

Project Report: test3

Project Details

Project Name	test3
Created At	2025-05-09 17:35:10

Identified Risks

Risk Category	Risk Score	Clause Text	Explanation
Liquidated Damages	85	Failure to meet this deadline shall result in a penalty of \$5,000 per day.	This clause imposes a high financial penalty for delays.
Payment	70	The final retainage payment (5% of contract sum) shall be held back until final acceptance.	This clause could delay the release of funds to the contractor.
Scope Change	65	All changes must be documented by a written Change Order signed by both parties.	This clause restricts the Owner's ability to make unilateral changes.
Termination	80	The Owner reserves the right to terminate this Agreement without cause if the contractor fails to meet the schedule.	This clause gives the Owner the right to end the project if the contractor is late.
Force Majeure	40	Neither party shall be liable for delays due to natural disasters or other unforeseen events.	While the clause provides some protection, it is often narrowly interpreted.
Dispute Resolution	55	Any dispute arising out of this Agreement shall be submitted to New York County Court for resolution.	The clause mandates a specific, potentially costly, venue for disputes.
Indemnification	75	The Contractor shall indemnify and hold the Owner harmless from any claims arising out of the project.	This clause places a significant financial burden on the contractor.

Entitlements

Entitlement Analysis for Sunshine Mall Delay Claim ## Overview Based on the project records provided, this analysis evaluates whether XYZ Builders Inc. has entitlement for a delay claim related to the Sunshine Mall Project. ## Evidence of Delay Events The daily site logs from July 12-15, 2025 document severe weather conditions that prevented normal construction activities: - Heavy rainfall (5-6 inches daily) - Site access restrictions - Safety officer "No Work" directive due to lightning risk - Ground waterlogging preventing crane operation ## Contractual Basis The contractor has cited the Force Majeure clause (Clause 6) in their formal notification of delay. This provides a contractual basis for the claim, though a full contract review would be necessary to confirm specific terms. ## Timely Notice Records show the contractor submitted formal notification on July 20, 2025, which appears to be within a reasonable timeframe after the weather events (July 12-15, 2025). ## Mitigation Efforts The records indicate some mitigation efforts were attempted: - Preparations for site recovery began as soon as conditions started improving - Emergency expedited shipping was arranged for steel components -

Temporary storage was rented for water-sensitive materials ## Causation Links There is a clear causation link between: 1. The severe weather events 2. The inability to perform structural work 3. Delayed steel framework erection (identified as a Critical Path activity) 4. The projected 14-day delay to the Structural Completion milestone ## Conclusion Based on the available records, XYZ Builders appears to have valid entitlement for a delay claim under the Force Majeure provision. The documentation shows: - A qualifying event (severe weather) - Proper notice - Reasonable mitigation efforts - Direct causation to project delay Further analysis would benefit from reviewing the full contract terms, particularly the Force Majeure clause, and any baseline schedule documentation to confirm the critical path impact.

Category	Description	Impact
General	No detailed description available	Impact not specified

Quantum Analysis

Cost Estimate	\$32,000.00
Time Impact	14 days
Calculation Method	Based on the invoice showing additional costs of \$32,000 for expedited

Counterclaims

Potential Counterclaims and Defenses Based on the limited project records available, here are potential counterclaims and defenses that might be considered: ## 1. Improper Notice While the contractor did provide formal notification of the delay on July 20, 2025, one potential defense would be to verify whether this notification meets all contractual requirements. Specifically: - Does the contract specify a particular time frame for notification (e.g., within 7 days of the event)? - Were all required details included in the notification? - Was the notification delivered to the correct parties through the required channels? Without access to the full contract terms, it's impossible to determine if the July 20 notification (for events from July 12-15) was timely enough. ## 2. Failure to Mitigate Another potential defense could involve questioning whether the contractor took all reasonable steps to mitigate the delay and associated costs: - Could work have been rescheduled to non-affected areas of the project? - Were all possible measures taken to protect materials and equipment from weather damage? - Could alternative suppliers have been contacted earlier to minimize the delay in steel delivery? The invoice indicates emergency expedited shipping costs of \$18,000, which raises the question of whether this premium cost could have been avoided with better planning. ## 3. Concurrent Delay The project records mention that delivery of steel beams was delayed by the supplier (July 13 site log). A potential counterclaim could argue that this supplier delay was concurrent with the weather events and would

have caused delay regardless of the rainfall. Questions to investigate: - What was the original scheduled delivery date for the steel beams? - Was the supplier delay independent of the weather conditions? - Would the project have been delayed even without the severe weather? ## 4. Force Majeure Scope The applicability of the Force Majeure clause would need to be scrutinized: - Does the contract explicitly include "heavy rainfall" or "severe weather" in its Force Majeure definition? - Is there a threshold for what constitutes extraordinary weather versus normal seasonal conditions? - Does historical weather data show this was truly an exceptional event? ## Recommendation Additional documentation would be needed to develop these counterclaims fully, including: - The complete construction contract - The baseline project schedule - Historical weather data for the region - Correspondence with the steel supplier - Detailed records of mitigation efforts Without these documents, any counterclaims would be difficult to substantiate.