

**Metro**Los Angeles County
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TO: BOARD OF DIRECTORS

FROM: PHILLIP A. WASHINGTON ^{PAW}
CHIEF EXECUTIVE OFFICER

SUBJECT: RESPONSE TO BOARD MOTION ON CRENSHAW/LAX
PROJECT SAFETY

ISSUE

At the April 30 Metro Board of Directors Meeting, Directors Ridley-Thomas and Knabe sponsored a motion, which the Metro Board of Directors approved, regarding the Crenshaw/LAX project. The motion called for the following five actions as recorded by the Board Secretary:

1. Audit the procurement process that led to the selection of Walsh-Shea;
2. Review the process by which the agency has incurred an expense of \$400,000 pursuant to the safety concerns and cause that to be the contractor's;
3. Make this a high priority with a corrective action plan submitted no later than 30 days of new CEO Phillip Washington assuming full time responsibility or at the first Board meeting in which he is present, whichever day comes first;
4. Have all of this subject to review of Counsel and be prepared to explore what constitutes a potential breach of contract; and
5. Report back monthly at Construction Committee.

DISCUSSION

At the May Metro Board of Directors meeting, I presented the substance of the Crenshaw/LAX project contractor team, Walsh/Shea's (WSCC) corrective action plan. At that time, the Board of Directors requested a written correspondence summarizing this plan as well as a response to the other elements of the Board's motion requesting action from other Board officers including the Inspector General and County Counsel. This letter addresses the Board of Director's requests, and provides the results of my personal assessment of WSCC's safety program on the C/LAX Project.

WSCC Corrective Action Plan

Following the utility strike on April 9, Metro executives, a Board Member and Board Staff Member met with WSCC executives on April 10 to discuss a path forward to lifting the stop work notice. On April 13 we received the first written response to the stop work order, and after Metro staff review, we substantively lifted the stop work notice. The April 13 correspondence has already been communicated to the Board as part of the May Board Report on Crenshaw/LAX safety.

Metro's Executive Staff met again with WSCC's executive staff on May 18 and received a comprehensive overview of WSCC's safety training, inspection and communication protocols. At that time, we received written documentation of many of their safety protocols which have been subsequently reviewed by Metro's Corporate Safety Staff. On May 21, I met personally with the respective Presidents of the Walsh Group and J. F. Shea to discuss safety matters on the project and improve the quality and frequency of our safety communication. We further discussed our dispute resolution process and jointly resolved to escalate problems more quickly through our respective chains of command and to now include myself and my counterparts at the Walsh Group and J. F. Shea as part of a higher level dispute resolution program.

Metro continued to ask WSCC for additional information and recommended changes to their corrective action plan. In response to our comments, WSCC communicated in writing, formally, again on May 25. The May 25 communication from WSCC is attached to this letter and will also be included in the June Board Report on Crenshaw/LAX safety (Attachment A). WSCC's May 25 communication included many attachments, which were reviewed by staff related to new safety procedures, safety training documents, safety disciplinary communications and more.

In their letter and attachments, WSCC substantively addressed three specific Metro concerns: Discipline for Safety Violations, Improved Utility Investigation Procedures and WSCC's Professional Safety Staffing. Metro had raised these issues to WSCC both before and subsequent to the April 9 utility strike. Also in their letter of May 25, WSCC addressed specific requests made by Director Ridley-Thomas. The specific interventions performed by WSSC to address both staff and Director Ridley-Thomas' comments are enumerated below.

1. Full Staffing to WSCC's Safety Staffing Plan – At least as of May 25, WSSC was fully staffed to their complement of two (2) Gas Testers, two (2) Emergency Medical Technicians, and six (6) other Safety Specialists and Managers. WSCC has committed to a continuous review process of safety staffing needs on the project and anticipates further staffing increases with the commencement of 24/7 tunneling. We have also jointly agreed to coordinate our safety staffing initiatives so that no loss of coverage ensues in the event a WSCC employee applies for a Metro safety position, or vice versa.
2. WSCC Discipline for Safety Violations

- a. The two individuals associated with the April 9 utility strike have been terminated for gross violations of safety procedures.
- b. Beginning April 27, and every subsequent Monday, WSCC began verbally reviewing different sections of its Injury and Illness Prevention Program (IIPP) with relevant craft and supervisory staff. Elements of the IIPP include accountability and consequences for safety violations. This extra training will continue at least until the beginning of August, 2015.
- c. WSCC began sharing safety discipline data with Metro Staff on April 17 so that we can ensure compliance with the provisions of their IIPP related to discipline when safety inspections identify deficiencies in compliance with safety rules and regulations.
- d. A paycheck mailer was distributed to WSCC employees reminding them of consequences for their failure to abide by jobsite rules, including, but not limited to safety.

3. Improved Utility Investigation and Assessment Procedures

- a. On April 13, WSSC introduced a new training module for sixty (60) craft and supervisor attendees related to their "Utility Hanger" procedures.
- b. On April 22, WSSC introduced a very detailed "Utility Competent Person" training module with forty-seven (47) craft/supervisors in attendance. Metro has received and reviewed copies of this training presentation.
- c. WSCC has now identified a utility "Czar" for the project, Mr. Jacob Dean who has project-wide responsibilities for field coordination, surveying and identification of all known utilities in new areas of excavation.
- d. WSCC has revised its utility investigation and assessment procedures which now require a quality review by the new utility Czar of their internal Pre-Excavation Checklist. Mr. Dean will also be required to perform a pre-excavation consultation for each excavation and will require Mr. Dean to perform a site walk with the responsible foreman prior to excavation.
- e. WSCC agreed to perform additional potholing work at 104th for vibratory piles and at the Expo Station for jet grouting as well as pre-construction potholing in advance of any drilling, driven piles and excavation unless a detailed task-specific plan potholing plan is prepared that indicates potholing is not necessary.

4. WSCC's Responses to Requests by Director Ridley-Thomas – Director Ridley-Thomas, in a letter to the Presidents of their respective Companies, asked for five immediate safety interventions on the Crenshaw/LAX project. Two of which

have already been addressed in this letter; improved utility identification and assessment and full WSCC safety staffing. Director Ridley-Thomas' three additional requests were addressed as follows:

- a. The current Project Manager, Mr. Joe Lee, has committed to attending Metro's All Hands Safety Staff Meeting monthly beginning with the June 18 Meeting at the Project Field Office.
- b. Each member of the WSCC Executive Team currently performs at least one monthly field safety inspection on their own, end-to-end on the project, which usually takes upwards of four hours. Frequently, their Executive Team conducts more than one monthly. In addition, Mr. Lee has now agreed to perform two additional monthly field safety inspections with Metro's Executive Director of Risk Management and Safety and the Director of Construction Safety.
 - i. The first of these sessions was completed on June 9 and included a detailed safety assessment of Crenshaw/Expo excavation and the cut and cover section adjacent to Leimert Park. A very high degree of personal protective equipment compliance was observed as was adequate fall protection including barrier construction. A minor issue related to a small break in a security perimeter fence was immediately corrected. Daily task hazard analyses documentation was completed as was the pre-excavation checklist. Another field safety inspection is scheduled for June 15.
 - ii. I will also perform periodic field safety assessments. The first of which took place this week on Wednesday, June 10 when I spent four hours touring the entire alignment and talking to executives, foremen and workers on site. Prior to my safety walkthrough at the Crenshaw/Expo station box, I was thoroughly briefed by the WSSC executive management team on their corporate safety program as well as the additional steps WSSC has taken to improve safety performance on the project. During my review, I had the opportunity to discuss safety matters with local Project Labor Agreement (PLA) employees including their safety training, Personal Protective Equipment use, their familiarity with the daily task hazard analysis process among others. I found no significant unmitigated safety hazards throughout my safety walkthrough.
- c. WSCC currently has a safety communication plan that includes the following major activities that are performed on a daily, weekly and monthly basis: Daily Job Hazard Analyses, Weekly Field Monday Safety Huddle, Monthly Executive Safety Committee, Monthly Subcontractor Safety Committee and Monthly Foreman Meeting. Safety promotional materials are also displayed prominently at many locations along the alignment.

5. Other WSCC Safety Improvement Activities WSSC Has Undertaken

- a. WSCC as of June 2 has supplied Metro their internal Review Employee Actions Performance (REAP) documentation. Their REAP plan is a field inspection and monitoring program used extensively on the project. Metro is currently reviewing our processes to evaluate the quality of these field safety assessments.
- b. WSCC has now extended an invitation to Metro Executive Staff to attend their internal Monthly Executive Safety Meeting. The first meeting to include Metro participation occurred on June 3.

Audit of the Crenshaw/LAX Procurement Process and Selection of WSCC

The Office of the Inspector General (OIG) has now drafted an audit plan and scope for this activity (Attachment B) with an expected completion date in mid-September. A large number of documents have already been submitted to the OIG from Metro's Vendor and Contract Management (V/CM) Department. Metro staff will continue to assist the OIG in any way we can so that this task can be completed as quickly and thoughtfully as possible. As a Board Officer and independent reviewer of our selection process, future communication to the Board of Directors regarding the progress of this audit will come directly from the Office of the Inspector General (OIG).

Increased Safety Quality Assurance (QA)/ Quality Control (QC) by Metro Staff

Metro responded to the Crenshaw/LAX project safety shutdown by requiring the contractor to implement the remediation program elements outlined in this letter. Internally, the Metro executive team, including the Interim Deputy CEO, the Executive Director of Finance and Budget, the Executive Director of Engineering and Construction and the Executive Director of Risk Management and Safety quickly evaluated additional steps that Metro could take to improve the enforcement of safety rules and procedures on the project. Quickly we began an internal review of our own safety oversight.

Our traditional safety field staffing model for Design/Build projects has two (2) dedicated Metro safety specialists headed by an onsite Safety Manager to perform limited safety Quality Assurance and Quality Control on the project. Our model recognizes that the primary responsibility and accountability for safety on our projects is our contractors. Consistent with this approach, our contractors bear the sole financial burden for safety related risks.

In this context, Metro's field staff has a variety of duties such as the review of contractor safety submittals, safety report generation, a review of contractor accidents/incidents report quality, reviews of contractor safety training records, resolving disputes with the contractor regarding applicable safety regulations and others. Our field safety representatives also perform field safety inspections which are logged and reviewed

with contractor staff. These three field personnel are the safety-centric eyes and ears of Metro on the project, but are insufficient to provide substantial coverage depth during peak daily work times especially on a project approaching ten miles in length. Further, with only three FTEs, no second shift coverage is possible, nor is weekend coverage and only partial third shift coverage.

This staffing model has proven successful on many of our design build projects including the Eastside Extension to the Gold Line. On it, with millions of hours worked, no lost time injuries occurred. Subsequent to the serious utility strike on April 9, we now believe that additional Metro oversight resources are prudent so that we can better assess the contractor's safety compliance during peak work hours, and also during periods when we currently have no coverage at all. Three (3) additional FTEs on the Crenshaw project were added to the FY16 budget, which the Board of Directors has now approved, to accomplish just that, a nearly 24/7 presence of Metro Safety Specialists on the Crenshaw/LAX project. This increased presence will improve the likelihood that we will be able to identify a hazardous condition for the contractor to fix prior to a serious accident or injury. Our increased presence also sends an important message to our partners at WSCC. That is, we have dramatically increased our attention to safety on the Crenshaw/LAX project for cause, and have expanded our ability to hold line management accountable for safety performance.

Until these positions become available, we will be using temporary staffing supplied by our Construction Management Support Services Contract to provide these three (3) necessary safety oversight positions. We have recently added the first two (2) temporary Construction Safety experts and are prepared to make an offer to a third temporary construction safety specialist shortly. The recruitment for the three (3) permanent Senior Construction Safety Specialists is underway.

The estimated cost of these three (3) additional safety FTEs is roughly \$400,000 annually. We have requested, in writing, that WSCC reimburse us for these costs and on March 26 they, in writing, declined to do so. WSCC's declination of reimbursement brings up the final issue in the Metro Board of Directors' motion.

Review the process by which the agency has incurred an expense of \$400,000 pursuant to the safety concerns and cause that to be the contractor's; Have all of this subject to review of Counsel and be prepared to explore what constitutes a potential breach of contract

County Counsel is in the process of reviewing both the facts and the various contract documents related to WSCC's safety performance in order to determine WSCC's compliance with its contractual obligations in this matter. As part of this analysis, County Counsel will also examine whether our incremental costs of increasing safety staffing on the Crenshaw/LAX project is reimbursable from the contractor. To facilitate County Counsel's review and analysis, Counsel has requested and Metro staff is supplying email correspondence related to safety, inspection reports performed by Metro's Engineering and Construction Department, Metro Construction Safety's audit

log, WSSC's safety incident reports, dozens of safety submittals prepared by the contractor for Metro approval, Metro's Construction Safety Manual, and many others. County Counsel has advised me that they will provide a separate confidential memo to the Board on the status of their review. Future communications regarding Counsel's review of this matter will come directly from the Office of County Counsel. Additionally, County Counsel will review the OIG audit when completed and provide a separate memo regarding any issues that may arise therefrom.

ASSESSMENT CONCLUSION AND NEXT STEPS

I believe that WSSC has taken significant steps to improve safety on the C/LAX project. Their new safety action plan is comprehensive, specific, and verifiable. In speaking with many of the site workers, they showed a thorough knowledge of the safety plans and measures. Many of them seemed embarrassed that their safety performance and record has been tarnished. There also seemed to be an atmosphere of renewed emphasis on safety. However, Metro Staff will continue to take an aggressive approach to safety oversight and will agendaize and report on Crenshaw/LAX safety matters monthly to the Construction Committee, until further notice. We will also continue our recruitment of the three (3) permanent Senior Safety Specialists. The OIG and County Counsel will continue their efforts to complete the Board directed audit and legal analysis, respectively.

ATTACHMENT

- A. WSSC Corrective Action Plan Letter of May 25
- B. OIG Audit Plan and Schedule



ATTACHMENT A

May 25, 2015

Los Angeles County Metropolitan Transportation Authority
One Gateway Plaza
Los Angeles, CA 90012

Attn: Mr. Gregory Gordon Kildare – Executive Director, Enterprise Risk & Safety Management
Mr. Charles H. Beauvoir – Deputy Executive Officer, Project Management

SUBJECT: Crenshaw/LAX Safety – Path Forward
REF: E-Mail Message from Mr. Kildare to Mr. Lee (WSCC), dated May 18, 2015

Dear Mr. Kildare and Mr. Beauvoir:

Walsh/Shea Corridor Constructors (“WSCC”) is in receipt of your e-mail of May 18, 2015, in which you request detailed steps that WSCC has taken and commits to take going forward to ensure a positive safety culture on the Crenshaw/LAX Transit Project and to address the concerns of Los Angeles County Metropolitan Transportation Authority (“LACMTA”) and the LACMTA Board. This letter is intended to serve as a comprehensive response to all of your requests.

First and foremost, WSCC would like to thank you for the opportunity, provided earlier this week, to convey the critical values both entities of our Joint Venture share when it comes to Safety practices and culture in general. These matters are of paramount importance to both the Executive Management on this project and in our respective corporate offices. Our project goal is and always has been “Zero Tolerance” for job-site safety incidents and we strongly believe that our past record(s) speaks to that commitment. In fact, our Project recordable incident rate is nearly four (4) times lower than the national industry average, also well below the minimum safety goals set forth by our corporate offices.

In recent years both Walsh and Shea have received accolades and recognition for exemplifying a culture of safety on major construction projects across the United States, most notably the Cal-SHARP award that was given to the LAX Terminal Improvements team. Additionally, both companies are members of the Safety Summit committee (an exclusive group of 40 construction companies, nationwide) that meets throughout the year to share best practices with a vision for an Incident Free Environment. The sharing of these best practices and lessons-learned culminates in an annual event (across these 40 companies projects) called “Safety Week”. On May 8th, WSCC concluded the second successful Safety Week here at Crenshaw-LAX.

Prior to LACMTA issuing the Stop Work Notice on April 9, WSCC had identified several safety challenges/trends in early March and we were already taking steps to alleviate these concerns. These steps included the following:

- On March 20 and March 26, WSCC performed self-imposed phased Project-wide safety stand-downs with an emphasis on mitigating safety incidents, increasing awareness, and reinforcing a

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ATTACHMENT A

job-wide safety culture, including specific reviews of task hazards, PPE requirements, and disciplinary actions associated with PPE violations;

- On March 26, WSCC conducted mandatory supervisory safety culture training for managers and superintendents, with an emphasis on planning, accountability, maintaining our safety culture, and diligently completing our pre-excavation checklist (see Exhibit A); and
- On April 1, WSCC's Senior Management and Executives met after normal business hours to discuss our current safety culture along with the existing practices and protocols we have in place. Key topics of our discussion included the need to reinforce and improve upon our existing weekly protocols which include REAP (Review Employee Actions Performance) Card completion as well as the Safety Audit inspections we require of all Management personnel. Special consideration was focused on the need to communicate and empower not only Management but also Craft personnel to take action whenever it is deemed necessary.

Subsequent to the April 9 Stop Work Notice, the following remedial steps have been implemented, or will be shortly:

- On April 13, WSCC introduced a new training module ("Utility Hanger" training) with 60 craft/supervisors in attendance (see Exhibit B for summary of training);
- On April 22, WSCC introduced a second new training module ("Utility Competent Person" training) with 47 craft-supervisors in attendance (see Exhibit C);
- WSCC assigned Jacob Dean as the utility project lead for field coordination, survey and identification of all known Utilities prior to commencing work in new areas; and
- WSCC revised its utility identification procedure to involve consistent consultation with Jacob Dean, including pre-activity site walks with Jacob Dean and the applicable Foreman and the completion of the Pre-Excavation Planning Checklist (see Exhibit D).

With respect to the staffing of safety professionals, WSCC is now fully staffed according to the Safety Staffing Plan (8 FTEs) and will continue to evaluate staffing needs, especially with regard to tunneling, prior to the start of 24-hour, Monday-to-Friday tunneling operations. Furthermore, WSCC and LACMTA have agreed to coordinate hiring activities for technical Safety Staff to ensure that there is no loss of coverage in the event that a WSCC employee applies for an LACMTA position, or vice versa.

WSCC also has employee discipline procedures in place to minimize safety violations. These include the following:

- From the beginning of the Project, WSCC has had a zero tolerance policy for serious safety violations;
- WSCC has attached information to paychecks regarding the enforcement of discipline for safety violations (see Exhibit E);

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ATTACHMENT A

- Beginning April 27, WSCC has started to review critical components of the IIPP with staff at the Monday morning safety huddle and plans to continue this practice for the next three (3) months; and
- WSCC began sharing employee and subcontractor safety discipline data with LACMTA staff on April 17 and continues to share this information.

WSCC understands that a positive safety culture begins with leadership's commitment to safety. To that end, WSCC has made the following efforts:

- WSCC's Project Executive, Project Manager, Deputy Project Manager and Construction Manager will commit to attendance at LACMTA's monthly All-Hands Safety Meeting;
- WSCC's internal Executive Safety Review will now be attended by LACMTA's Executive Director and Construction Safety Director, with an invitation being extended shortly;
- WSCC will now review its internal Safety Report Cards with LACMTA staff;
- WSCC's Project Manager and Deputy Project Manager commit to a minimum of one monthly field safety inspection;
- WSCC has committed to two (2) additional monthly executive-level field inspections with LACMTA's Executive Director and Construction Safety Director.

Please know that WSCC remains committed to fostering a positive safety culture and preventing any safety incidents on the Crenshaw-Lax project. WSCC also appreciates LACMTA's cooperation in ensuring that we work together towards our collective goal of providing a safe, incident-free work environment for all involved. We hope that this letter has served to both answer your questions and to alleviate your recent concerns but should there be any questions please contact me at your earliest convenience.

Sincerely,

R. Joe Lee
Project Manager

Attachments: March 26 Safety Culture Training (Exhibit A)
Summary of Utility Hanger Training (Exhibit B)
Utility Competent Person Training (Exhibit C)
Pre-Excavation Planning Checklist (Exhibit D)
Craft Employee Conduct and Work Rules (Exhibit E)

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STATUS REPORT ON
REVIEW OF PROCUREMENT PROCESS FOR THE
CRENSHAW/LAX CONSTRUCTION PROJECT CONTRACT (No. 0988)
PROJECT NO. AUD-15-11

- I. Based on the April 30, 2015 Board Meeting regarding Non-Consent Item 4 – Crenshaw Project, the Office of Inspector General (OIG) has initiated a preliminary review of the procurement process for the Crenshaw/Lax Construction Contract No. 0988. The objectives of this review are:
 1. To determine if Government regulations as well as Metro’s policies and procedures were adhered to during the procurement process.
 2. To verify if important information and documents required in the Request for Qualifications (RFQ) and Request for Proposal (RFP) were received from contractor and vetted by Metro Staff (specifically in the area of safety).
- II. To achieve the above objectives, this review involves reviewing and documenting the timeline of significant events along the procurement process to determine whether government regulations, Metro’s policies and procedures, and contract requirements have been met and adhered to at each important phase. The following is a breakdown of the areas under review:
 1. Request For Qualifications (Issued December 23, 2011)
 - A. Because the contract was issued as a Design-Build, verify whether requirements of California Public Contract Code Section 20209.7 were adhered to (including the pre-qualification Questionnaire);
 - B. Verify whether Metro’s policies and procedures were adhered to; and
 - C. Determine if the contractor provided all required information and documents (specifically in area of safety).
 2. Request For Proposal (Issued June 22, 2012)
 - A. Verify that important documents/information required in RFP were received and verified (specifically as it relates to safety);
 - B. Review Metro’s safety related forms that are required to be completed by contractors for areas of clarification and enhancement;
 - C. Review contractor’s safety plan and the responses provided on safety forms for consistency and adherence to contract requirements; and

- D. Verify that contractor's key personnel were vetted and that written confirmation of key personnel was received by Metro.
-
- 3. Amendment #8 for Best and Final Offers (Issued February 22, 2013)
 - A. Review criteria used for final selection; and
 - B. Review additional documents and information provided during this phase.
-
- III. The Draft report will be prepared and then reviewed by OIG's management. The report will cover OIG's assessment as to whether government regulations and Metro's policies and procedures were adhered to throughout the procurement process. The OIG goal is to complete this review and issue a report to the Board in or about September 2015.