



September 18, 2025

Letter No. 231
BY-CRE-03568

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 004: SR-522 Hub Comfort Station Septic (Holding)
Tank Change**

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

Dear Ms. Pao:

Skanska is in receipt of WSDOT letter SL No. 9727-138 and SL No. 9727-147 in which WSDOT has denied merit to AECOM's request for an owner-initiated change order for changing from a compost toilet-based system to a septic holding tank-based system at the 522 Hub comfort station.

Skanska and our designer AECOM disagree with the WSDOT Engineer's determination. Please see attached protest letter from Skanska's designer, AECOM Technical Services, Inc. (AECOM). Per §1-04.5 of the contract, please let this letter serve as our notice of protest.

Do not hesitate to contact me with questions or comments.

Sincerely,

Patrick Prendergast, Project Executive

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

Attachment:
AECOM Notice of Protest - Supplemental Letter for SR-522 Hub Comfrt Sta 091825

September 18, 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

**Re: I-405/Brickyard to SR 527 Improvement Project (the "Project")
AECOM Project No. 60713342
Notice of Protest - Supplement Letter for Notice of Protest 004: SR-522 Hub Comfort Station Septic
(Holding) Tank Change**

Dear Mr. Prendergast:

I am writing on behalf of AECOM in response to WSDOT's Serial Letter No. 9727-138 entitled "RE: Notice of WSDOT Initiated Change – SR 522 Comfort Hub Septic (Holding) Tank" and dated August 15, 2025, and follow up letter, WSDOT's Serial Letter No. 9727-147 entitled "RE: Skanska Serial Letter No. 225 – Notice of Protest 004: SR-522 Hub Comfort Station Septic (Holding) Tank Change" dated September 4, 2025. In accordance with the protest procedures outlined in Section 1-04.5 of the RFP: Procedure, Protest, and Dispute by the Design-Builder, AECOM hereby disputes WSDOT's denial stating that the Work to provide a septic holding tank for the bathrooms of the SR 522 Comfort Station building is not an owner-initiated change. **As required the agreement between Skanska USA Civil West California District Inc. ("Skanska") and AECOM Technical Services, Inc. ("AECOM"), dated October 25, 2022 (the "Design Subcontract"), please forward this to WSDOT as soon as possible, but no later than the deadline provided by WSDOT of September 18, 2025.**

As a supplement to AECOM's Notice of Protest, dated August 28, 2025, entitled, "Response to WSDOT SL No. 9727-138, and Notice of Protest per RFP Section 1-04.5" AECOM provides additional information as requested by WSDOT, as follows:

a. The date and nature of the protested order, direction, instruction, interpretation, determination:

Date of Protested Order: August 15, 2025

Nature of Protested Order: On August 15, 2025, WSDOT advised in Serial Letter No. 9727-138 that "WSDOT does not agree that the work to provide a septic holding tank for the bathrooms of the SR 522 Comfort Station building is a WSDOT initiated change to the Contract."

At the June 4, 2024 Vertical Task Force meeting AECOM notified WSDOT that the Contract requirements for the Transit Hub Comfort Station were unable to be achieved as specified after discussions with the tank supplier. AECOM brought an alternative compost tank design to the meeting to discuss a collaborative path forward with Skanska, WSDOT, and Sound Transit (ST). However the compost tank suggested by the supplier, which replaced the tank the contract specifications were based upon, did not meet the external access hatch requirement. At the end of the meeting, a short brainstorming session between the owner and design builder resulted in the parties requesting AECOM investigate alternative design concepts for a septic tank option and a sewer line option. AECOM reviewed and presented both the sewer and the septic tank options at the following Vertical Task Force Meeting.

Following the Design Builder presenting the two requested alternatives, WSDOT/ST preferred the septic tank option. To formalize this discussion, the designer was directed to submit an RFI to the owner. WSDOT's response stated there had been, "significant coordination between WSDOT/ST, AECOM, and Skanska...leading to a favorable solution for the project."

AECOM, in good faith, interpreted WSDOT's "favorable" response as direction to progress the septic tank design.

On August 15, 2025, WSDOT rejected the Design Builder's request for an Owner Initiated Change, despite the clear and unavoidable Change to the contract due to defective specifications based on commercial impracticability. As such, AECOM is protesting this rejection.

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.

Technical Requirement (TRs) section 2.31.3.7.7.1 titled "SR 522 Comfort Station" states a requirement for each restroom at the comfort station to have a below-grade composting unit. Appendix S7, "Vertical Construction Specifications", Section 2.15, "Compost Holding Tank", states detailed specifications for the tank, and Appendix S12, "Transit Facilities and Architecture Urban Design Criteria" shows the configuration required for the Comfort Station and its equipment. Both Appendix S7, "Vertical Construction Specifications" and Appendix S12, "Transit Facilities and Architecture Urban Design Criteria" are listed as Contract Documents according to Appendix A1 – RFP Documents.

AECOM submitted preliminary design for the comfort station to WSDOT on May 22, 2024 showing the use and location of compost tanks, per the specifications.

While advancing the preliminary design to final, the Design Team's review of the SR 522 Comfort Station requirements of the compost tank found the only tank configuration that aligned with the contract specifications and configuration was model M54 fabricated by Clivus Multrum. Brian Barry from Clivus Multrum has confirmed this compost tank model was sent for Brickyard prework approximately 10 years ago. However, Mr. Barry advised that this tank model had recently been redesigned. The previous configuration of the tank, as seen in Appendix S12, partially resided under the building with a small maintenance hatch extending in front of the restrooms, allowing the tanks to be accessed from outside the Comfort Station. The updated design of this tank no longer has the extended maintenance hatch, resulting in the tanks being located completely under the building and accessed only from within the restrooms. The updated compost tank model conflicted with the Comfort Station configuration in Appendix S12 and the maintenance hatch requirement in Section 2.31.3.7.7.1 of the RFP. AECOM, working in good faith, researched other compost tank options to satisfy the contract requirements. Once AECOM found a viable alternative to the RFP specified tank, they created a demonstrative exhibit and presented the proposed compost tank.

At the Vertical Task Force Meeting on June 4, 2024, AECOM notified WSDOT and Sound Transit the RFP design was not feasible due to the specified tank no longer being manufactured. Further, AECOM stated WSDOT / Sound Transit that the contract requirements were not feasible (and therefore defective).

The DB team then presented a viable solution to utilize the alternative compost tank. However, maintenance would only be assessable from the restrooms, violating TR 2.31.3.7.7.1 requirement stating there shall be a "Maintenance hatch to the compost bin outside of the building." The current model of the compost tank satisfied the requirements except for the maintenance access requirement, thus would require a deviation from the contract. As a result, the Owner Team found this option unacceptable as Sound Transit stated they would not accept a system which the maintenance access was from inside the structure.

Another solution discussed by the group in this meeting was to use a septic tank with no drain field (holding tank). This option would resolve the issue presented by the current model of compost tank, thus eliminating the inside maintenance access issue. The Owner and Design-Build teams expressed

support for this solution, prompting the DB team to conduct further investigation ahead of the next task force meeting. It was also requested for the DB Team to investigate a sewer line option. The DB Team reviewed the feasibility of a sewer line option. The sewer line option was deemed not feasible due to fatal flaws.

At the next task force meeting on June 18, 2024, after AECOM presented the concept of utilizing a septic (holding) tank as requested, AECOM received positive input from Sound Transit and WSDOT and was asked to update the Comfort Station exhibit showing the septic tank layout. Meeting minutes from this task force reiterate to WSDOT and Sound Transit that the Contract could not be met stating, "The DB Team believes the RFP plan for composting tanks under the building to be unfeasible." On June 25, 2024, WSDOT and Sound Transit provided a complimentary response to AECOM's presented septic tank exhibit that accommodated the Owner's feedback on septic tanks, including necessary updates to building layout. Sound Transit indicated they would provide comments to optimize design. Indeed, Sound Transit's Mike Balash provided the revised schematic, with his markups shown in the orange, red, and maroon text (not the text box outlined in red) along with the reorientation of the building and updated conduit routing, via email on June 26, 2024, shown as Exhibit A below.

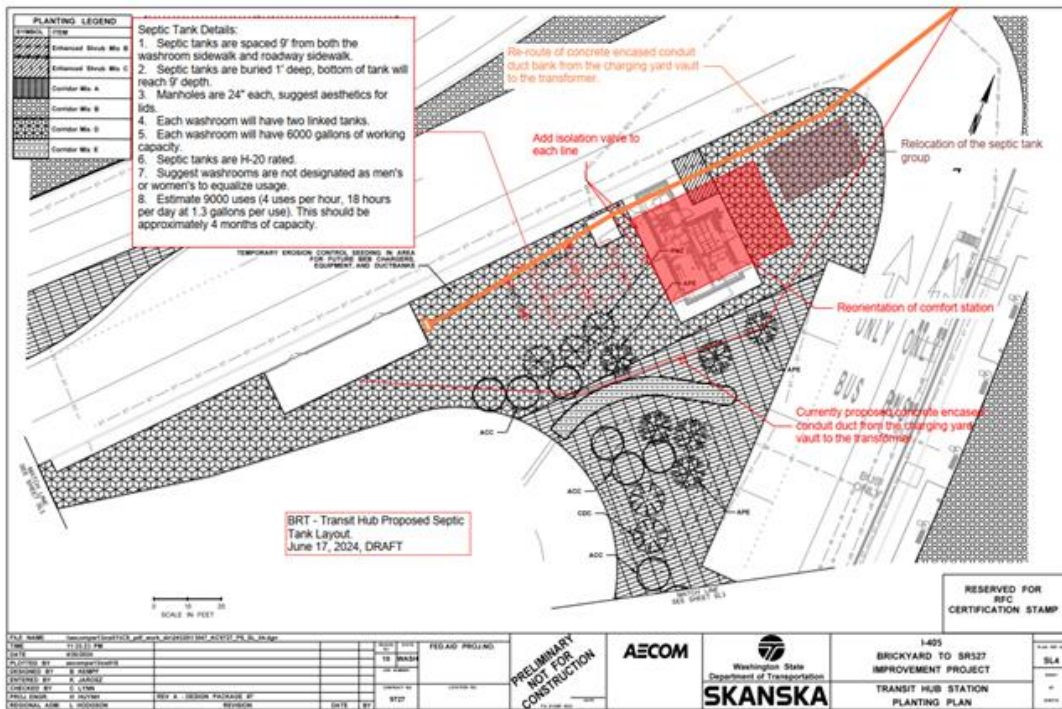


Exhibit A

In Exhibit A above, Sound Transit also reoriented the building (this was an additional change requested by Sound Transit and will be referenced as "Building Rotation" throughout the rest of this memo) and located septic tanks to the north of the building.

AECOM thereafter finalized evaluation of the septic tank size requirement resulting in the need for two tanks, one at each restroom. At the July 16, 2024 Vertical Task Force Meeting, the DB Team and Sound Transit discussed options to shift the building to allow for conduit to be placed in a manner that eliminated conflicts with the original layout. It was requested of AECOM to prepare an exhibit showing two options for the tank and building layout.

AECOM presented the requested options at the July 23, 2024 Vertical Task Force Meeting and WSDOT / Sound Transit stated Option 1 was the preferred option for the septic tanks and comfort station configuration. Option 1 is shown as Exhibit B below. AECOM provided a follow up email after the task

force meeting to Skanska and WSDOT / Sound Transit documenting the decision to utilize Option 1 and notified Skanska of the additional cost and schedule impact for AECOM.

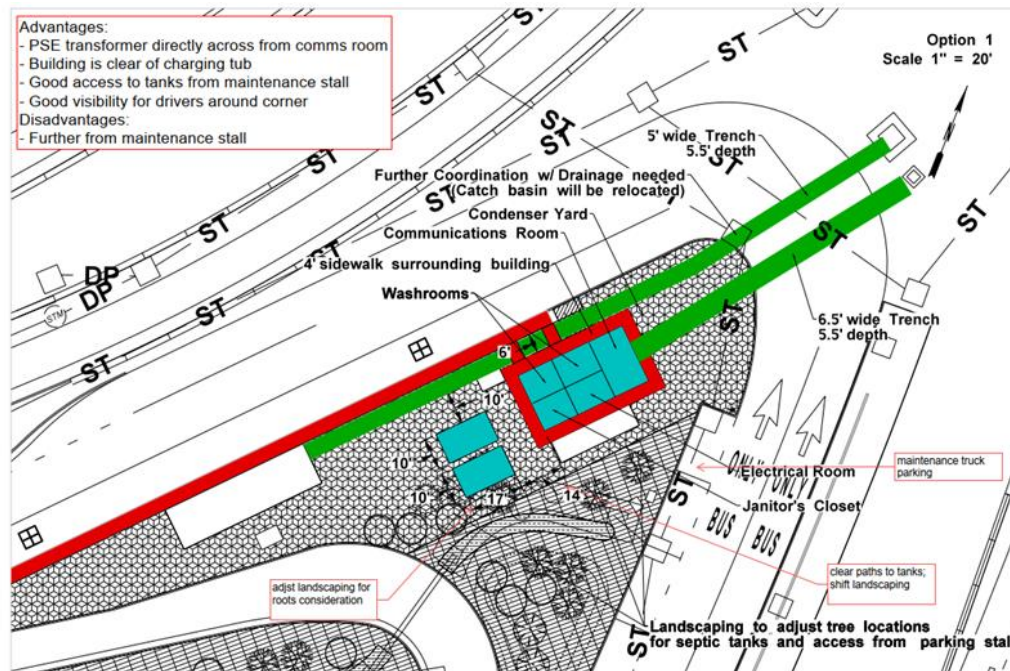


Exhibit B

As previously discussed with WSDOT and Sound Transit, on August 5, 2025, AECOM provided language for an RFI confirming WSDOT's stance on how to progress the design for the compost tanks.

The DB team formally submitted RFI 144 on August 6, 2024 stating, "From discussions in the Vertical BRT Station Task Force Meetings, it is our understanding Sound Transit is requesting to change the contract requirements of section 2.31 Vertical Construction from composting units for each restroom to a septic tank system at the SR 522 Comfort Station. Please confirm this requested change."

WSDOT's response to the RFI on August 14, 2024 stated, "Through review of meeting minutes, it seems that significant coordination between WSDOT / Sound Transit, AECOM, and Skanska has occurred leading to a favorable solution for the project. Sound Transit did not request this change but does not take exception to the use of a septic tank as has been discussed in the Vertical Construction task force meetings."

Despite Sound Transit's assertion that they did not request the shift from compost to septic tanks, the evidence demonstrates that both Sound Transit and WSDOT recognized the original design parameters were impossible to meet, favored the change to a septic system, and directed the design team to optimize the revised building and septic system layout in response to their feedback. As WSDOT's response to the RFI noted the collaboration of the teams and that the solution was favorable, the DB team accepted this as direction to progress the design utilizing the septic tanks in good faith. The DB team collaborated to accommodate the preferences of WSDOT / Sound Transit and to implement the most advantageous solution for all parties involved. Therefore, on this basis, AECOM refutes WSDOT's position that this change is a Design-Builder Initiated Change (DBIC), and confirms our position that an Owner Initiated Change should be issued to the DB team.

AECOM also takes exception to WSDOT's characterization of this issue as an "ambiguity" subject to General Provision 1-03.5. The Comfort Station contract specification simply became outdated when the manufacturer changed the design of the tank that was the basis for the specification, resulting in a commercial impracticability that required a modification to the contract. This change necessitated

additional design work by AECOM, for which AECOM should be compensated. Nevertheless, even if this issue could be considered an ambiguity subject to General Provision 1-03.5 AECOM complied with this provision and promptly notified Skanska and WSDOT of the contract deficiency as soon as AECOM became aware of the issue and proceeded as instructed. Accordingly, General Provision 1-03.5 cannot be a valid basis to reject AECOM's change order request.

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

AECOM's additional cost to implement the changes stemming from the outdated Comfort Station Specification including shifting from compost tanks to septic tanks and rotating the building from the configuration provided in the preliminary submittal is as follows:

I-405 Brickyard DB Project		
	PCN / CN #:	CN 21
	Name of PCN/CO:	Compost to Septic Tank Redesign and Building Rotation
	Date Updated:	8/29/2025
Discipline	Hours	Fee
Section 2.1 General / Management	132	\$50,094
Section 2.5 Survey		
Section 2.6 Geotechnical		
Section 2.7 Pavement		
Section 2.8 Environmental		
Section 2.10 Utilities	15	\$3,544
Section 2.11 Roadway	84	\$19,404
Section 2.12 Project Documentation		
Section 2.13 Bridges and Structures		
Section 2.14 Stormwater	85	\$20,260
Section 2.15 Roadside Restoration	180	
Section 2.16 Illumination	36	\$6,804
Section 2.17 Traffic Signals		
Section 2.18 ITS		
Section 2.19 Signing		
Section 2.20 Pavement Marking		
Section 2.21 Traffic Operations		
Section 2.22 MOT		
Section 2.26 Toll Infrastructure		
Section 2.27 Transit	60	\$13,662
Section 2.28 Design Quality Management	32	\$10,080
Section 2.30 Water Crossings		
Section 2.31 Vertical Construction	1501	\$341,778
Total	2125	\$465,625

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

AECOM has requested additional time to evaluate the impact of these issues. At this time, AECOM roughly estimates the septic tank and Building Rotation deviations from the Contract Documents discussed above, stemming from the outdated Comfort Station Specification delayed the work a minimum of 8 weeks. AECOM is currently developing a delay analysis that will determine the actual delay. Upon completion, AECOM will revise this request to reflect actual delay, corresponding cost and a request for a time extension. This design will be worked through concurrently with other contractual design plan sets

and will cause delay to the contractual submittals. Actual delay is currently being evaluated and will be provided once full delay is assessed.

Note that the foregoing estimates are preliminary, based only on the information available to AECOM at this time. As more information becomes available, additional impacts may be discovered which are unknown as of today, and which are specifically excluded from the cost and schedule impact estimates. The above estimates should not be considered binding, and they may need to be revised as additional information is gathered. This letter 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. Again, **please promptly provide this notice of protest to WSDOT per the Design Subcontract and Design-Build Contract by no later than September 18, 2025.**

Yours sincerely,

AECOM Technical Services, Inc.



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cc: Jon Guerrero, PE (AECOM)
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