

1 FILED  
2 2025 DEC 16 09:00 AM  
3 KING COUNTY  
4 SUPERIOR COURT CLERK  
E-FILED  
CASE #: 25-2-37787-3 SEA

5

6

7 SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

8 CENTRAL PUGET SOUND REGIONAL  
9 TRANSIT AUTHORITY dba SOUND  
TRANSIT, a Washington State Regional  
Transit Authority,

10 Plaintiff,

Case No.

11

12 **COMPLAINT**

13 KIEWIT-HOFFMAN EAST LINK  
14 CONSTRUCTORS dba KIEWIT-HOFFMAN  
JV, a Washington Joint Venture; and KIEWIT  
15 INFRASTRUCTURE WEST  
CORPORATION, a Foreign Profit  
Corporation,

16 Defendants.

17

18 **I. PARTIES AND JURISDICTION**

19 1. Plaintiff Central Puget Sound Regional Transit Authority (“Sound Transit”) is a  
20 Washington State regional transit authority empowered under RCW 81.112.070 to implement high  
21 capacity transportation systems in Washington State.

22 2. Defendant Kiewit-Hoffman East Link Constructors (“Kiewit-Hoffman” or “KH”)  
23 is a joint venture partnership of Kiewit Infrastructure West Corporation and Hoffman Construction  
24 Company of Washington, licensed to do business in the State of Washington.

25 3. Defendant Kiewit Infrastructure West Corporation (“Kiewit”) is a foreign profit  
26 corporation with a principal office located in Vancouver, Washington, and is licensed to do  
27 business in the State of Washington.

COMPLAINT - 1

BALLARD SPAHR LLP  
1301 SECOND AVE., SUITE 2800  
SEATTLE, WA 98101  
206.223.7000 FAX: 206.223.7107

4. Jurisdiction and venue are proper in King County Superior Court under RCW 4.12.020 and RCW 4.12.025 because both KH and Kiewit transact business in King County, Washington, the work that is the subject of this lawsuit was performed in King County, Washington, and the agreement that is the subject of this lawsuit was made in King County, Washington.

## II. FACTS

5. The E-130 Project is part of Sound Transit's East Link Extension light rail service expansion that spans 7 miles from the International District/Chinatown Station in Seattle, proceeds through the Mount Baker tunnel, crossing Lake Washington and Mercer Island before joining adjacent projects in Bellevue, Washington.

6. In March 2015, Sound Transit issued a Request for Qualifications (RFQ) for the E-130 Project, to procure a contractor to perform the technically complex work elements.

7. In its response to the RFQ, KH listed experience working on two local floating bridges, and various rail installations, stating that “[KH] will implement installation techniques that prevent rework and allow [it] to build high quality special track work at the lowest cost.”

8. In July 2015, Sound Transit contracted with KH using the General Contractor/Construction Manager (GC/CM) method of project delivery. **General Condition 7.06** provides that “in the event the Contractor is a joint venture of two or more partners . . . claims, rights, power, privileges, and liabilities of the Contract shall be construed and held to be several as well as joint.” Kiewit is one of the joint venture partners and the lead partner with respect to the allegations contained in this Complaint.

9. General Condition 1.04 provides KH's obligation to perform its work in conformance with Contract Documents stating: "The Work in all cases shall conform to the lines, grades, cross sections, and dimensions shown on the Contract Documents or approved modifications thereto, and shall be within the tolerances specified, or, if no tolerance is specified, as determined by the Resident Engineer." Additionally, the following terms of the General

1 Contract provide some of the relevant agreements made between Sound Transit and KH regarding  
2 conformance.

- 3 • **General Condition 3.05B** provides that Sound Transit's review and/or approval of  
4 KH submittals does not relieve KH of responsibility for any errors or omissions nor  
5 of the obligation to perform the work in accordance with the Contract Documents.
- 6 • **General Condition 3.07(d)** defines defective and nonconforming work and codifies  
7 KH's obligation to remedy such work at no additional cost to Sound Transit.
- 8 • **General Condition 3.08** defines defective and nonconforming work and codifies  
9 KH's obligation to remedy such work at no additional cost to Sound Transit.

10 10. The Contract included three (3) types of track construction: 1) ballast rock with pre-  
11 cast concrete ties; 2) pre-cast plinths on the Homer Hadley floating bridge; and 3) cast-in-place  
12 concrete plinths on existing concrete structures.

#### 13 Defects in Construction and Repair

14 11. By fall of 2020, it was apparent that KH's cast-in-place plinth construction  
15 contained numerous and significant deficiencies, the extent of which took months of investigations  
16 and testing to confirm.

17 12. KH initially installed GFRP dowel bars on the East Channel Bridge that did not  
18 meet the required height. Among other deficiencies, Sound Transit later found that the bars were  
19 not drilled deep enough or installed high enough across the entire alignment.

20 13. Sound Transit determined that over 400 track feet of hollow core plinths had more  
21 than 100 identifiable concrete defects, including "rock pockets" that would diminish the long-term  
22 durability of the plinths. KH consistently had problems placing concrete too high or too low.

23 14. Sound Transit's investigation and repair development over the next two years  
24 revealed additional defects including, but not limited to:

- 25 • Mortar that did not meet the contract strength requirements;
- 26 • Inserts that were placed too high, requiring either grinding or replacement;
- 27 • Rebar coverage that was too shallow or too deep;

- Missing rebar;
- Rail cant issues with the rail too steep or too shallow, not meeting inward slope requirements;
- Rebar strikes where KH drilled into the existing elevated structure rebar, reducing structural capacity;
- Post-tensioned tendon strikes reducing structural capacity;
- Missing horizontal dowel bars across expansion joints at some at-grade locations;
- Track slabs improperly constructed at both stations;
- Overlay (concrete roadway topping) not properly removed;
- West Approach Track Bridges were not installed in the proper location or alignment and track alignment and elevations had to be adjusted to accommodate the misplacement;
- Polyurea coating was improperly installed and failing on the floating bridge. KH refused to properly address the defect, requiring Sound Transit to conduct a year-long investigation to determine the extent of necessary repairs; and
- Drip plates were installed over more than 8,000 concrete track plinths which began to warp and fail within two years.

15. KH attempted to repair the concrete plinths, but defective plinth repairs caused more rework and revealed even more defects. Errors made by KH during reconstruction of the plinths include, but are not limited to:

- Defective grout placement on top of the plinths;
- Constructing plinths too high, requiring the first section of new concrete track plinths of 100+ feet to have to be removed and rebuilt;
- Constructing the triple-rail stiffeners at four locations on center when they were required to be off-center;
- Several hundred feet of plinths needed to be shimmed more than the permitted tolerance because the plinths were built too low on the east floating bridge

1 approach, East Channel bridge, and D2 Ramp;

- 2
- 3 • The turnout (switch) on the JPS turnback track as constructed was out of construction tolerance;
  - 4 • Concrete inserts were constructed outside concrete tolerances.

5 16. Throughout construction and repair, Sound Transit noted KH's lack of documentation regarding the moonscaping, how much fastener surface area was covered up by grout, and on the impacts of the grout on cant and alignment of the rail.

6 17. Had KH followed project communication protocols, Sound Transit and its Engineers of Record (EORs) would have had an opportunity to resolve these problems prior to grout coverage.

7 18. In total, the number and different types of deficiencies is staggering, resulting in the issuance of 451 Nonconformance Reports.

8 19. KH's own Concrete Quality Improvement Plan identifies root causes of non-conforming work, including a lack of adequate supervision, training, accountability, poor materials control and inappropriate means and methods.

9 20. The Plan also refers to "pencil whipping", i.e. pre-pour inspection checklists being signed without the requisite inspection occurring.

10 21. Sound Transit has experienced significant recoverable costs caused by KH's deficient and non-conforming work.

11 22. On or about March 23, 2022, Sound Transit and KH entered a binding settlement agreement related to specific issues, including responsibility for the costs and impacts associated with the repairs to the plinths.

12 23. As part of this binding settlement agreement, KH agreed "to be responsible for all cost and time impacts, including impacts to Mass Electric [follow-on contractor], insofar that those impacts are attributable to delays associated with plinth/concrete block repairs."

13 24. KH failed to comply with the terms of the settlement agreement. KH further takes the position this settlement agreement is unenforceable.

1           25. The parties have been unable to resolve these matters, resulting in the filing of this  
2 Complaint.

3           **III. FIRST CAUSE OF ACTION – BREACH OF CONTRACT**

4           26. Sound Transit realleges paragraphs 1 through 25.

5           27. KH, and therefore Kiewit, breached their obligations under the contract by failing  
6 to follow the Contract Documents, causing numerous defects and leading to years-long delay of  
7 the project and increased costs to Sound Transit. KH, and therefore Kiewit, further breached the  
8 terms of the March 2022 Settlement Agreement.

9           28. As a direct result and proximate result of KH's (and therefore Kiewit's) breaches  
10 of the contract and March 2022 Settlement Agreement, Sound Transit has incurred, and will  
11 continue to incur, significant damages in an amount to be determined at trial.

12           **IV. SECOND CAUSE OF ACTION – DECLARATORY JUDGMENT**

13           29. Sound Transit realleges paragraphs 1 through 28.

14           30. There is legitimate and active dispute between Sound Transit and KH and Kiewit  
15 regarding their rights and obligations under the March 2022 Settlement Agreement and the  
16 Contract. KH alleges that the March 2022 Settlement Agreement is unenforceable while Sound  
17 Transit alleges that the March 2022 Settlement Agreement is enforceable.

18           31. Sound Transit requests that the Court enter a declaratory judgment enforcing the  
19 rights and obligations of the parties with respect to the March 2022 Settlement Agreement.

20           **V. PRAYER FOR RELIEF**

21           Wherefore Sound Transit requests the following relief:

22           1. For judgment against KH and Kiewit for breach of contract in an amount to be  
23 proven at trial;

24           2. For declaratory relief enforcing the rights and obligations of the parties with respect  
25 to the March 2022 Settlement Agreement; and

26           3. For such other and further relief as the Court may deem just and proper.

1 DATED: December 15, 2025

2 BALLARD SPAHR LLP

3

4 By: s/Andrew J. Gabel

5 Stanton P. Beck, WSBA No. 16212

6 Andrew J. Gabel, WSBA No. 39310

7 1301 Second Avenue, Suite 2800

Seattle, WA 98101

Telephone: 206.223.7000

[becks@ballardspahr.com](mailto:becks@ballardspahr.com)

[gabela@ballardspahr.com](mailto:gabela@ballardspahr.com)

8  
9 *Attorneys for Plaintiff Central Puget Sound Regional*  
10 *Transit Authority dba Sound Transit*