



September 29, 2025

Letter No. 241  
BY-CRE-03637

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: Juanita Creek Design Criteria**  
**Reference: Re: SL No. 9727-155**

Dear Ms. Pao:

Skanska is in receipt of WSDOT letter SL No. 9727-155, dated September 12, 2025 in which WSDOT has determined “...*the design approach for the Juanita Creek Stream does not align with the Contract and permitting requirements.*”.

As noted in AECOM’s letter, there are components of RFP Chapter 2, Technical Requirements, Section 2.30.5.2 that were not met by the WSDOT provided draft PHD and are not being met by the current FHD, so strict adherence to the directive provided in WSDOT letter SL No. 9727-155 is not feasible at this juncture.

Skanska, AECOM and WSDOT met on Tuesday 9/23/25 to discuss the path forward for the Juanita Fish Passage Design. In the meeting, Design-Builder provided perspective to the challenges in achieving compliance with the design parameters stipulated in the contract. WSDOT also provided their perspective in needing the design to gain acceptance from various stakeholders. From the 9/23/25 meeting, the design-builder is to develop and share with WSDOT a list of the contract design stipulations that could not be met. Additionally, the Design-Builder is to re-evaluate some of the concerns WSDOT and project stakeholders shared to see if any concessions on the design could be made. The Design-Builder’s understanding from the meeting is that a commercial discussion will follow whatever final technical solution is reached on the fish passage design. Further evaluation and discussion will continue until a Final Design is reached but in order to comply with the strict terms within the contract, Skanska is responding to this letter to reserve our rights for recovery of cost and schedule impacts until such an agreement on the Final Design can be reached.

While AECOM has moved this to a Protest stage in their letter, Skanska requests we continue the collaboration until we can reach a technical solution, at which point, Skanska and AECOM can present impacts and contract modifications that are required. Skanska hereby reserves our rights to equitable compensation per the contract and



applicable law for changes to the contract with respect to the Juanita Creek Fish Passage design.

We remain committed to resolving the design issues collaboratively with WSDOT.

Sincerely,

A handwritten signature in black ink, appearing to read "P. Prendergast", positioned above a horizontal line.

Patrick Prendergast, Project Executive

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

**Attachments**

1. 2025-9-25 AECOM Response to WSDOT SL No. 9727-155



AECOM Technical Services, Inc.  
1111 Third Ave., Suite 1600  
Seattle, WA 98101, USA  
aecom.com

9/25/25

**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: Juanita Creek Stream Design Requirements

**NOTICE OF PROTEST/CHANGE REQUEST**

Dear Mr. Prendergast:

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 the written determination by WSDOT engineer Evelyn Pao, P.E. set forth in WSDOT's correspondence WSDOT SL No. 9727-155, dated September 12, 2025. Please **forward this notice of protest to WSDOT by no later than September 26, 2025**.

Please be advised that this letter also serves as notice of a contract change, pursuant to Section 4 of the Design Services Agreement entered into between AECOM and Skanska effective October 25, 2022.

We appreciate WSDOT's direction regarding the Juanita Creek Final Hydraulic Design (FHD) as stated in WSDOT SL No. 9727-155. However, AECOM is unable to comply with the direction contained in the letter for two reasons.

First, the letter requires AECOM to "develop a contract compliant design that conforms with the stream simulation methodology" and to "incorporate the draft Preliminary Hydraulic Design ("PHD")." However, this direction is contradictory. While the Hydraulic Project Approval (HPA) identified the draft PHD design as stream simulation, Washington Department of Fish and Wildlife ("WDFW") has since clarified – on July 28, 2025 and again on September 16, 2025 – that the WSDOT's draft PHD does not follow stream simulation methodology (as required by Chapter 2.30.5.2 of the contract).

The draft Juanita Creek Plans (Appendix H3, contractual document) and draft PHD do not meet Contract requirements for the following reasons:

- Neither the proposed culvert slope, nor the proposed project reach slope meet the stream simulation 1.25 slope ratio requirement. WDFW indicated that the incremental slope ratio approach (1.25x from the culvert upstream to the grading limits), as applied in the draft PHD, does not follow the stream simulation approach. The slope ratio should be calculated as the project reach slope divided by the reference reach slope. The proposed culvert slope of 3% and the proposed average reach slope of 3.3% require reference reaches having slopes of at least 2.4% and 2.6%, respectively to comply with the slope ratio for stream simulation and such reference reaches were not identified by WSDOT and do not exist upstream of the project.
- The proposed bed material is not 20% (max.) coarser than existing (stated in Table 2.30-B Structure and Channel Design Characteristics)

As a result of the above, AECOM is not able to “develop a contract compliant design that conforms with the stream simulation methodology” and to “incorporate the draft Preliminary Hydraulic Design (“PHD”)” as requested.

Second, site constraints, including the limits of the right-of-way necessitate deviation from the Contract. The basic configuration impact area limit within the wetland buffer and right of way limits for the project were established by WSDOT. The stream alignment was limited by the property boundary to the east for Parcel 3288300840, which forces higher slopes for the project. It should also be noted that the proposed stream length is over 70 feet less than the existing stream length (over 10% overall reduction in stream length), which increases the slope from existing conditions. The defect in the basic configuration right-of-way limits and impact area limits within the wetland buffer resulted in stream simulation not being achieved in the draft PHD and draft Juanita Creek Plans.

We remain committed to working collaboratively with WSDOT and deliver a design that satisfies the Contract and permitting obligations based upon the site conditions and project limits. Accordingly, we request that WSDOT withdraw its determination in WSDOT SL No. 9727-155, and either: (1) allow AECOM to continue with the design development that had previously been progressing with WSDOT’s support, including deviations from the Contract to account for the above, and full supporting efforts to obtain WDFW approval for these required deviations; or (2) obtain additional right-of-way to alleviate the site constraint issue and provide the cost for redesign and accompanying schedule extension. We look forward to continuing the discussion regarding Juanita Creek Stream Design.

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.

Yours sincerely,

**AECOM Technical Services, Inc.**



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cc: R. Richter, J. Waldron, R. Patterson