

Bond Case Briefs

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CONTRACTS - WASHINGTON

NOVA Contracting, Inc. v. City of Olympia

Supreme Court of Washington - September 27, 2018 - P.3d - 2018 WL 4625429

Contractor hired by city to replace a deteriorating culvert brought breach of contract action, and city counterclaimed, alleging breach of contract and requesting liquidated damages.

The Superior Court granted summary judgment on city's counterclaim. Contractor appealed. The Court of Appeals reversed in part. City petitioned for review.

The Supreme Court of Washington, en banc, held that:

- There was no exception to contract's written notice of claim requirements for expectancy and consequential damages, and
- Contractor waived any claims for protested work.

In action brought by contractor hired by city to replace a deteriorating culvert, against city, for breach of the covenant of good faith and fair dealing, there was no exception to contract's written notice of claim requirements for expectancy and consequential damages; the requirements referred to "all claims," which meant "all" claims related to "protested work," including claims for expectancy and consequential damages based on protested work.

In action brought by contractor hired by city to replace a deteriorating culvert against city for breach of the covenant of good faith and fair dealing, contractor waived any claims for protested work, when it failed to comply with contract's written notice of claim requirements; contractor failed to file written protests after each rejected submittal.