

CONSTRUCTION AND INFRASTRUCTURE

Chambers USA has recognized Sheppard Mullin's Construction practice for both the high quality and the remarkable range of its work including our expansive client base encompassing a variety of owners, contractors, subcontractors, design professionals and government agencies. According to the *Chambers USA* Guide, "It has built an excellent reputation for litigation, arbitration, mediation, contracts and mechanics' lien law across a breadth of public and private projects." Also, PLC (Practical Law Company) has honored the firm by listing Sheppard Mullin as one of the top Cross-border Construction and Projects firms. Additionally, many of the members of our Construction practice are consistently recognized among their peers as among the top lawyers in their region by *Super Lawyers* and other publications.

Sheppard Mullin represents owners, contractors, subcontractors, design professionals, governmental agencies, lenders and sureties in a broad range of construction law matters. Our attorneys regularly negotiate and draft construction, design and other professional service contracts, as well as advise on California mechanic's lien law, including liens, stop notices and payment and performance bonds.

The firm also represents clients in the litigation, arbitration and mediation of a wide range of construction related disputes pertaining to public and private works. We have resolved issues pertaining to bid protests, contract defaults, professional liability, construction defects, extra work claims, changed condition claims, delay claims, mechanic's liens and stop notice claims, surety bond claims and homeowner association claims, among others.

Pre-Construction Phase

We advise clients in establishing the most appropriate business entity for a given project, as well as on licensing issues and on the unique aspects of public works improvement. In addition, we negotiate with governmental agencies concerning entitlements, development rights, permitting and variances. Because environmental and land use issues permeate development projects, Sheppard Mullin provides deep expertise in these areas in order to ensure the best possible assessment of our clients construction endeavor.

Our Construction attorneys advise owners and contractors on all aspects of the bidding process and the awarding of projects. We assist with the development of bids, including the withdrawal of a bid before and after submission. Our attorneys also prosecute and defend bid protests and, where appropriate, can effectively coordinate outside support on behalf of an affected party.

We regularly draft the full spectrum of construction related contracts such as prime, construction, design/build, architect/engineer and construction management contracts, as well as all related subcontract agreements. Whether we represent the owner or the contractor, whether the project will be paid on a lump sum, cost plus or other basis, whether the contract is a standard form AIA, AGC or EJDC agreement or is specially drafted, our attorneys both analyze and draft all provisions involved to ensure the best possible deal for our client. Widely respected in the construction law community, Sheppard Mullin negotiates head to head with the "other side," which consistently results in more effective legal representation.

Our attorneys also work to ensure that a project or project participant is properly insured and/or bonded. We are knowledgeable of industry trends and offer expertise with respect to commercial general liability, property and professional liability insurance policies. We advise on obtaining coverage for pollution liability, including mold. Our attorneys also advise on payment, performance and Miller Act bonds, including when these bonds should be obtained and how they function. We have experience in both making claims on bonds and defending sureties and their principals.

Construction Phase

Sheppard Mullin's attorneys are well versed in California mechanic's lien law. We offer training and compliance

advice in order to help clients preserve their statutory rights with respect to the execution, recording and service of preliminary notices, mechanic's liens, stop notices and construction bonds, perfection of claims and, in the case of owners and lenders, disbursement obligations. We also provide litigation expertise in prosecuting or defending lien foreclosure actions, stop notice actions or bond enforcement actions.

We believe that claims avoidance begins with good project management. Having litigated hundreds of construction disputes, Sheppard Mullin provides sound advice in avoiding claims or preparing to prosecute or defend them. Project documentation is key and we help educate clients on how to properly document the job so that the history is available for use in analyzing, proving or defending potential claims. As a corollary, reasonable and timely responses to unanticipated events can resolve a potential claim before it even arises. Proper handling of requests for information, unforeseen site conditions, change order proposals and scheduling conflicts is essential to minimize disputes or resolve them informally.

Additionally, we assist employers relative to compliance with affirmative action plans and audits initiated by the federal OFCCP, and our attorneys have extensive experience in dealing with citations issued by Cal OSHA and federal OSHA. This includes successfully representing employers, through trial, in numerous death and serious injury cases. Sheppard Mullin also represents employers in related workers' compensation proceedings where serious and willful violations are alleged.

Post-Construction and Litigation

Where disputes arise, our attorneys take every action necessary to ensure early resolution. We regularly assist clients in both mediated and informal negotiations, prepare clients for presentations before dispute resolution boards and sometimes arbitrate limited issues even while the project is still ongoing.

Unfortunately, not all disputes are resolved while construction is in process. Claims for breach of contract or warranty, construction or design defects, delays, extra work and even fraud or false claims are commonly asserted. Contractors, subcontractors, owners, lenders and sureties are often brought into the dispute where cross claims may abound and insurance coverage may be triggered. Recognizing that litigation costs can mount rapidly, Sheppard Mullin carefully plans discovery, motion work and trial preparation to minimize financial drain, assigns tasks among lawyers and paralegals to maximize efficiency and limit expense and utilizes alternative dispute methods, where appropriate.

Our lawyers represent clients in all types of construction litigation, mediation and arbitration. Our litigation expertise has involved construction disputes arising out of the development of power plants, schools and libraries, petroleum processing facilities, sewage disposal systems, high rise buildings, condominium projects, residential subdivisions and mixed use developments, among many others. We have resolved disputes pertaining to the broad range of issues, such as:

- Bid protests (state and federal)
- Labor/prevaling wage disputes
- Extra and changed work
- Defective work claims, including mold
- Delay, disruption and acceleration claims
- Mechanic's liens, stop notice and bond claims
- Professional liability of architects and other professionals
- State and federal false claims
- Breach of contract claims
- Insurance and bond claims

Sheppard Mullin attorneys are highly skilled in negotiating settlements, whether by direct negotiations between the parties or through court ordered or voluntary mediation. Once a settlement is reached, we prepare the settlement agreement documenting the terms. We also advise on whether a good faith settlement determination from the court is

warranted and, if so, will seek such determination. Because the firm has prepared settlement agreements in all sorts of contexts, our attorneys are able to navigate the process without having to reinvent the wheel, allowing for a high degree of cost and time efficiency.