gain comment resolution and acceptance from the WSDOT reviewers. This duration or cost is not in dispute. The duration and cost of this dispute is due to WSDOT not providing oversight and coordination with the WSDOT reviewers during these 12 weeks. If WSDOT had concerns about the coordination of their reviewers, WSDOT should have managed their review team during these 12 weeks. WSDOT elected to wait until these comments had been reviewed, discussed, and closed by the WSDOT controlled reviewer, thus documenting the design was in conformance, before raising their coordination issues. By WSDOT not providing oversight of their WSDOT reviewers during this 12-week period, an additional effort 8 weeks since AECOM's initial submission, and ongoing have been needed to discuss and review these re-opened comments.

k. Failure by the Design-Builder to comply with Contract requirements.

See the response to section j above.

l. Delays in obtaining Governmental Approvals that are required to be obtained by the Design-Builder.

WSDOT is the contract administrator and is managing their review team. WSDOT is also managing the review of Sound Transit elements. WSDOT was invited to the comment resolution meetings and was included on the comment closure correspondence during these 12 weeks. Sound Transit provided acceptance of the responses by marking the comments as resolved on the RCRS form and emailing it to the team, including WSDOT, therefore providing approval of the submitted design. WSDOT is the party which unreasonably re-opened the comments and improperly extended the design process.

m. Delays in obtaining or failure to obtain any third-party approvals required to implement any approved ATCs incorporated into the Contract Documents.

Section does not apply.

n. Unless noted otherwise in the Contract, any increases in costs or time incurred implementing an ATC.

Section does not apply.

o. All events beyond the control of WSDOT except for events that WSDOT has agreed to assume liability for in the Contract.

WSDOT is the contract administrator and is managing the WSDOT reviewers, including third parties. WSDOT is also in control of the comment resolution process. WSDOT was invited to the comment resolution meetings and was included on the comment closure correspondence. WSDOT is managing the review of Sound Transit elements and coordinates with the WSDOT reviewers. WSDOT re-opening the comments and delaying the acceptance of the design demonstrates WSDOT is in control of this item.

p. Delays in obtaining the Governmental Approval that are required to be obtained by WSDOT, or changes to requirements of Governmental Approvals, or both, where said delay, change(s), or both, are the result of the Design-Builder's design choices within the Design-Builder's control.

WSDOT is the contract administrator and is managing the WSDOT reviewers. WSDOT is managing the review of Sound Transit elements. Sound Transit provided acceptance of the responses by closing the comments thus providing ST's approval of the design. WSDOT is the party which elected to re-opened the comments thus causing the delay. This was not a result of design choices within the DB Teams control.

Finally, among other grounds, the DB team is entitled to an extension of time when there has been a demonstrable delay to the critical path because of "any action, neglect, or default of WSDOT, its officers, or

employees, or of any other contractor or Design Builder employed by WSDOT.” (GP 1-08.8) Again, here the BRT Stations design and construction are on the schedule’s critical path and it is the actions, neglect and/or default of WSDOT that is the cause of this delay. We further note that the exceptions listed in section 1-08.8 do not apply here, and specifically including the exception listed at number 4, due to the failure of WSDOT to fulfil its contractual obligation to respond to comments in good faith. See *Lester N. Johnson Co. v. Spokane*, 22 Wn. App. 265, 269 (1978) (“[T]here is an implied term in every construction contract that the owner . . . for whom the work is being done will not hinder or delay the contractor.”); *Seattle v. Dyad Construction*, 17 Wn. App. 501, 519–20 (1977) (holding that the government breached its implied duty not to delay by, among other things, improperly reviewing contractor’s method of work); see also *Appeal of Org. for Env’tl. Growth (OFEG)*, 1991 HUD BCA LEXIS 18, at *43–45, 91-3 B.C.A. (CCH) ¶ 24,206 (1991) (holding that government breached its implied duty to cooperate by failing to comply with contractual response time); *Appeal of Hardi-Tynes Mfg. Co.*, 1976 ASBCA LEXIS 31, at *8–10, 76-2 B.C.A. (CCH) ¶ 11,972 (1976) (holding that owner breached its implied duty to cooperate by furnishing untimely responses to contractor’s requests for information).

II. Building – Non-Building determination

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

Date: December 13, 2024

Nature of protested order, direction, instruction, interpretation or determination: 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 needed to meet standards that differed from the standards that were utilized in the preliminary design. After significant delay, AECOM’s initial design standards were found to be appropriate, rendering the determination made by WSDOT erroneous. This erroneous determination by WSDOT caused significant delay to the design process.

2. Review of Contract Documents/Design Documents referenced to support the protest (i.e.: Why this request is not prohibited by RFP Section 1-04.4.(5) Matters Not Eligible for Change Orders, sub-bullets b, c, d, h, j, k, m, n, o, and p).

The parties’ contracting documents provide that the DB team is entitled to a change order when WSDOT modifies the conditions of the Contract Documents, and when there has been a material change to the Technical Proposal, among other grounds. (GP 1-04.4(1)) Here, the General Provisions (GP), which are a part of the Contract Documents provide that the preliminary design submittal in accordance with the QMP. The QMP states that a purpose of the preliminary design is to provide “verification of project requirements” and “identification of applicable standards...” (QMP 2.0). Here, the design provided by AECOM followed a non-building code design methodology as stated in the preliminary submittal. WSDOT had the opportunity to review and comment on this methodology and did not take any exception to this approach. AECOM relied on this when advancing the final design. WSDOT’s extra-contractual changing position with regard to the standards applicable on this project caused AECOM to incur the additional costs, and necessitated the time extension requested.

As requested by WSDOT, an analysis is provided below that shows none of the exceptions for change order entitlement apply here.

1-04.4(5) Matters Not Eligible for Change Orders

b. Any design changes required by WSDOT as part of the process of reviewing the Design Documents for consistency with the requirements of the Contract Documents, except to the extent directly attributable to errors, omissions, inconsistencies, or other defects in the Basic Configuration as provided herein.

No Design changes were required as the original design methodology as developed by the DB team was ultimately accepted by WSDOT as being contract compliant. In addition, the design methodology implemented by the DB team was presented in the preliminary design submittal on 5/22/24 and no

comments were provided by WSDOT on that preliminary submittal. Thereafter, in connection with the final plan submittal, WSDOT unreasonably required that AECOM utilize different standards, and then reversed course and agreed with AECOM that the original methodology utilized within the preliminary design was indeed correct.

c. Defects or errors in the Design-Builder's schedule for performance of the Work or changes in the planned sequence of performance of the Work (except to the extent that changes in the planned sequence of performance of the Work arise from causes which otherwise give rise to a right to a Change Order).

There were no defects or errors in the DB team's performance of the work as the original design methodology as developed by the DB team was ultimately accepted by WSDOT as being contract compliant.

d. Action or inaction of a Subcontractor (unless arising from causes which will require a Change Order).

There was no action or inaction of the DB team's delivery of the work that caused this additional cost and delay as the original design methodology as developed by the DB team was ultimately accepted by WSDOT as being contract compliant.

h. Costs associated with any delay not on the Critical Path.

Per the DB team's schedule, the BRT Stations design and construction are on the critical path.

j. Correction of Nonconforming Work and oversight and related activities in connection therewith by WSDOT (including rejected design submittals).

There was no correction of nonconforming work as the original design methodology as developed by the DB team was ultimately accepted by WSDOT as being contract compliant.

k. Failure by the Design-Builder to comply with Contract requirements.

There was no failure to comply with Contract requirements as the original design methodology as developed by the DB team was ultimately accepted by WSDOT as being contract compliant.

l. Delays in obtaining Governmental Approvals that are required to be obtained by the Design-Builder.

WSDOT is the contract administrator and is managing the WSDOT reviewers. WSDOT is also managing the review of Sound Transit elements. The original design methodology as developed by the DB team was accepted by WSDOT as being contractually compliant with AECOM's preliminary design submittal. WSDOT review team then unreasonably reversed course and rejected the design methodology by imposing incorrect requirements that were extra-contractual. This caused a cost and delay due to significant effort and time needed to provide responses along with the additional meetings and presentations related to these imposed requirements that were not contractual. This extra-contractual action by WSDOT delayed the advancement of the design during this period.

m. Delays in obtaining or failure to obtain any third-party approvals required to implement any approved ATCs incorporated into the Contract Documents.

Section does not apply.

n. Unless noted otherwise in the Contract, any increases in costs or time incurred implementing an ATC.

Section does not apply.

- o. All events beyond the control of WSDOT except for events that WSDOT has agreed to assume liability for in the Contract.

WSDOT is the contract administrator and is managing the WSDOT reviewers, including third parties. WSDOT is in control of the comment resolution process. WSDOT is managing the review of Sound Transit elements and coordinates with the WSDOT reviewers. In addition, the design methodology implemented by the DB team was presented in the preliminary design submittal on 5/22/24. WSDOT Reviewers, including their third parties, were aware of the DB team's design methodology at the preliminary design stage.

- p. Delays in obtaining the Governmental Approval that are required to be obtained by WSDOT, or changes to requirements of Governmental Approvals, or both, where said delay, change(s), or both, are the result of the Design-Builder's design choices within the Design-Builder's control.

WSDOT is the contract administrator and is managing the WSDOT reviewers. WSDOT is managing the review of Sound Transit elements and coordinates with the WSDOT reviewers. No Design changes were required as the original design methodology as developed by the DB team was ultimately accepted by WSDOT as being contractually compliant. The DB teams original design choices were contract compliant. WSDOT reviewers interim rejection of the proposed design by imposing requirements that were not contractual caused a cost and delay.

Finally, among other grounds, the DB team is entitled to an extension of time when there has been a demonstrable delay to the critical path because of "any action, neglect, or default of WSDOT, its officers, or employees, or of any other contractor or Design Builder employed by WSDOT." (GP 1-08.8) Again, here the BRT Stations design and construction are on the schedule's critical path and it is the actions, neglect and/or default of WSDOT that is the cause of this delay. We further note that the exceptions listed in section 1-08.8 do not apply here, due to the failure of WSDOT to review the design in good faith. See *Lester N. Johnson Co. v. Spokane*, 22 Wn. App. 265, 269 (1978) ("[T]here is an implied term in every construction contract that the owner . . . for whom the work is being done will not hinder or delay the contractor."); *Seattle v. Dyad Construction*, 17 Wn. App. 501, 519–20 (1977) (holding that the government breached its implied duty not to delay by, among other things, improperly reviewing contractor's method of work); see also *Appeal of Org. for Env'tl. Growth (OFEG)*, 1991 HUD BCA LEXIS 18, at *43–45, 91-3 B.C.A. (CCH) ¶ 24,206 (1991) (holding that government breached its implied duty to cooperate by failing to comply with contractual response time); *Appeal of Hardi-Tynes Mfg. Co.*, 1976 ASBCA LEXIS 31, at *8–10, 76-2 B.C.A. (CCH) ¶ 11,972 (1976) (holding that owner breached its implied duty to cooperate by furnishing untimely responses to contractor's requests for information).

III. Extended and Unreasonable Duration to close 50 escalated comments

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

Date: April 2, 2025

Nature of 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 Brickyard BRT Station Final Vertical Construction submittal thus causing a schedule delay and design delivery inefficiencies. As a result the DB team escalated the comments to WSDOT Management. Several of these comments are still not resolved two- and one-half months later despite prompt action by AECOM.

2. Review of Contract Documents/Design Documents referenced to support the protest (i.e.: Why this request is not prohibited by RFP Section 1-04.4.(5) Matters Not Eligible for Change Orders, sub-bullets b, c, d, h, j, k, m, n, o, and p).

The parties' contracting documents provide that the DB team is entitled to a change order when WSDOT modifies the conditions of the Contract Documents, and when there has been a material change to the Technical Proposal, among other grounds. (GP 1-04.4(1)) Here, the General Provisions (GP), which are a part of the Contract Documents provide that WSDOT has a fourteen (14) calendar day review period for all design submittals, with a seven (7) day extension in certain circumstances. (GP 2.28.3.3) Indeed, as outlined in the previous submission and in further detail below, it is the extra-contractual actions of WSDOT and WSDOT controlled/managed entities that caused AECOM to incur the additional costs, and require the time extension requested.

As requested by WSDOT, an analysis is provided below that shows none of the exceptions for change order entitlement apply here.

1-04.4(5) Matters Not Eligible for Change Orders

b. Any design changes required by WSDOT as part of the process of reviewing the Design Documents for consistency with the requirements of the Contract Documents, except to the extent directly attributable to errors, omissions, inconsistencies, or other defects in the Basic Configuration as provided herein.

The DB team received RCSR comments from WSDOT reviewers. The DB team coordinated with the WSDOT Reviewers and worked in good faith to resolve the comments and update the design and drawings to be in compliance with the contract. Responses to WSDOT reviewers' comments and updated design documents were provided to the WSDOT reviewers and WSDOT project staff. WSDOT reviewers were non-responsive to providing feedback on the information provided. This claim is not for the time of effort to respond to comments to meet the contract requirements, but for the extended durations and non-responsiveness of the WSDOT reviewers to review and respond to the information provided to close their comments. In multiple task force meetings, some of the WSDOT reviewers stated they were working on other projects and had other priorities. In addition, some of the WSDOT reviewers stated they didn't work on this project since the last task force meeting due to other responsibilities when asked in a task force meeting for the status of reviewing the DB reams responses.

In an attempt to alleviate these issues, 50 comment responses that had been submitted on 3/14/25 that WSDOT had failed to review and close were then elevated to WSDOT project management team on 4/2/25. As of 6/4/25, 13 comments were still open resulting in 63 days outstanding. Of the 37 comments that were 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 addition to the days before the escalation. Now, as of 7/15/25, 10 comments still remain open resulting in 104 days outstanding. The inaction by WSDOT is continuing to unreasonably hinder the comment resolution process.

c. Defects or errors in the Design-Builder's schedule for performance of the Work or changes in the planned sequence of performance of the Work (except to the extent that changes in the planned sequence of performance of the Work arise from causes which otherwise give rise to a right to a Change Order).

As stated in the response to item b above, this claim is not for the time or effort for the DB team to respond to update the design to address comments provided by the WSDOT Reviewers, it is for the extended duration and non-responsiveness of the WSDOT Reviewers which impacted the DB teams ability to advance the design to RFC.

d. Action or inaction of a Subcontractor (unless arising from causes which will require a Change Order).

The DB team worked in good faith with the WSDOT reviewers in comment resolution meetings, Task Force Meetings, and emails to close comments. The DB team escalated this issue to the WSDOT Management Team stating the issue with the responsiveness of the WSDOT Reviewers.

h. Costs associated with any delay not on the Critical Path.

Per the DB team's schedule, the BRT Stations design and construction are on the critical path.

j. Correction of Nonconforming Work and oversight and related activities in connection therewith by WSDOT (including rejected design submittals).

The DB team received RCSR comments from WSDOT Reviewers, coordinated with the WSDOT reviewers, and worked in good faith to resolve the comments and update the design and drawings to be in compliance with the contract. Responses to WSDOT Reviewers' comments and updated design documents were provided to the WSDOT Reviewers and WSDOT Project Staff. WSDOT reviewers were and continue to be non-responsive in providing feedback on the information provided, which feedback is necessary to close the comments and move forward to RFC. This claim is not for the time or effort to respond to comments to update the design meet the contract requirements, but for the extended durations and non-responsiveness of the WSDOT reviewers to review and respond to the information provided to close their comments.

k. Failure by the Design-Builder to comply with Contract requirements.

See the response to section j above.

l. Delays in obtaining Governmental Approvals that are required to be obtained by the Design-Builder.

WSDOT is the contract administrator and is managing the WSDOT reviewers. WSDOT is managing the review of Sound Transit elements and coordinates with the WSDOT Reviewers. WSDOT attends task force meetings, was invited to comment resolution meetings and included on the comment closure correspondence. WSDOT is in control of the comment resolution process.

m. Delays in obtaining or failure to obtain any third-party approvals required to implement any approved ATCs incorporated into the Contract Documents.

Section does not apply.

n. Unless noted otherwise in the Contract, any increases in costs or time incurred implementing an ATC.

Section does not apply.

o. All events beyond the control of WSDOT except for events that WSDOT has agreed to assume liability for in the Contract.

WSDOT is the contract administrator and is managing the WSDOT reviewers, including third parties. WSDOT is also in control of the comment resolution process. WSDOT attends task force meetings, was invited to the comment resolution meetings and included on the comment closure correspondence. WSDOT is managing the review of Sound Transit elements and coordinates with the WSDOT reviewers.

p. Delays in obtaining the Governmental Approval that are required to be obtained by WSDOT, or changes to requirements of Governmental Approvals, or both, where said delay, change(s), or both, are the result of the Design-Builder's design choices within the Design-Builder's control.

WSDOT is the contract administrator and is managing the WSDOT reviewers. WSDOT is also managing and coordinating the review of Sound Transit elements and the comment resolution process. The DB team was working to close comments to complete a design which meets the contract requirements. These items are not based upon the design choices made by the DB team.

Finally, among other grounds, the DB team is entitled to an extension of time when there has been a demonstrable delay to the critical path because of “any action, neglect, or default of WSDOT, its officers, or employees, or of any other contractor or Design Builder employed by WSDOT.” (GP 1-08.8) Again, here the BRT Stations design and construction are on the schedule’s critical path and it is the actions, neglect and/or default of WSDOT that is the cause of this delay. We further note that the exceptions listed in section 1-08.8 do not apply here, and specifically including the exception listed at number 4, due to the failure of WSDOT to fulfil its contractual obligation to respond to comments in good faith. *See Lester N. Johnson Co. v. Spokane*, 22 Wn. App. 265, 269 (1978) (“[T]here is an implied term in every construction contract that the owner . . . for whom the work is being done will not hinder or delay the contractor.”); *Seattle v. Dyad Construction*, 17 Wn. App. 501, 519–20 (1977) (holding that the government breached its implied duty not to delay by, among other things, improperly reviewing contractor’s method of work); *see also Appeal of Org. for Env’tl. Growth (OFEG)*, 1991 HUD BCA LEXIS 18, at *43–45, 91-3 B.C.A. (CCH) ¶ 24,206 (1991) (holding that government breached its implied duty to cooperate by failing to comply with contractual response time); *Appeal of Hardi-Tynes Mfg. Co.*, 1976 ASBCA LEXIS 31, at *8–10, 76-2 B.C.A. (CCH) ¶ 11,972 (1976) (holding that owner breached its implied duty to cooperate by furnishing untimely responses to contractor’s requests for 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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