

**W. M. LYLES CO.**

**CONTRACTOR**

Since 1945

*Progress Through Performance*<sup>®</sup>

California Contractor's License No. 422390

Corporate Office

P.O. Box 4377

Fresno, CA 93744-4377

Telephone (559) 441-1900

Fax (559) 487-7958

www.wmlyles.com

An Equal Opportunity Employer

August 13, 2019

Orange County Sanitation District  
Attn: Mr. Jay Kaura, Contracts Administrator  
10844 Ellis Avenue  
Fountain Valley, CA 92708

via electronic mail to: [construction@ocsd.com](mailto:construction@ocsd.com)

Re: Award Protest Statement. W. M. Lyles Co.'s Bid Protest for the Orange County Sanitation District's ("OCSD") Return Activated Sludge Piping Replacement at Plant No. 2. Project No. P2-123 ("Project")

Dear Mr. Kaura:

As we are in receipt of OCSD's Award Recommendation Notice dated August 8, 2019, for the above-referenced Project, we are writing you and this letter shall serve as W. M. Lyles Co.'s ("WML") formal Award Protest Statement concerning OCSD's recommendation to award the project to Shimmick Construction Company, Inc. ("SHIMMICK").

WML requests that OCSD not award the project to SHIMMICK. SHIMMICK's past safety violations give OCSD grounds to reject its bid for non-responsibility. Accordingly, WML requests that OCSD not award the project to SHIMMICK and award the project contract to WML as the lowest responsive and responsible bidder on this Project.

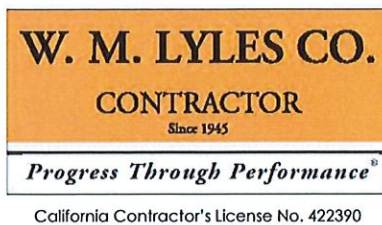
**SHIMMICK IS NOT A RESPONSIBLE AND/OR QUALIFIED CONTRACTOR FOR THIS PROJECT BECAUSE IT HAS NUMEROUS PRIOR SERIOUS AND REPEATED SAFETY VIOLATIONS EVIDENCING AN INABILITY TO CONTROL AND MAINTAIN SAFE PROJECT SITES**

The Instruction to Bidders, at Item IB-13(B)(2), pages 7 & 8, states that,

For purpose of evaluating the Safety record of a Bidder, if the Bidder has any Serious, Repeat...citations pursuant to Part 1 of Division 5 of the Labor Code and has not taken appropriate corrective action to abate further such violations.....the Bidder may be deemed Not Responsible and its Bid Rejected.

Corporate Office: 1210 W. Olive, Fresno, CA 93728

Bakersfield (661) 387-1600 | Fresno (559) 268-1540 | Temecula (951) 973-7393 | Rocklin (916) 375-1833 | Visalia (559) 651-1450



Corporate Office  
P.O. Box 4377  
Fresno, CA 93744-4377  
Telephone (559) 441-1900  
Fax (559) 487-7958

www.wmlyles.com  
An Equal Opportunity Employer

Furthermore, Section BF-6(1) of the bid proposal asks, “Does the CONTRACTOR have any Serious, Willful, Repeat...citations....during the past five-year period?”

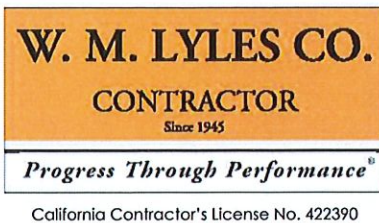
SHIMMICK, pursuant to Exhibit A, attached hereto and incorporated herein by this reference (hereinafter “OSHA Reports”), has two fatalities, numerous serious violations and repeated violations within the past five-year period. Said OSHA Reports reveal that SHIMMICK has twenty (20) serious violations and at least two repeated violations happening on separate occasions (i.e., three 1509(A) violations, and two 3203(A) violations), from July 2014 through July 2019. The fatality cases involve multiple serious violations (see Case #3 and Case #10 for fatalities). The recent past safety citation record in said OSHA Reports demonstrates SHIMMICK’s inability to control and maintain safe project sites.

Two separate incidents resulted in the partial amputation of a worker’s finger(s) (see cases #9 and #17) and another resulted in a worker sustaining a fracture in his/her tibia and fibula (see case #5). SHIMMICK had repeated violations of California Code of Regulations at Title 8, Division 1, Chapter 4, Subchapter 7, at § 3203(a). Please note that said §3203 sets forth the requirement to have an Injury and Illness Prevention Program. SHIMMICK has apparently been cited on two separate occasions for inadequate IIPP. Accordingly, SHIMMICK’s OSHA Report indicates that SHIMMICK is not a responsible bidder within the meaning of California Public Contract Code §1103.

**REJECTING SHIMMICK’S BID COMPORTS WITH SOUND PUBLIC POLICY INVOLVING THE PROTECTION OF THE PUBLIC AND REJECTING ITS BID FOR RESPONSIBILITY IS SUPPORTED BY CASE AND STATUTORY LAW**

OCSD should strongly consider rejecting SHIMMICK as an irresponsible bidder in light of protecting the citizens within the jurisdiction of the OCSD. OCSD is clearly legally permitted to reject SHIMMICK’s bid for want of responsibility (see Exhibit B below for legal basis). The public has an interest in the safe construction of public works projects. In calculating the sum total of protecting the public, dollars and cents are not the only factor to consider. The safety of the public is of great importance as the public can either be injured by encountering unsafe project sites or as workers at a project site.

Serious injury and fatalities are to be avoided at all costs due to the heavy toll on the families impacted by same. While nearly impossible to quantify, such injuries have a fiscal impact upon the citizens within the jurisdiction of the OCSD. Within the construction industry, it is well known that serious injuries and fatalities generally always lead to law suits and other costs, which, in turn, drive up the overall cost of a given project. As such, OCSD is well within their rights to consider the protection of the citizens of OCSD by requiring its contractors to have a demonstrably safe construction record. OCSD’s exercise of discretion in rejecting SHIMMICK’s bid for want of responsibility would provide physical and fiscal safety for the citizens within OCSD’s jurisdiction.



Corporate Office  
P.O. Box 4377  
Fresno, CA 93744-4377  
Telephone (559) 441-1900  
Fax (559) 487-7958

www.wmlyles.com  
An Equal Opportunity Employer

OCSD has rightly taken steps to evaluate the overall competency of the contractors submitting proposals on this project. Competency embraces a contractor's prior performance, which includes their safety record. In this respect, SHIMMICK fails and has demonstrated an inability to implement proper safety procedures and/or adequately supervise its project sites. It would be well within OCSD's right to determine that SHIMMICK lacks the required responsibility and competency to safely build this Project.

In support of the above, please see Exhibit B setting forth legal, regulatory and contractual basis for rejecting SHIMMICK's bid. Attached, as Exhibit C, are applicable pages from the IFB that were referenced above. As WML was the second lowest bidder, there are no other affected parties who would stand in line to be awarded the Project contract and thus no information is provided regarding any other bidder.

**In contrast to SHIMMICK, WML has no serious, willful, or repeated violations and WML's safety history aligns with OCSD's safety requirements.** In this regard, please see WML's detailed OSHA Report, attached hereto and incorporated herein by this reference as Exhibit D. Furthermore, please see August 16, 2018 Article written by Megan Cassidy and Lauren Hernandez from the San Francisco Chronicle discussing SHIMMICK's safety problems for SHIMMICK's work for the San Francisco Municipal Transportation Agency, attached hereto and incorporated herein by this reference as Exhibit E. Finally, attached, as Exhibit F, is a spreadsheet providing a summation of SHIMMICK's OSHA citations over the past five years.

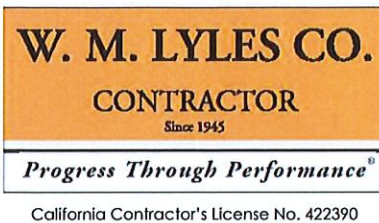
## CONCLUSION

WML, accordingly, requests that OCSD: 1) grant WML's bid protest by not awarding the Project contract to SHIMMICK on the grounds of SHIMMICK's safety related deficiencies (i.e., lack of responsibility); and 2) award the contract to WML as the lowest responsive, responsible bidder on the Project. WML looks forward to working with OCSD on this important Project.

This letter is intended to be: 1) a protest against any award of the contract to a bidder other than WML; 2) a request pursuant to Government Code §54954.1 for written notice of all meetings of OCSD at which any issues pertaining to the award of said contract are on the agenda for the meeting; 3) a request for communications by and between OCSD and SHIMMICK regarding WML's bid protest; 4) a request as soon as staff either reports or renders recommendations concerning any issues pertaining to the award of said contract (by telephone or fax and by email) are available to the public so we can promptly review same; and 5) a request to address OCSD pursuant to California Government Code §54954.3(a) which sets forth our right to address OCSD before or during consideration of any issues related to the award of said Contract.

Corporate Office: 1210 W. Olive, Fresno, CA 93728

Bakersfield (661) 387-1600 | Fresno (559) 268-1540 | Temecula (951) 973-7393 | Rocklin (916) 375-1833 | Visalia (559) 651-1450



Corporate Office  
P.O. Box 4377  
Fresno, CA 93744-4377  
Telephone (559) 441-1900  
Fax (559) 487-7958

www.wmlyles.com  
An Equal Opportunity Employer

Please advise if we need to take any further steps to secure our rights and requests set forth above so that we can promptly comply. If we do not receive a response from you, we will proceed on the basis that this letter is sufficient to protest the bid of SHIMMICK.

### Verification and Execution

I am the Sr. Vice President of W. M. Lyles Co., and I have read the foregoing Award Protest Statement and know the contents thereof; and I certify that the same is true of my own knowledge, except as to those matters which are therein stated upon my information and belief, and as to those matters I believe it to be true.

I declare, under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct.

By 

Robert P. Saleen  
Sr. Vice President of W. M. Lyles Co.

Enclosures/6  
Mde

## Exhibit A: OSHA Report

Page 1 of 14

Case

#	Activity	Opened	RID	St	Type	Sc	SIC	NAICS	Vio	Establishment Name	
<input type="checkbox"/>	1	<a href="#">1399946.015</a>	05/10/2019	0950644	CA	Accident	Partial		237110		Shimmick Construction
<input type="checkbox"/>	2	<a href="#">1323735.015</a>	08/27/2018	0950624	CA	Unprog Rel	Partial		236220		Shimmick Construction Company, Inc. And California Engineering Contractors, Inc. Joint Venture
<input type="checkbox"/>	3	<a href="#">1339097.015</a>	08/10/2018	0950651	CA	Fat/Cat	Partial		237990	4	Shimmick Construction Co Inc And Con-Quest Contractors Inc
<input type="checkbox"/>	4	<a href="#">1325793.015</a>	06/21/2018	1055320	WA	Referral	Partial		236220		Wa317950004 - Shimmick Parsons Jv
<input type="checkbox"/>	5	<a href="#">1302815.015</a>	03/20/2018	0950635	CA	Accident	Partial		236220	2	Shimmick/Fcc/Impregilio Jv
<input type="checkbox"/>	6	<a href="#">1263341.015</a>	09/11/2017	0936200	CA	Planned	Partial		237990		Nova Shimmick A Joint Venture
<input type="checkbox"/>	7	<a href="#">1252441.015</a>	07/19/2017	0936200	CA	Unprog Other	Partial		237990	1	Nova Shimmick Joint Venture
<input type="checkbox"/>	8	<a href="#">1252345.015</a>	07/11/2017	0936200	CA	Planned	Complete		237990	1	Nova Shimmick Joint Venture
<input type="checkbox"/>	9	<a href="#">1205081.015</a>	01/24/2017	0950611	CA	Accident	Partial		236220		Shimmick / Nicholson Jv
<input type="checkbox"/>	10	<a href="#">1192534.015</a>	11/21/2016	0950643	CA	Fat/Cat	Partial		236220	6	Shimmick Construction Company Inc.
<input type="checkbox"/>	11	<a href="#">1188158.015</a>	10/21/2016	1055320	WA	Referral	Partial		236220	3	Wa317942851 - Shimmick Construction Company Inc
<input type="checkbox"/>	12	<a href="#">1167915.015</a>	07/29/2016	1055320	WA	Planned	Partial		236220		Wa317941606 - Shimmick Construction Company Inc
<input type="checkbox"/>	13	<a href="#">1144056.015</a>	04/20/2016	0950635	CA	Accident	Partial		237310	4	Shimmick Fcc Impregilio Joint Venture
<input type="checkbox"/>	14	<a href="#">1080515.015</a>	07/08/2015	0950631	CA	Referral	Partial		236210	3	Shimmick Construction Company, Inc.
<input type="checkbox"/>	15	<a href="#">1061841.015</a>	05/08/2015	0950635	CA	Complaint	Partial		237990		Shimmick Construction Company Inc
<input type="checkbox"/>	16	<a href="#">1059365.015</a>	04/21/2015	0950631	CA	Referral	Partial		237990	2	Shimmick Construction Company Inc
<input type="checkbox"/>	17	<a href="#">1021893.015</a>	01/30/2015	0950611	CA	Accident	Partial		236220	2	Shimmick-Nicholson Construction, A Joint Venture
<input type="checkbox"/>	18	<a href="#">995229.015</a>	08/21/2014	0936200	CA	Planned	Complete		236210		Nova Shimmick Ajv

**OSHA** English | Spanish

Find it in OSHA

A TO Z INDEX

OSHA ▾ WORKER ▾ EMPLOYER ▾ STANDARDS ▾ ENFORCEMENT ▾ CONSTRUCTION ▾ TOPIC ▾ NEWS/RESOURCES ▾ DATA ▾ TRAINING ▾

## Inspection Detail

### Quick Link Reference

1399946.015 | 1323735.015 | 1339097.015 | 1325793.015 | 1302815.015 | 1263341.015 | 1252441.015 | 1252345.015 | 1205081.015 | 1192534.015 | 1188158.015 | 1167915.015 | 1144056.015 | 1080515.015 | 1061841.015 | 1059365.015 | 1021893.015 | 995229.015

### Case Status: OPEN

**Note:** The following inspection has not been indicated as closed. Please be aware that the information shown may change, e.g. violations may be added or deleted. For open cases, in which a citation has been issued, the citation information may not be available for 5 days following receipt by the employer for Federal inspections or for 30 days following receipt by the employer for State inspections.

### Inspection: 1399946.015 - Shimmick Construction

#### Inspection Information - Office: Ca Monrovia District Office

Nr: 1399946.015	Report ID: 0950644	Open Date: 05/10/2019		
Shimmick Construction				
1210 Fullerton Rd.				
City Of Industry, CA 91748		Union Status: NonUnion		
SIC:				
NAICS: 237110/Water and Sewer Line and Related Structures Construction				
Mailing: 8201 Edgewater Dr. Suite 202, Oakland, CA 94621				
Inspection Type:	Accident			
Scope:	Partial	Advanced Notice: N		
Ownership:	Private			
Safety/Health:	Safety	Close Conference:		
		Close Case:		
Related Activity:	Type	ID	Safety	Health
	Accident	1451236		

Case #1

### Case Status: OPEN

### Case Status: CLOSED

### Inspection: 1323735.015 - Shimmick Construction Company, Inc. And California Engineering Contractors, Inc. Joint Venture

#### Inspection Information - Office: Ca Modesto

Nr: 1323735.015	Report ID: 0950624	Open Date: 08/27/2018	
Shimmick Construction Company, Inc. And California Engineering Contractors, Inc. Joint Venture			
200 Valpico Dr.			
Tracy, CA 95376		Union Status: NonUnion	
SIC:			
NAICS: 236220/Commercial and Institutional Building Construction			
Mailing: 8201 Edgewater Drive Ste 201, Oakland, CA 94621			
Inspection Type:	Unprog Rel		

Case #2

Scope: Partial  
 Ownership: Private  
 Safety/Health: Safety

Advanced Notice: N  
 Close Conference: 11/30/2018  
 Close Case: 02/25/2019

Case Status: **CLOSED**

**Violation Summary**

	Serious	Willful	Repeat	Other	Unclass	Total
Initial Violations				1		1
Current Violations						
Initial Penalty	\$0	\$0	\$0	\$410	\$0	\$410
Current Penalty	\$0	\$0	\$0	\$0	\$0	\$0
FTA Amount	\$0	\$0	\$0	\$0	\$0	\$0

**Violation Items**

	#	ID	Type	Standard	Issuance	Abate	Curr\$	Init\$	Fta\$	Contest	LastEvent
Deleted	1.	01001	Other	3203(A)(4)	11/30/2018		\$0	\$410	\$0		I - Informal Settlement

Case Status: **VIOLATIONS UNDER CONTEST**

**Note:** The following inspection has not been indicated as closed. Please be aware that the information shown may change, e.g. violations may be added or deleted. For open cases, in which a citation has been issued, the citation information may not be available for 5 days following receipt by the employer for Federal inspections or for 30 days following receipt by the employer for State inspections.

**Inspection: 1339097.015 - Shimmick Construction Co Inc And Con-Quest Contractors Inc**

**Inspection Information - Office: Ca Sacramento M&T District Office**

Nr: 1339097.015      Report ID: 0950651      Open Date: 08/10/2018

Shimmick Construction Co Inc And Con-Quest Contractors Inc  
 1 West Portal Ave.      Union Status: Union  
 San Francisco, CA 94127

SIC:  
 NAICS: 237990/Other Heavy and Civil Engineering Construction  
 Mailing: 8201 Edgewater Drivesuite 202, Oakland, CA 94621

Inspection Type: Fat/Cat  
 Scope: Partial      Advanced Notice: N  
 Ownership: Private  
 Safety/Health: Safety      Close Conference: 02/08/2019  
 Emphasis: S:Tunnel      Close Case:  
 Related Activity: Type ID Safety Health  
 Accident 1369816

Case #3

Case Status: **VIOLATIONS UNDER CONTEST**

**Violation Summary**

	Serious	Willful	Repeat	Other	Unclass	Total
Initial Violations	4					4
Current Violations	4					4
Initial Penalty	\$65,300	\$0	\$0	\$0	\$0	\$65,300
Current Penalty	\$65,300	\$0	\$0	\$0	\$0	\$65,300
FTA Amount	\$0	\$0	\$0	\$0	\$0	\$0





Scope:	Partial	Advanced Notice:	N
Ownership:	Private		
Safety/Health:	Safety	Close Conference:	07/23/2018
		Close Case:	
Related Activity:	Type	ID	Safety
	Accident	1315280	Health

**Case Status: VIOLATIONS UNDER CONTEST**

Violation Summary						
	Serious	Willful	Repeat	Other	Unclass	Total
Initial Violations	2					2
Current Violations	2					2
Initial Penalty	\$36,000	\$0	\$0	\$0	\$0	\$36,000
Current Penalty	\$36,000	\$0	\$0	\$0	\$0	\$36,000
FTA Amount	\$0	\$0	\$0	\$0	\$0	\$0

Violation Items											
#	ID	Type	Standard	Issuance	Abate	Curr\$	Init\$	Fta\$	Contest	LastEvent	
1.	01001	Serious	1509(A)	07/23/2018	08/09/2018	\$18,000	\$18,000	\$0	09/11/2018	-	
2.	02001	Serious	4981(C)	07/23/2018	08/09/2018	\$18,000	\$18,000	\$0	09/11/2018	-	

**Accident Investigation Summary**

Summary Nr: 107488.015      Event: 01/24/2018      Employee Is Struck By Wire Rope And Leg Is Fractured

At 10:00 a.m. on January 24, 2018, Employee #1 and Coworkers #1 and #2, employed by a construction company, were working at a bridge replacement project. Employee #1, an iron worker, was working on an elevated bridge platform, 235 feet above grade, and welding eyelets to the platform. Coworkers #1 and #2, also on the elevated platform, began to pull 1 inch diameter wire rope from an uncoiler. As the wire rope came free of the uncoiler, the tail end of the wire rope whipped around and struck Employee #1's left leg. Coworkers #1 and #2 radioed the foreman stationed on the ground. The foreman organized a response team, which used a man basket attached to a tower crane to ascend to the elevated work platform. Employee #1 was placed in the man basket and lowered to the ground. Emergency services were called, and Employee #1 was transported to the hospital. He was admitted and treated, including surgery, for fractures to his left leg tibia and fibula.

**Keywords:** struck by, construction, fracture, leg, iron worker, elevated work platform, bridge, tower crane, welding, wire rope

	Inspection	Degree	Nature	Occupation
1	1302815.015	Hospitalized injury	Cut/Laceration	Laborers, except construction

**Case Status: CLOSED**

**Inspection: 1263341.015 - Nova Shimmick A Joint Venture**

Inspection Information - Office: San Diego Area Office			
Nr: 1263341.015	Report ID: 0936200	Open Date:	09/11/2017
Nova Shimmick A Joint Venture			
Point Loma Fuel Pier		Union Status: NonUnion	
San Diego, CA 92113			
SIC:			
NAICS: 237990/Other Heavy and Civil Engineering Construction			
Mailing: 185 Devlin Rd, Napa, CA 94558			
Inspection Type:	Planned		
Scope:	Partial	Advanced Notice:	N
Ownership:	Private		
Safety/Health:	Safety	Close Conference:	09/18/2017
Emphasis:	L:Progcon, P:Progcon	Close Case:	09/18/2017

Case #6

**Case Status: CLOSED**

Case Status: CLOSED

Inspection: 1252441.015 - Nova Shimmick Joint Venture

Exhibit A: Page 6 of 14

Inspection Information - Office: San Diego Area Office

Nr: 1252441.015 **Report ID: 0936200** Open Date: 07/19/2017

Nova Shimmick Joint Venture  
 Naval Base Point Lomafuel Depot Area  
 San Diego, CA 92106 Union Status: Union

SIC:  
 NAICS: 237990/Other Heavy and Civil Engineering Construction  
 Mailing: 185 Devlin Rd, Napa, CA 94558

Inspection Type: Unprog Other  
 Scope: Partial Advanced Notice: N  
 Ownership: Private  
 Safety/Health: Safety Close Conference: 07/21/2017  
 Close Case: 06/14/2018

Related Activity: Type ID Safety Health  
 Referral 1277117 Yes

Case #7

Case Status: CLOSED

Violation Summary

	Serious	Willful	Repeat	Other	Unclass	Total
Initial Violations	1					1
Current Violations	1					1
Initial Penalty	\$11,408	\$0	\$0	\$0	\$0	\$11,408
Current Penalty	\$10,500	\$0	\$0	\$0	\$0	\$10,500
FTA Amount	\$0	\$0	\$0	\$0	\$0	\$0

Violation Items

#	ID	Type	Standard	Issuance	Abate	Curr\$	Init\$	Fta\$	Contest	LastEvent
1.	01001	Serious	19260250 A01	10/24/2017		\$10,500	\$11,408	\$0	11/06/2017	R - Review Commission

Case Status: CLOSED

Inspection: 1252345.015 - Nova Shimmick Joint Venture

Case #8

Inspection Information - Office: San Diego Area Office

Nr: 1252345.015 **Report ID: 0936200** Open Date: 07/11/2017

Nova Shimmick Joint Venture  
 Naval Base Point Loma2907 Shelter Island Dr.  
 San Diego, CA 92106 Union Status: NonUnion

SIC:  
 NAICS: 237990/Other Heavy and Civil Engineering Construction  
 Mailing: 185 Devlin Rd, Napa, CA 94558

Inspection Type: Planned  
 Scope: Complete Advanced Notice: N  
 Ownership: Private  
 Safety/Health: Safety Close Conference: 07/14/2017  
 Emphasis: L:Progcon, P:Progcon Close Case: 02/06/2018

Case Status: CLOSED

Violation Summary

	Serious	Willful	Repeat	Other	Unclass	Total

Initial Violations	1					1
Current Violations				1		1
Initial Penalty	\$4,889	\$0	\$0	\$0	\$0	\$4,889
Current Penalty	\$0	\$0	\$0	\$4,889	\$0	\$4,889
FTA Amount	\$0	\$0	\$0	\$0	\$0	\$0

Violation Items										
#	ID	Type	Standard	Issuance	Abate	Curr\$	Init\$	Fta\$	Contest	LastEvent
1.	01001	Other	19260405 G02 IV	08/31/2017		\$4,889	\$4,889	\$0		I - Informal Settlement

Case Status: **CLOSED**

Inspection: 1205081.015 - Shimmick / Nicholson Jv

Inspection Information - Office: Ca San Francisco					
Nr: 1205081.015	Report ID: 0950611	Open Date:			
		01/24/2017			
Shimmick / Nicholson Jv			Union Status: Union		
101 First St.					
San Francisco, CA 94105					
SIC:					
NAICS: 236220/Commercial and Institutional Building Construction					
Mailing: 8201 Edgewater Dr. Suite #202, Oakland, CA 94621					
Inspection Type:	Accident				
Scope:	Partial	Advanced Notice:	N		
Ownership:	Private				
Safety/Health:	Safety	Close Conference:	04/05/2017		
		Close Case:	12/13/2017		
Related Activity:	Type	ID	Safety	Health	
		Complaint	1184073	Yes	
		Accident	1173756		

Case #9

Case Status: **CLOSED**

Violation Summary						
	Serious	Willful	Repeat	Other	Unclass	Total
Initial Violations				1		1
Current Violations						
Initial Penalty	\$0	\$0	\$0	\$300	\$0	\$300
Current Penalty	\$0	\$0	\$0	\$0	\$0	\$0
FTA Amount	\$0	\$0	\$0	\$0	\$0	\$0

Violation Items											
#	ID	Type	Standard	Issuance	Abate	Curr\$	Init\$	Fta\$	Contest	LastEvent	
Deleted	1.	01001	Other	5001(E)	04/10/2017		\$0	\$300	\$0	04/20/2017	F - Formal Settlement

**Accident Investigation Summary**

Summary Nr: 94459.015      Event: 01/15/2017      **Construction Foreman Directing Rigging Has Two Finger Amputa**

At 3:10 p.m. on January 15, 2017, Employee #1, a foreman for a construction company, Coworker #1, employed by the company to assist Employee #1, and Coworker #2, who was operating an excavator, were engaged in rigging work at a construction excavation site. Employee #1 was directing the work. Employee #1 and Coworker #1 rigged bundles of hollow bar drill steel rod onto an excavator, Komatsu PC228USLC. The bundles consisted of 10 rods, and each rod weighed approximately 140 pounds. The bundled rods were moved approximately 15 feet across the south side of the excavation site. Coworker #2, operating the excavator, then began to lower the load to the ground. The steel hook from the rigging struck and crushed Employee #1's right hand. **Emergency services were called, and Employee #1 was transported to the hospital. He was admitted and treated for the amputation of his right hand's middle and ring fingers.**

**Keywords:** struck by, amputation, rigging, material handling, construction, excavator, finger, hand, crushed, steel tube

	Inspection		Degree	Nature	Occupation
1	1205081.015		Hospitalized injury	Amputation	Construction laborers

**Case Status: VIOLATIONS UNDER CONTEST**

**Note:** The following inspection has not been indicated as closed. Please be aware that the information shown may change, e.g. violations may be added or deleted. For open cases, in which a citation has been issued, the citation information may not be available for 5 days following receipt by the employer for Federal inspections or for 30 days following receipt by the employer for State inspections.

**Inspection: 1192534.015 - Shimmick Construction Company Inc.**

Inspection Information - Office: Ca Van Nuys				
Nr: 1192534.015	Report ID: 0950643	Open Date:		
		11/21/2016		
Shimmick Construction Company Inc.				
4765 Spring Rd.		Union Status: Union		
Moorpark, CA 93020				
SIC:				
NAICS: 236220/Commercial and Institutional Building Construction				
Mailing: 8201 Edgewater Dr., Oakland, CA 94621				
Inspection Type:	Fat/Cat			
Scope:	Partial	Advanced Notice:	N	
Ownership:	Private			
Safety/Health:	Safety	Close Conference:	04/11/2017	
		Close Case:		
Related Activity:	Type	ID	Safety	Health
	Accident	1157737		

Case #10

**Case Status: VIOLATIONS UNDER CONTEST**

**Violation Summary**

	Serious	Willful	Repeat	Other	Unclass	Total
Initial Violations	3			3		6
Current Violations	3			3		6
Initial Penalty	\$46,800	\$0	\$0	\$1,600	\$0	\$48,400
Current Penalty	\$46,800	\$0	\$0	\$1,600	\$0	\$48,400
FTA Amount	\$0	\$0	\$0	\$0	\$0	\$0

**Violation Items**

#	ID	Type	Standard	Issuance	Abate	Curr\$	Init\$	Fta\$	Contest	LastEvent
1.	01001	Other	43000029 B01	04/26/2017	05/31/2017	\$400	\$400	\$0	05/25/2017	-
2.	01002	Other	3650(T)(15)	04/26/2017	05/31/2017	\$600	\$600	\$0	05/25/2017	-
3.	01003	Other	3650(T)(33)	04/26/2017	05/31/2017	\$600	\$600	\$0	05/25/2017	-
4.	02001	Serious	3328(A)(2)	04/26/2017	05/15/2017	\$14,400	\$14,400	\$0	05/25/2017	-
5.	03001	Serious	3650(T)	04/26/2017	05/15/2017	\$14,400	\$14,400	\$0	05/25/2017	-
6.	04001	Serious	3650(T)(11)	04/26/2017	05/15/2017	\$18,000	\$18,000	\$0	05/25/2017	-

**Accident Investigation Summary**

Summary Nr: 90735.015      Event: 11/16/2016      Employee Is Caught Between Forklift And Wall And Is Killed

At 7:48 p.m. on November 16, 2016, an employee was operating a Caterpillar telehandler forklift Model 1055C, serial number KDE01436. The employee was traveling down a dirt slope ramp that was approximately twenty percent grade with the forks downgrade and the plate compactor attached to the fork with a

chain. The employee was driving with the cab door open at the time of the accident. The employee operating the forklift lost control, went into the trench and was ejected from the cab. The employee was pinned between the forklift and the dirt wall. The employee suffered internal injuries and a fractured pelvis and was fatally injured.

**Keywords:** crushing, material handling, powered industrial vehicle, construction vehicle, struck by

	Inspection		Degree	Nature	Occupation
1	1192534.015		Fatality	Bruise/Contus/Abras	Construction laborers

**Case Status: VIOLATIONS UNDER CONTEST**

**Note:** The following inspection has not been indicated as closed. Please be aware that the information shown may change, e.g. violations may be added or deleted. For open cases, in which a citation has been issued, the citation information may not be available for 5 days following receipt by the employer for Federal inspections or for 30 days following receipt by the employer for State inspections.

**Inspection: 1188158.015 - Wa317942851 - Shimmick Construction Company Inc**

Inspection Information - Office: Washington Region 2					
Nr: 1188158.015	Report ID: 1055320	Open Date: 10/21/2016			
Wa317942851 - Shimmick Construction Company Inc					
Minor St. X Thomas St.Across From 222 Minor St.		Union Status: NonUnion			
Seattle, WA 98101					
SIC:					
NAICS: 236220/Commercial and Institutional Building Construction					
Mailing: 8201 Edgewater Dr Ste 202, Oakland, CA 94621					
Inspection Type:	Referral				
Scope:	Partial	Advanced Notice:	N		
Ownership:	Private				
Safety/Health:	Safety	Close Conference:	10/28/2016		
Close Case:					
Related Activity:	Type	ID	Safety	Health	
	Referral	1152088	Yes		

Case #11

**Case Status: VIOLATIONS UNDER CONTEST**

**Violation Summary**

	Serious	Willful	Repeat	Other	Unclass	Total
Initial Violations	1			2		3
Current Violations	1			2		3
Initial Penalty	\$4,800	\$0	\$0	\$0	\$0	\$4,800
Current Penalty	\$4,800	\$0	\$0	\$0	\$0	\$4,800
FTA Amount	\$0	\$0	\$0	\$0	\$0	\$0

**Violation Items**

#	ID	Type	Standard	Issuance	Abate	Curr\$	Init\$	Fta\$	Contest	LastEvent
1.	01001A	Serious	296-155-53408(2)(D)(I)	12/15/2016	10/21/2016	\$4,800	\$4,800	\$0	12/29/2016	-
2.	01001B	Serious	296-155-53401(5)(I)	12/15/2016	10/21/2016	\$0	\$0	\$0	12/29/2016	-
3.	02001	Other	296-155-53401(5)(A)	12/15/2016	10/21/2016	\$0	\$0	\$0	12/29/2016	-
4.	02002	Other	296-155-53401(5)(G)	12/15/2016	10/21/2016	\$0	\$0	\$0	12/29/2016	-

**Case Status: CLOSED**

**Inspection: 1167915.015 - Wa317941606 - Shimmick Construction Company Inc**

**Inspection Information - Office: Washington Region 2**

Nr: 1167915.015

Report ID: 1055320

Open Date:  
07/29/2016

Case #12

Exhibit A: Page 10 of 14

Wa317941606 - Shimmick Construction Company Inc

7004 Beach Dr Sw  
Seattle, WA 98136

Union Status: Union

SIC:

NAICS: 236220/Commercial and Institutional Building Construction

Mailing: 8201 Edgewater Dr Ste 202, Oakland, CA 94621

Inspection Type: Planned

Scope: Partial

Advanced Notice: N

Ownership: Private

Safety/Health: Safety

Close Conference: 08/09/2016

Emphasis: P:Constr, S:Constr

Close Case: 08/09/2016

Case Status: CLOSED

Case Status: PENDING ABATEMENT OF VIOLATIONS

**Note:** The following inspection has not been indicated as closed. Please be aware that the information shown may change, e.g. violations may be added or deleted. For open cases, in which a citation has been issued, the citation information may not be available for 5 days following receipt by the employer for Federal inspections or for 30 days following receipt by the employer for State inspections.

**Inspection: 1144056.015 - Shimmick Fcc Impregilo Joint Venture**

**Inspection Information - Office: Ca Long Beach District Office**

Nr: 1144056.015

Report ID: 0950635

Open Date: 04/20/2016

Case #13

Shimmick Fcc Impregilo Joint Venture

280 Pier T Ave  
Long Beach, CA 90802

Union Status: NonUnion

SIC:

NAICS: 237310/ Highway, Street, and Bridge Construction

Mailing: 8201 Edgewater Dr suite 202, Oakland, CA 94621

Inspection Type: Accident

Scope: Partial

Advanced Notice: N

Ownership: Private

Safety/Health: Safety

Close Conference: 10/07/2016

Close Case:

Related Activity: Type

ID

Safety

Health

Accident

1081839

Case Status: PENDING ABATEMENT OF VIOLATIONS

**Violation Summary**

	Serious	Willful	Repeat	Other	Unclass	Total
Initial Violations	2			2		4
Current Violations	2			2		4
Initial Penalty	\$36,000	\$0	\$0	\$1,685	\$0	\$37,685
Current Penalty	\$36,000	\$0	\$0	\$1,685	\$0	\$37,685
FTA Amount	\$0	\$0	\$0	\$0	\$0	\$0

**Violation Items**

#	ID	Type	Standard	Issuance	Abate	Curr\$	Init\$	Fta\$	Contest	LastEvent
1.	01001	Other	1511(B)	10/07/2016	10/26/2016	\$560	\$560	\$0		Z - Issued
2.	01002	Other	5042(A)(9)	10/07/2016	10/26/2016	\$1,125	\$1,125	\$0		Z - Issued
3.	02001	Serious	3385(A)	10/07/2016	10/19/2016	\$18,000	\$18,000	\$0		Z - Issued
4.	03001	Serious	4999(C)(1)	10/07/2016	10/19/2016	\$18,000	\$18,000	\$0		Z - Issued

**Case Status: VIOLATIONS UNDER CONTEST**

**Note:** The following inspection has not been indicated as closed. Please be aware that the information shown may change, e.g. violations may be added or deleted. For open cases, in which a citation has been issued, the citation information may not be available for 5 days following receipt by the employer for Federal inspections or for 30 days following receipt by the employer for State inspections.

**Inspection: 1080515.015 - Shimmick Construction Company, Inc.****Inspection Information - Office: Ca Santa Ana District Office**

Nr: 1080515.015 **Report ID: 0950631** Open Date: 07/08/2015

Shimmick Construction Company, Inc.  
Southbound I-5 Off-Ramp-Exit 79 To Pch /  
Camino Las Ramblas Union Status: Union  
San Juan Capistrano, CA 92675

SIC:  
NAICS: 236210/Industrial Building Construction  
Mailing: 8201 Edgewater Dr. Suite 202 , Oakland, CA 94621

Inspection Type: Referral  
Scope: Partial Advanced Notice: N  
Ownership: Private  
Safety/Health: Safety Close Conference: 01/06/2016  
Close Case:

Related Activity: Type ID Safety Health  
Referral 1002304 Yes

Case #14

**Case Status: VIOLATIONS UNDER CONTEST****Violation Summary**

	<b>Serious</b>	<b>Willful</b>	<b>Repeat</b>	<b>Other</b>	<b>Unclass</b>	<b>Total</b>
Initial Violations	3					3
Current Violations	3					3
Initial Penalty	\$26,770	\$0	\$0	\$0	\$0	\$26,770
<b>Current Penalty</b>	<b>\$26,770</b>	\$0	\$0	\$0	\$0	\$26,770
FTA Amount	\$0	\$0	\$0	\$0	\$0	\$0

**Violation Items**

#	ID	Type	Standard	Issuance	Abate	Curr\$	Init\$	Fta\$	Contest	LastEvent
1.	<b>01001</b>	<b>Serious</b>	1509(A)	01/06/2016		<b>\$7,650</b>	\$7,650	\$0	01/20/2016	-
2.	<b>02001</b>	<b>Serious</b>	16160001 N03	01/06/2016		<b>\$9,560</b>	\$9,560	\$0	01/20/2016	-
3.	<b>03001</b>	<b>Serious</b>	16160001 O	01/06/2016		<b>\$9,560</b>	\$9,560	\$0	01/20/2016	-

**Case Status: CLOSED****Inspection: 1061841.015 - Shimmick Construction Company Inc****Inspection Information - Office: Ca Long Beach District Office**

Nr: 1061841.015 **Report ID: 0950635** Open Date: 05/08/2015

Shimmick Construction Company Inc  
708 Pier A Street  
Wilmington, CA 90744 Union Status: NonUnion

SIC:  
NAICS: 237990/Other Heavy and Civil Engineering Construction  
Mailing: 708 Pier A Street , Wilmington, CA 90744

Inspection Type: Complaint

Case #15

Scope:	Partial	Advanced Notice:	N	
Ownership:	Private			
Safety/Health:	Health	Close Conference:	06/10/2015	
		Close Case:	06/10/2015	
Related Activity:	Type	ID	Safety	Health
	Complaint	982164	Yes	

**Case Status: CLOSED**

**Case Status: OPEN**

**Note:** The following inspection has not been indicated as closed. Please be aware that the information shown may change, e.g. violations may be added or deleted. For open cases, in which a citation has been issued, the citation information may not be available for 5 days following receipt by the employer for Federal inspections or for 30 days following receipt by the employer for State inspections.

**Inspection: 1059365.015 - Shimmick Construction Company Inc**

**Inspection Information - Office: Ca Santa Ana District Office**

Nr: 1059365.015	<b>Report ID: 0950631</b>	Open Date:	04/21/2015		
Shimmick Construction Company Inc					
Nb 5 Frwy Overcrossing At Las Ramblasbetween					
Camino De Estrella And San Juan Creek Rd					
Undercrosss			Union Status: Union		
San Juan Capistrano, CA 92675					
SIC:					
NAICS: 237990/Other Heavy and Civil Engineering Construction					
Mailing: 8201 Edgewater Drive, Suite 201, Oakland, CA 94621					
Inspection Type:	Referral				
Scope:	Partial	Advanced Notice:	N		
Ownership:	Private				
Safety/Health:	Safety	Close Conference:	10/01/2015		
		Close Case:			
Related Activity:	Type	ID	Safety	Health	
	Referral	979690	Yes		

Case #16

**Case Status: OPEN**

**Violation Summary**

	Serious	Willful	Repeat	Other	Unclass	Total
Initial Violations	2			1		3
Current Violations	2					2
Initial Penalty	\$15,300	\$0	\$0	\$475	\$0	\$15,775
Current Penalty	\$15,300	\$0	\$0	\$0	\$0	\$15,300
FTA Amount	\$0	\$0	\$0	\$0	\$0	\$0

**Violation Items**

	#	ID	Type	Standard	Issuance	Abate	Curr\$	Init\$	Fta\$	Contest	LastEvent
Deleted	1.	01001	Other	1509(A)	10/02/2015		\$0	\$475	\$0	10/14/2015	J - ALJ Decision
	2.	02001	Serious	1620(A)	10/02/2015		\$7,650	\$7,650	\$0	10/14/2015	J - ALJ Decision
	3.	03001	Serious	1712(C)(1)	10/02/2015		\$7,650	\$7,650	\$0	10/14/2015	J - ALJ Decision

**Case Status: OPEN**



**Note:** The following inspection has not been indicated as closed. Please be aware that the information shown may change, e.g. violations may be added or deleted. For open cases, in which a citation has been issued, the citation information may not be available for 5 days following receipt by the employer for Federal inspections or for 30 days following receipt by the employer for State inspections.

**Inspection: 1021893.015 - Shimmick-Nicholson Construction, A Joint Venture**

Exhibit A: Page 13 of 14

Inspection Information - Office: Ca San Francisco				
Nr: 1021893.015	Report ID: 0950611	Open Date: 01/30/2015		
Shimmick-Nicholson Construction, A Joint Venture				
415 Mission St		Union Status: NonUnion		
San Francisco, CA 94105				
SIC:				
NAICS: 236220/Commercial and Institutional Building Construction				
Mailing: 8201 Edgewater Drive, Suite 202, Oakland, CA 94621				
Inspection Type:	Accident			
Scope:	Partial	Advanced Notice:	N	
Ownership:	Private			
Safety/Health:	Safety	Close Conference:	01/30/2015	
		Close Case:		
Related Activity:	Type	ID	Safety	Health
	Accident	934258		

Case #17

**Case Status: OPEN**

**Violation Summary**

	Serious	Willful	Repeat	Other	Unclass	Total
Initial Violations	1			2		3
Current Violations	1			1		2
Initial Penalty	\$9,000	\$0	\$0	\$900	\$0	\$9,900
Current Penalty	\$9,000	\$0	\$0	\$450	\$0	\$9,450
FTA Amount	\$0	\$0	\$0	\$0	\$0	\$0

**Violation Items**

	#	ID	Type	Standard	Issuance	Abate	Curr\$	Init\$	Fta\$	Contest	LastEvent
Deleted	1.	01001	Other	1512(D)	04/29/2015	05/08/2015	\$0	\$450	\$0	05/08/2015	J - ALJ Decision
	2.	01002	Other	1509(A)	04/29/2015	05/08/2015	\$450	\$450	\$0	05/08/2015	J - ALJ Decision
	3.	02001	Serious	1541(A)	04/29/2015	05/04/2015	\$9,000	\$9,000	\$0	05/08/2015	J - ALJ Decision

**Accident Investigation Summary**

Summary Nr: 70263.015      Event: 01/12/2015      Worker'S Finger Is Caught Between Wall And Debris And Requir

At 8:30 p.m. on January 12, 2015, Employee #1 and coworker were engaged in excavation work at a commercial building construction site. Employee #1 was removing debris from a wall damaged by an excavator and the coworker was operating the excavator. The excavator hit a static line that Employee #1 was holding onto. Employee #1's hand was caught between the static line and the wall. Emergency services were called, and Employee #1 was transported to the hospital. He was admitted and treated for fractures and lacerations to his hand. The injury to his index finger was sufficiently severe and required amputation of the finger.

**Keywords:** wall, laceration, amputation, fracture, construction, excavation, excavator, finger, elevated work platform, caught between

	Inspection	Degree	Nature	Occupation
1	1021893.015	Hospitalized injury	Cut/Laceration	Construction Laborer

**Case Status: CLOSED**

**Inspection: 995229.015 - Nova Shimmick Ajv**

**Inspection Information - Office: San Diego Area Office**

Nr: 995229.015	<b>Report ID: 0936200</b>	Open Date: 08/21/2014
Nova Shimmick Ajv Fuel Farm - Navsupfllogctrsd, 199 Rosecrans St, Bldg 50 San Diego, CA 92106		Union Status: Union
SIC: NAICS: 236210/Industrial Building Construction Mailing: 2907 Shelter Island Dr., Ste #105, Pmb 132, San Diego, CA 92106		
Inspection Type:	Planned	
Scope:	Complete	Advanced Notice: N
Ownership:	Private	
Safety/Health:	Safety	Close Conference: 08/21/2014
Emphasis:	L:Progcon, P:Progcon	Close Case: 08/22/2014

Exhibit A: Page 14 of 14

Case #18

**Case Status: CLOSED**

UNITED STATES  
DEPARTMENT OF LABOR

Occupational Safety and Health Administration  
200 Constitution Ave NW  
Washington, DC 20210  
☎ 800-321-6742 (OSHA)  
TTY  
www.OSHA.gov

**FEDERAL GOVERNMENT**

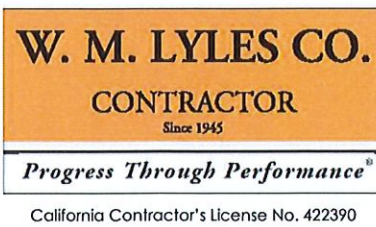
White House  
Severe Storm and Flood Recovery Assistance  
Disaster Recovery Assistance  
DisasterAssistance.gov  
USA.gov  
No Fear Act Data  
U.S. Office of Special Counsel

**OCCUPATIONAL SAFETY AND HEALTH**

Frequently Asked Questions  
A - Z Index  
Freedom of Information Act  
Read the OSHA Newsletter  
Subscribe to the OSHA Newsletter  
OSHA Publications  
Office of Inspector General

**ABOUT THE SITE**

Freedom of Information Act  
Privacy & Security Statement  
Disclaimers  
Important Website Notices  
Plug-Ins Used by DOL  
Accessibility Statement



Corporate Office  
P.O. Box 4377  
Fresno, CA 93744-4377  
Telephone (559) 441-1900  
Fax (559) 487-7958

www.wmlyles.com  
An Equal Opportunity Employer

## Exhibit B

### LEGAL, STATUTORY, AND CONTRACTUAL BASIS FOR REJECTING BID

WML includes the following brief summation of legal, statutory and contractor rationale for rejecting SHIMMICK's bid:

1) Competitive bidding process is not for the protection of SHIMMICK. *Universal By-Products, Inc., v. City of Modesto* (1974) 43 Cal.App.3d 145, concerning competitive bidding, provides that, "The competitive bidding statutes are not intended to be for the benefit of bidders, but for the benefit and protection of the public";

2) SHIMMICK generally has no legal right to compel acceptance of its bid. "...the call for bids and the law confer on the awarding authority the duty of exercising its judgment as to whether it is in the best interests of the public entity to award the contract in question to the lowest bidder" and "[c]onsequently, the lowest qualified bidder generally has no legal right to compel acceptance of his or her bid" (*Baldwin-Lima-Hamilton Corp. v. Superior Court*, 1962, 208 Cal.App.2d 803);

3) SHIMMICK's bid can be rejected on the basis of lack of responsibility. *Inglewood-L.A. County Civic Center Auth. V. Superior Court* (1972) 7 Cal.3d 861, a contract must be awarded to the lowest bidder unless it is found that he is not responsible, i.e., not qualified to do the particular work under consideration;

4) *Raymond v. Fresno City Unified School Dist.* (1954) 123 Cal.App.2d 626, in discussing the ability of a municipal governments ability to determine responsibility, the court noted "The term 'lowest responsible bidder' has been held to mean the lowest bidder whose offer best responds in quality, fitness, and capacity to the particular requirements of the proposed work; and that where by the use of these terms the council has been invested with discretionary power as to which is the lowest responsible bidder, having regard to the quality and adaptability of the material or article to the particular requirements of its use, such discretion will not be interfered with by the courts in the absence of direct averments and proof of fraud."

5) page 1 of the Notice Inviting Bids states that, "The Orange County Sanitation District reserves the right to reject any or all Bids..."; &

6) California Public Contract Code §1103 defines a "Responsible Bidder" as follows, "...a bidder who has demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity, and experience to satisfactorily perform the public works contract."

Statutory and case law are not the only grounds to consider in rejecting SHIMMICK's bid as OCSD clearly provided for rejecting bids in the specifications for this Project in the Notice Inviting Bids as set forth above. In summation, OCSD has the legal authority to reject SHIMMICK's bid and has announced such authority within the specifications for this Project.



**ORANGE COUNTY SANITATION DISTRICT**

**NOTICE INVITING BIDS**

**PROJECT NO. P2-123  
RETURN ACTIVATED SLUDGE PIPING REPLACEMENT AT PLANT NO. 2**

The Orange County Sanitation District (OCSD) invites qualified Bidders to provide Bids for the RETURN ACTIVATED SLUDGE PIPING REPLACEMENT AT PLANT NO. 2 Project.

**Bid Opening:**

The complete Bid shall be submitted in a sealed envelope with the Bidder's name, Project name, Project number, and the Bid due date and time clearly marked on the envelope. The envelope must also be clearly marked "Sealed Bid – Do Not Open", and delivered to:

Orange County Sanitation District  
Attention: Clerk of the Board  
10844 Ellis Avenue  
Fountain Valley, CA 92708

Bids shall be submitted at or **before 11:00 A.M. (Pacific Time Zone),  
Monday, July 29, 2019.**

Bids will be publicly read at that time.

Bids submitted via USPS or other courier service must have the Project Name, Project Number, and the words "Sealed Bid – Do Not Open" clearly marked on the outside of the mailing envelope. Bidders shall notify Jay Kaura, Contracts Administrator via electronic telecommunication (email) at [construction@ocsd.com](mailto:construction@ocsd.com) of their mailing of the Bid package at least one day prior to the Bid Opening date.

Bids and/or revisions to Bids received after the date and time specified above will be rejected by OCSD and returned to the Bidders unopened.

Bids must be prepared and submitted in accordance with the requirements set forth in the Invitation for Bids (IFB) documents. All Bidders are required to comply with state, federal and local laws applicable thereto and as directed in the IFB documents.

**The Orange County Sanitation District reserves the right to reject any or all Bids and to waive or not to waive any or all irregularities.**

**Location & Description of the Work:**

The Project is located at Plant 2 at 22212 Brookhurst Street, Huntington Beach, CA 92646. The Work consists of the removal and replacement of approximately 1,400 linear feet of the deteriorated Returned Activated Sludge (RAS) piping, valves, valve actuators and associated wiring, flexible couplings, pipe supports, and the installation of twelve (12) new 14-inch isolation valves. In addition, concrete repairs will be made by full penetration cracking, by drilling through the defect, and injecting expanding polyurethane to fill the voids. Finally, existing light poles will be replaced at the activated sludge basin and secondary clarifiers.

## IB-11 ESCROW OF BID DOCUMENTS

Refer to the Special Provisions entitled ESCROW OF BID DOCUMENTS.

## IB-12 REQUEST FOR COPIES OF BIDS

Requests for copies of Bids shall be made in writing via electronic telecommunication (email) at [construction@ocsd.com](mailto:construction@ocsd.com). Electronic copies of bids so requested will be provided by OCSD within three (3) Business Days of receipt of the request.

## IB-13 BID EVALUATION PROCESS

### A. General

1. The Bid evaluation period shall close upon OCSD's completion of its review and evaluation of the Bids. OCSD will give Bidders notice at the completion of Bid evaluation.
2. During the Bid evaluation period, OCSD shall determine if Bids are Responsive and Bidders are Responsible. Bids submitted in strict accordance with the IFB Documents will be deemed Responsive. A Responsible Bidder has the apparent ability to meet and successfully complete the requirements of the Contract Documents. Responsibility determination includes, but is not limited to consideration of a Bidder's trustworthiness, the quality of past performance, financial ability, and the fitness and capacity to do the proposed Work in a satisfactory manner. Bidder may be required to present further evidence that it has successfully performed similar work of comparable magnitude or provide other proof satisfactory to OCSD that it is competent to successfully perform the Work. In addition to contacting the references provided by the Bidder, OCSD may, and retains its right to contact other project owners and such other entities for which Bidder has performed or is performing work. Determination of the Bidder's responsibility will be judged based on all of the aforementioned criteria as established by information and documentation provided by the Bidder in response to instructions and specific questions in the IFB Documents, including but not limited to the Bid Submittal Forms. If the Bidder is a Joint Venture, Bidder shall be required to submit information pertaining to its joint venture partners, as specified in the Bid Submittal Forms.

### B. Safety

1. All Safety evaluations will be performed utilizing data that is current at the date and time of Bid Opening.
2. For purpose of evaluating the Safety record of the Bidder, if the Bidder has any Serious, Willful, Repeat, Serious and Willful or Failure to Abate citations pursuant to Part 1 of Division 5 of the Labor Code and has not taken appropriate corrective action to abate further such violations; or if the Bidder has an accident frequency factor between 1.01 and 1.25 and has not taken appropriate corrective action to reduce its accident frequency experience; or if the Bidder has a workers' compensation experience modification rate issued and published by the Workers'

Compensation Insurance Rating Bureau of California (WCIRB) between 1.01 and 1.25 and has not taken appropriate corrective action to reduce its workplace injuries, illnesses and workers' compensation losses, or if the Bidder does not have injury prevention programs instituted to the extent required by Section 3201.5 or 6401.7 of the Labor Code, the Bidder may be deemed Not Responsible and its Bid rejected.

OCSD may require the Bidder to submit evidence of such corrective actions as described above and as specified in the SAFETY DECLARATION OF CONTRACTOR located in the Bid Submittal Forms.

3. If the Bidder has an accident frequency factor above 1.25 or a workers' compensation experience modification rate issued and published by the Workers' Compensation Insurance Rating Bureau of California (WCIRB) above 1.25, the Bid shall be deemed Non-Responsive and the Bid rejected.
4. Failure by the two (2) apparent low Bidders to submit a completed Workers' Compensation Experience Rating Form (also referred to as an Experience Rating Worksheet) and/or the completed and signed CAL/OSHA 300/300A Logs and Summaries within three (3) Business Days after the Bid Opening, or provide the reason(s) for exemption, as required, may result in their Bids being rejected as Non-Responsive.

Should the two (2) apparent low Bidders fail to meet OCSD's requirements, the next apparent low Bidder(s) shall be notified to submit the said documentation within the three (3) Business Day time frame for OCSD review.

#### 5. Accident Frequency Factor

OCSD will evaluate the Bidder's accident frequency factors for each calendar year submitted on the CAL/OSHA 300/300A Logs and Summaries and its three (3) year average using the Accident Frequency Factor tables shown below.

Prior to completing Part 5 BID SUBMITTAL FORMS, BF-6 SAFETY DECLARATION OF CONTRACTOR (Safety Declaration) located in the Bid Submittal Forms, the Bidder shall calculate its accident frequency factors for each calendar year listed and its three (3) year average using the Accident Frequency Factor tables below. The results of those calculations should be used to respond to the Accident Frequency question on the Declaration.

##### a) Total Recordable Incident Rate Calculation Table

Using the OSHA Form 300 and 300A logs and the table below, the Total Recordable Incident Rate (TRIR) is calculated for the past three (3) completed calendar years and three (3) year average in the table below. (Please see the California Department of Industrial Relations (DIR) website for more detailed information)

Bid Submitted By: \_\_\_\_\_  
(Name of Firm)

**BF-6 SAFETY DECLARATION OF CONTRACTOR**

The CONTRACTOR shall complete this form in its entirety and submit it to OCSD with its Bid in accordance with the Part 2 – Instructions to Bidders section entitled “Bid Evaluation Process”.

Prior to submitting its Bid, the CONTRACTOR shall safety pre-qualify each of its Subcontractors. The CONTRACTOR shall require each of its Subcontractors to complete Items 5 - 9 of this form, execute and submit the form to the CONTRACTOR in accordance with the Part 2 – Instructions to Bidders section entitled “Bid Evaluation Process”.

CONTRACTOR certifies the following (check the appropriate box):

1. Does the CONTRACTOR have any Serious, Willful, Repeat, Serious and Willful, or Failure to Abate citations of Part 1 (commencing with Section 6300) of Division 5 of the Labor Code, during the past five-year period?

No

Yes SHIMMICK checked "Yes" on their bid.

If Yes is checked, OCSD may require the CONTRACTOR to submit evidence of corrective actions being taken to abate further violations of Part 1 of Division 5 of the Labor Code.

2. Accident Frequency

OCSD will evaluate the CONTRACTOR's accident frequency factors for each calendar year submitted on the CAL/OSHA 300/300A Logs and Summaries and its three (3) year average using the Accident Frequency Factor tables as specified in the Instructions to Bidders.

Prior to completing this Declaration, OCSD recommends that the CONTRACTOR calculate its accident frequency factors for each calendar year listed and its three (3) year average using the Accident Frequency Factor tables located in the Instructions to Bidders. The results of those calculations should be used to answer the following questions:

OCSD requires the CONTRACTOR to have an accident frequency at or below a factor of 1.25 of the national average as published by the California Department of Industrial Relations (DIR) for the specific North American Industry Classification System (NAICS) Codes and applied to the accident history of the last three (3) years.

- A. Does the CONTRACTOR have an accident frequency at or below a factor of 1.00 of the state average as published by the DIR for the specific NAICS Codes and applied to the accident history for the last three (3) years?

Yes

OR



**UNITED STATES  
DEPARTMENT OF LABOR**

[f](#)
[t](#)
[i](#)
[r](#)
[e](#)
[v](#)

Find it in OSHA

[A TO Z INDEX](#)

Occupational Safety and Health Administration

[English](#) | [Spanish](#)

[OSHA](#) ▾
 [WORKER](#) ▾
 [EMPLOYER](#) ▾
 [STANDARDS](#) ▾
 [ENFORCEMENT](#) ▾
 [CONSTRUCTION](#) ▾
 [TOPIC](#) ▾
 [NEWS/RESOURCES](#) ▾
 [DATA](#) ▾
 [TRAINING](#) ▾

### Establishment Search Results

Establishment	Date Range	Office	Zipcode	State
W. M. Lyles Co.	07/01/2014 to 07/31/2019	all	all	all

*Please note that inspections which are known to be incomplete will have the identifying Activity Nr shown in italic. Information for these open cases is especially dynamic, e.g., violations may be added or deleted.*

Sort By: [Date](#) | [Name](#) | [Office](#) | [State](#)

[Return to Search](#) ↻

By Date

Results 1 - 4 of 4

	#	Activity	Opened	RID	St	Type	Sc	SIC	NAICS	Vio	Establishment Name
<input type="checkbox"/>	1	1395805.015	04/24/2019	0950647	CA	Fat/Cat	Partial		238990		W.M. Lyles Co.
<input type="checkbox"/>	2	1359663.015	11/13/2018	0950647	CA	Accident	Partial		238990		W.M. Lyles Co.
<input type="checkbox"/>	3	1318186.015	04/30/2018	0950633	CA	Accident	Partial		236220		W. M. Lyles Co
<input type="checkbox"/>	4	1287613.015	01/12/2018	0950625	CA	Complaint	Partial		236220		W.M. Lyles Co



**OSHA** English | Spanish

Find it in OSHA

A TO Z INDEX

OSHA ▾ WORKER ▾ EMPLOYER ▾ STANDARDS ▾ ENFORCEMENT ▾ CONSTRUCTION ▾ TOPIC ▾ NEWS/RESOURCES ▾ DATA ▾ TRAINING ▾

## Inspection Detail

### Quick Link Reference

1395805.015 | 1359663.015 | 1318186.015 | 1287613.015

### Case Status: OPEN

**Note:** The following inspection has not been indicated as closed. Please be aware that the information shown may change, e.g. violations may be added or deleted. For open cases, in which a citation has been issued, the citation information may not be available for 5 days following receipt by the employer for Federal inspections or for 30 days following receipt by the employer for State inspections.

### Inspection: 1395805.015 - W.M. Lyles Co.

#### Inspection Information - Office: Bakersfield District Office

Nr: 1395805.015	Report ID: 0950647	Open Date: 04/24/2019		
W.M. Lyles Co. Gun Club Rd. & Sherwood Ave. Wasco, CA 93280		Union Status: Union		
SIC: NAICS: 238990/All Other Specialty Trade Contractors Mailing: P.O. Box 80605, Bakersfield, CA 93380				
Inspection Type:	Fat/Cat			
Scope:	Partial	Advanced Notice: N		
Ownership:	Private			
Safety/Health:	Safety	Close Conference: Close Case:		
Related Activity:	Type Accident	ID 1448752	Safety	Health

THIS CASE INVOLVES  
A WORKER WHO DIED  
FROM A HEART ATTACK  
ON THE PROJECT SITE -  
NOT A SAFETY RELATED  
DEATH

### Case Status: OPEN

### Case Status: CLOSED

### Inspection: 1359663.015 - W.M. Lyles Co.

#### Inspection Information - Office: Bakersfield District Office

Nr: 1359663.015	Report ID: 0950647	Open Date: 11/13/2018		
W.M. Lyles Co. 5545 Harris Rd. Bakersfield, CA 93313		Union Status: Union		
SIC: NAICS: 238990/All Other Specialty Trade Contractors Mailing: P.O. Box 80605, Bakersfield, CA 93380				
Inspection Type:	Accident			

Scope:	Partial	Advanced Notice:	N	
Ownership:	Private			
Safety/Health:	Safety	Close Conference:	03/19/2019	
		Close Case:	03/19/2019	
Related Activity:	Type	ID	Safety	Health
	Accident	1397511		

**Case Status: CLOSED**

**Case Status: CLOSED**

**Inspection: 1318186.015 - W. M. Lyles Co**

**Inspection Information - Office: Ca San Bernardino**

Nr: 1318186.015	Report ID: 0950633	Open Date:	04/30/2018		
W. M. Lyles Co		Union Status: Union			
59099 Sunny Slope Drive					
Yucca Valley, CA 92284					
SIC:					
NAICS: 236220/Commercial and Institutional Building Construction					
Mailing: 42142 Roick Drive, Temecula, CA 92590					
Inspection Type:	Accident				
Scope:	Partial	Advanced Notice:	N		
Ownership:	Private				
Safety/Health:	Safety	Close Conference:	10/19/2018		
		Close Case:	05/14/2019		
Related Activity:	Type	ID	Safety	Health	
	Accident	1330732			

**Case Status: CLOSED**

**Violation Summary**

	Serious	Willful	Repeat	Other	Unclass	Total
Initial Violations				1		1
Current Violations						
Initial Penalty	\$0	\$0	\$0	\$750	\$0	\$750
Current Penalty	\$0	\$0	\$0	\$0	\$0	\$0
FTA Amount	\$0	\$0	\$0	\$0	\$0	\$0

**Violation Items**

	#	ID	Type	Standard	Issuance	Abate	Curr\$	Init\$	Fta\$	Contest	LastEvent
Deleted	1.	01001	Other	1509(A)	10/19/2018		\$0	\$750	\$0	10/26/2018	J - ALJ Decision

**Case Status: CLOSED**

**Inspection: 1287613.015 - W.M. Lyles Co**

**Inspection Information - Office: Ca Fresno**

Nr: 1287613.015	Report ID: 0950625	Open Date:	01/12/2018		
W.M. Lyles Co		Union Status: Union			
6395 E. Floradora Avenue					
Fresno, CA 93706					
SIC:					
NAICS: 236220/Commercial and Institutional Building Construction					
Mailing: 315 North Thorne Avenue, Fresno, CA 93706					

Inspection Type: Complaint  
Scope: Partial  
Ownership: Private  
Safety/Health: Health

Advanced Notice: N  
Close Conference: 06/22/2018  
Close Case: 06/28/2018

Related Activity: Type  
Complaint

ID Safety Health  
1299847 Yes

**Case Status: CLOSED**

UNITED STATES  
DEPARTMENT OF LABOR

Occupational Safety and Health Administration  
200 Constitution Ave NW  
Washington, DC 20210  
☎ 800-321-6742 (OSHA)  
TTY  
www.OSHA.gov

**FEDERAL GOVERNMENT**

White House  
Severe Storm and Flood Recovery Assistance  
Disaster Recovery Assistance  
DisasterAssistance.gov  
USA.gov  
No Fear Act Data  
U.S. Office of Special Counsel

**OCCUPATIONAL SAFETY AND HEALTH**

Frequently Asked Questions  
A - Z Index  
Freedom of Information Act  
Read the OSHA Newsletter  
Subscribe to the OSHA Newsletter  
OSHA Publications  
Office of Inspector General

**ABOUT THE SITE**

Freedom of Information Act  
Privacy & Security Statement  
Disclaimers  
Important Website Notices  
Plug-Ins Used by DOL  
Accessibility Statement

# contractors

**Megan Cassidy and Lauren Hernández**

Aug. 16, 2018 | Updated: Aug. 16, 2018 9:42 p.m.



The Twin Peaks Tunnel

Photo: Jessica Christian / The Chronicle

San Francisco Municipal Transportation Agency officials said Thursday they will beef up background checks on potential contractors following revelations that a hired contractor, Shimmick Construction, had a history of safety violations.

The move comes at the direction of Mayor London Breed, less than a week after a signal technician was killed while working on the construction of the Twin Peaks Tunnel.

## Unlimited Digital Access for 95¢

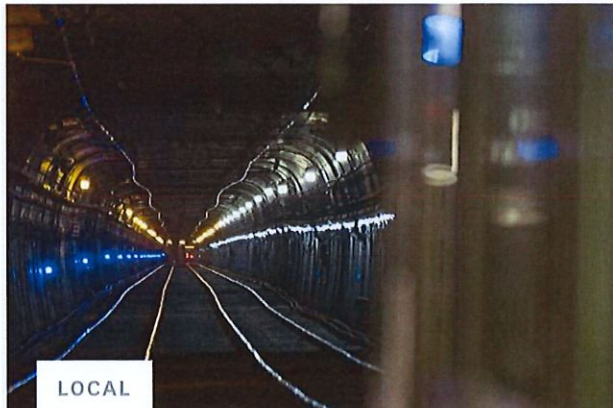
Read more articles like this by subscribing to the San Francisco Chronicle

SUBSCRIBE

Until now, SFMTA officials said their application process counted on potential bidders to truthfully respond to a prequalification questionnaire.

“The SFMTA uses an industry-wide standard that takes into account their workers’ compensation claims compared to the size of its overall operations,” SFMTA spokesman Paul Rose said in an email. “These contractors represented that they met those requirements.”

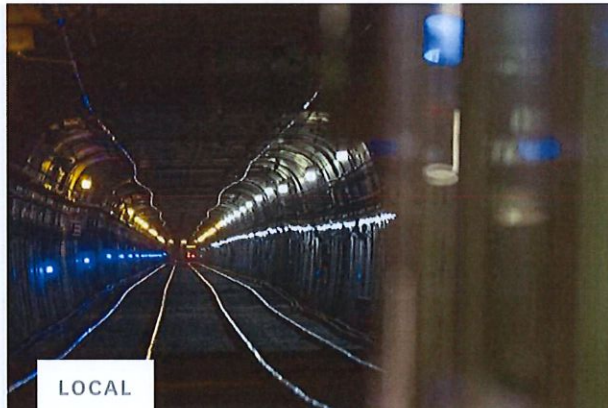
### Related Stories



LOCAL

BY SARAH RAVANI

**Construction worker dies while working in Twin Peaks Tunnel in SF**



LOCAL

BY STEVE RUBENSTEIN

**Muni contractor killed by steel beam in Twin Peaks Tunnel...**



LOCAL

BY RACH  
**Twin ]  
comp  
shorta**

Rose pointed to a pre-bidding document that asked Shimmick Construction officials and a business partner, “In the past ten years, has the Potential Bidder ... been cited for any serious and willful safety violations by Cal-OSHA?” The company checked the box for “no.”

Local Sporting Green Politics Biz+Tech US & World Opinion Datebook Food Lifestyle Vault: Ar

In one case it's appealing, a Shimmick Construction employee lost control of a forklift in November 2016 and died after getting ejected and pinned against a dirt wall, according to OSHA. Shimmick Construction was cited for six violations — three of which were serious — resulting in a fine of \$48,400.

Records show at least one "serious/willful" violation was upheld by an appeals board following what Cal/OSHA described as a dangerous excavation in 2011.

Shimmick Construction's history was first reported by the San Francisco Examiner and NBC Bay Area.

In an email Thursday afternoon, Rose said the department will now start fact-checking the bidders' safety backgrounds.

"Rather than rely on information from potential contractors, we are taking steps now to change the policy and ensure that we verify details in the pre-bid documents going forward," he wrote.

Last Friday, 51-year-old Patrick Ricketts was struck by a steel beam at the West Portal side of the 2.3-mile Twin Peaks Tunnel, officials said. Ricketts was pronounced dead at San Francisco General Hospital.

---

## Cal/OSHA citations against Shimmick Construction

Nov. 16, 2016: A forklift employee died when he was ejected and pinned between the vehicle and a wall. Cal/OSHA cited Shimmick for six violations and imposed a \$48,400 fine. Shimmick is appealing the case.

July 8, 2015: Cal/OSHA issued three citations for violations of its Injury and Illness Prevention Program for construction workers, and imposed a \$26,770 fine, which Shimmick is appealing.

Local Sporting Green Politics Biz+Tech US & World Opinion Datebook Food Lifestyle Vault: Ar

Jan. 12, 2015: An employee's hand was severely injured during an excavation that Shimmick and another construction company were working on. Both companies were cited with two violations and fined \$9,450. The case is still open.

**Feb. 6, 2014:** Cal/OSHA issued three citations for violations of a standard that requires testing and examination of cranes and other hoisting equipment. Shimmick was fined \$2,700 and the case was closed a year later.

May 9, 2012: An employee was severely injured by a pipe, resulting in a citation for a health and safety violation and a \$450 fine. The case closed two years later.

Jan. 25, 2012: Cal/OSHA imposed a \$750 fine for six safety violations by Shimmick and another company in a case that closed more than a year later.

August 2011: Cal/OSHA fined Shimmick and another company \$67,500 for a "willful" violation of a standard related to a bridge, tunnel, and/or elevated highway construction. The case closed in 2015.

March 2011: Cal/OSHA fined Shimmick and another company \$197,375 for 14 violations, including some related to heavy construction and control of hazardous substances. The case remains open.

Source: Cal/OSHA

---

Work inside the 100-year-old light rail tunnel was suspended while the accident was investigated, and resumed the following day. The tunnel has been closed for service since June 25, and is scheduled to reopen this month.

Rose said SFMTA plans to complete the \$41 million project on time, and will continue to use Shimmick Construction's services.

In a statement released this week, the spokesman for Oakland-based Shimmick Construction said the company's responses to the city's questionnaire were "accurate," and that "safety is core to everything we do."

Local Sporting Green Politics Biz+Tech US & World Opinion Datebook Food Lifestyle Vault: Ar

Bidding qualification standards in San Francisco may differ by department, but officials from at least one other city entity said they're also reviewing their policies.

In the San Francisco Public Utilities Commission questionnaire, contractors are required to sign under penalty of perjury that their answers are true to their knowledge, according to press secretary Will Reisman.

Reisman said PUC staff review all responses and verify portions of those answers, but added: "We are currently updating our processes to ensure that all safety answers on the questionnaire are verified."

The review process began in July, and was not in response to the Muni death, Reisman said.

*Megan Cassidy and Lauren Hernandez are San Francisco Chronicle staff writers. Email: [megan.cassidy@sfchronicle.com](mailto:megan.cassidy@sfchronicle.com) and [lauren.hernandez@sfchronicle.com](mailto:lauren.hernandez@sfchronicle.com) Twitter: [@meganrcassidy](https://twitter.com/meganrcassidy) [@LaurenPorFavor](https://twitter.com/LaurenPorFavor)*

TOP

**ABOUT**

- Our Company
- Advertising
- Ad Choices
- Privacy Policy
- Careers
- Your Privacy Rights
- Terms of Use
- Your California Privacy Rights

**CONTACT**

- Customer Service
- News Tips
- FAQ
- Homepage Redesign Feedback
- Newsroom Contacts



## Shimmick Violation Summary Period 8/2014 to 8/2019

## EXHIBIT F

Date	Status	Standard Cited	Multiple Violations	Penalty	Note
<b>2019</b>					
5/10/2019	Open	Accident			No further information provided
<b>2018</b>					
8/27/2018	Closed	Other	<b>3203 (A)(4) General Industry Accident Preven Program</b>	\$ 410.00	
8/10/2018	Violation Under Contest	Serious Serious Serious Serious	<b>3203 (A)(4) General Industry Accident Preven Program</b> 4991 (A) 8473(A) 8473(A)	\$ 25,000.00 \$ 25,000.00 \$ 7,650.00 \$ 7,650.00	<b>Fatality</b>
6/21/2018	Closed	Referral			
3/20/2018	Violation Under Contest	Serious Serious	<b>1509 (A) (18B-CA) Construc, Accident Preven Program</b> 4981 C	\$ 18,000.00 \$ 18,000.00	<b>Fractures to leg tibia and fibula</b>
<b>2017</b>					
9/11/2017	Closed	Planned			
7/19/2017	Closed	Serious	19260250 A01 General requirements for storage	\$ 11,408.00	<b>\$10,500 penalty paid</b>
7/11/2017	Closed	Other	19260405 G02 IV Wiring methods,c components, and equipment for ger	\$ 4,889.00	<b>\$4,889 penalty paid</b>
1/24/2017		Other	5001 E	\$ 300.00	<b>Fingers amputation</b>
<b>2016</b>					
11/21/2016	Violation Under Contest	Other Other Other Serious Serious Serious	43000029 B01 3650 (T)(15) 3650(T)(33) 3328(A)(2) (18B-CA) Servicing Multi-?Single Piece Wheel Rims 3650(T) 3650(T)(11)	\$ 400.00 \$ 600.00 \$ 600.00 \$ 14,400.00 \$ 14,400.00 \$ 18,000.00	<b>Fatality</b>
10/21/2016	Violation Under Contest	Serious Serious Other Other	296-155-53408(2)(D)(I) 296-155-53401(5)(I) 296-155-53401(5)(A) 296-155-53401(5)(G)	\$ 4,800.00 \$ - \$ - \$ -	
7/29/2016	Closed	Planned			
4/20/2016	Pending Abatement of Violations	Other Other Serious Serious	1511(B) 5042(A)(9) 3385(A) 4999(1)	\$ 560.00 \$ 1,125.00 \$ 18,000.00 \$ 18,000.00	
<b>2015</b>					
7/8/2015	Violation Under Contest	Serious Serious Serious	<b>1509(A) (18B-CA) Construc, Accident Prevention Program</b> 16160001 N03 16160001 O	\$ 7,650.00 \$ 9,560.00 \$ 9,560.00	
5/8/2015	Closed	Complaint			
4/21/2015	Open	Other Serious Serious	<b>1509(A) (18B-CA) Construc, Accident Prevention Program</b> 1620(A) 1712 C(1)	\$ 475.00 \$ 7,650.00 \$ 7,650.00	
1/30/2015	Open	Other Other Serious	1512(D) <b>1509(A) (18B-CA) Construc, Accident Prevention Program</b> 1541(A)	\$ 450.00 \$ 450.00 \$ 9,000.00	<b>Partial finger amputation</b>
<b>2014</b>					
8/21/2014	Closed	Planned			