


Labor Commissioner, State of California Department of Industrial Relations Division of Labor Standards Enforcement Bureau of Field Enforcement- Public Works 2031 Howe Ave #100 Sacramento, CA 95825 TEL: (916) 263-6675 FAX: (916) 263-2906	Edmund G. Brown Jr., Governor 
DATE: April 5, 2017	In Reply Refer to Case No: 40-47828-042

CIVIL WAGE AND PENALTY ASSESSMENT

Awarding Body California State University, East Bay	Work Performed in County of Alameda
PROJECT NAME Warren Hall Replacement Building	Project No. C134297
Prime Contractor Sundt Construction Inc.	
Subcontractor Montez Glass, Inc., a California Corporation	

After an investigation concerning either the payment of wages to workers employed in the execution of the contract for the above-named public works project or compliance with the apprenticeship standards found in Labor Code section 1777.5, or both, the Division of Labor Standards Enforcement (the "Division") has determined that violations of the California Labor Code have been committed by the contractor and/or subcontractor identified above. In accordance with Labor Code section 1741, the Division hereby issues this Civil Wage and Penalty Assessment.

The nature of the violations of the Labor Code and the basis for the assessment are as follows:

Wage Violations: Violation of Labor Code Section 1774 for failure to pay the prevailing wage pursuant to determination Glazier journeyman classification ALA-2012-2 and Glazier apprentice classification 2012-2. Contractor failed to pay travel and subsistence to workers who worked on this project.

Pursuant to Labor Code Section 1775, penalty is assessed at \$200 per violation.

Apprenticeship Violations: Violation of Labor Code Section 177.5 for failure to submit Request for Dispatch of an Apprentice form DAS 142 within the required timeframe and failure to employ apprentices in compliance with apprentice to journeyman ratio for Glazier classification.

Pursuant to Labor Code Section 1777.7, penalty is assessed at \$40 per violation.

The attached Audit Summary further details the basis for this Assessment and itemizes the calculation of wages and penalties due under Labor Code sections 1775 and 1813.

The Division has determined that the total amount of wages due is: \$232,964.05

The Division has determined that the total amount of penalties assessed under Labor Code sections 1775 and 1813 is: \$185,475.00

The Division has determined that the amount of penalties assessed under Labor Code section 1777.7 is: \$10,120.00

The Division has determined that the amount of penalties assessed under Labor Code section 1776 against Montez Glass, Inc., a California Corporation is: \$0.00

Please refer to page 5 for specific withholding obligations pertaining to these amounts.

STATE LABOR COMMISSIONER

By 
 for Maria Mercado
 Deputy Labor Commissioner I

Notice of Right to Obtain Review - Formal Hearing

In accordance with Labor Code Section 1742, an affected contractor or subcontractor may obtain review of this Civil Wage and Penalty Assessment by transmitting a written request to the office of the Labor Commissioner that appears below within 60 days after service of the assessment.

To obtain a hearing, a written Request for Review must be transmitted to the following address:

Labor Commissioner - State of California
Civil Wage and Penalty Assessment Review Office
PO Box 255809
2801 Arden Way
Sacramento, CA 95825

A Request for Review either shall clearly identify the Civil Wage and Penalty Assessment from which review is sought, including the date of the assessment, or it shall include a copy of the assessment as an attachment, and shall also set forth the basis upon which the assessment is being contested. In accordance with Labor Code section 1742, the contractor or subcontractor shall be provided an opportunity to review evidence to be utilized by the Labor Commissioner at the hearing within 20 days of the Labor Commissioner's receipt of the written Request for Review.

Failure by a contractor or subcontractor to submit a timely Request for Review will result in a final order which shall be binding on the contractor and subcontractor, and which shall also be binding, with respect to the amount due, on a bonding company issuing a bond that secures the payment of wages and a surety on a bond. Labor Code section 1743.

In accordance with Labor Code section 1742(d), a certified copy of a final order may be filed by the Labor Commissioner in the office of the clerk of the superior court in any county in which the affected contractor or subcontractor has property or has or had a place of business. The clerk, immediately upon the filing, shall enter judgment for the State against the person assessed in the amount shown on the certified order.

(continued on next page)

Opportunity for Settlement Meeting

In accordance with Labor Code section 1742.1(c), the Labor Commissioner shall, upon receipt of a request from the affected contractor or subcontractor within 30 days following the service of this Civil Wage and Penalty Assessment, afford the contractor or subcontractor the opportunity to meet with the Labor Commissioner or his or her designee to attempt to settle a dispute regarding the assessment. The settlement meeting may be held in person or by telephone and shall take place before the expiration of the 60-day period for seeking a hearing as set forth above under the heading Notice of Right to Obtain Review. No evidence of anything said or any admission made for the purpose of, in the course of, or pursuant to, the settlement meeting is admissible or subject to discovery in any administrative or civil proceeding. This opportunity to timely request an informal settlement meeting is in addition to the right to obtain a formal hearing, and a settlement meeting may be requested even if a written Request for Review has already been made.

Requesting a settlement meeting, however, does not extend the 60-day period during which a formal hearing may be requested.

A written request to meet with the Labor Commissioner or his or her designee to attempt to settle a dispute regarding this assessment must be transmitted to Maria Mercado at the following address:

State of California - Department of Industrial Relations
Division of Labor Standards Enforcement - Public Works Unit
2031 Howe Ave #100
Sacramento, CA 95825

Payment of Civil Wage and Penalty Assessment

Payment of the assessed wages and/or penalties must be made by check or money order payable to the Division of Labor Standards Enforcement and mailed to the following address along with a copy of this Civil Wage and Penalty Assessment:

State of California - Department of Industrial Relations
Division of Labor Standards Enforcement - Cashiering Unit
2031 Howe Avenue, Suite 100
Sacramento, CA 95825-0196

(continued on next page)

Liquidated Damages

In accordance with Labor Code section 1742.1(a), after 60 days following the service of this Civil Wage and Penalty Assessment, the affected contractor, subcontractor, and surety on a bond or bonds issued to secure the payment of wages covered by the assessment shall be liable for liquidated damages in an amount equal to the wages, or portion that still remain unpaid. If the assessment subsequently is overturned or modified after administrative or judicial review, liquidated damages shall be payable only on the wages found to be due and unpaid. If the contractor or subcontractor demonstrates to the satisfaction of the Director of the Department of Industrial Relations that he or she had substantial grounds for believing the assessment or notice to be an error, the Director shall waive payment of the liquidated damages.

Notwithstanding the above, in accordance with Labor Code 1742.1(b), there shall be no liability for liquidated damages if the full amount of the assessment or notice, including penalties, has been deposited with the Department of Industrial Relations, within 60 days following service of the Assessment or Notice, for the Department to hold in escrow pending administrative and judicial review. The Department shall release such funds, plus any interest earned, at the conclusion of all administrative and judicial review to the persons and entities who are found to be entitled to such funds.

Deposits must be made by check or money order payable to the Department of Industrial Relations with a letter and a copy of the Civil Wage and Penalty Assessment and mailed to:

Department of Industrial Relations
Attention Cashiering Unit
P.O. Box 420603
San Francisco, CA 94142

The Amount of Liquidated Damages Available Under this Assessment is: \$232,964.05

(continued on next page)

Statutory Withholding Obligations

1. Awarding Body Withholding Obligations

In accordance with Labor Code section 1727(a), before making payments to the contractor of money due under a contract for public work, the awarding body shall withhold and retain therefrom all amounts required to satisfy this Civil Wage and Penalty Assessment. The amount required to satisfy this Civil Wage and Penalty Assessment shall not be disbursed by the awarding body until receipt of a final order that is no longer subject to judicial review.

The amount which must be withheld and retained by the awarding body pursuant to this Civil Wage and Penalty Assessment is:

Wages Due:	<u>\$232,964.05</u>
Penalties Due Under Labor Code sections 1775 and 1813:	<u>\$185,475.00</u>
Penalties Due Under Labor Code section 1777.7:	<u>\$10,120.00</u>
Penalties Due Under Labor Code sections 1776:	<u>\$0.00</u>
Total Withholding Amount:	\$428,559.05

2. Prime Contractor Withholding Obligations:

In accordance with Labor Code section 1727(b), if the awarding body has not retained sufficient money under the contract to satisfy this Civil Wage and Penalty Assessment based on a subcontractor's violations, the contractor shall, upon the request of the Labor Commissioner, withhold sufficient money due the subcontractor under the contract to satisfy the assessment and transfer the money to the awarding body. This amount shall not be disbursed by the awarding body until receipt of a final order that is no longer subject to judicial review.

If this box is checked, the Labor Commissioner hereby requests that the prime contractor withhold the following amount from money due the subcontractor and transfer the money to the awarding body to satisfy this assessment:

Wages Due:	<u>\$232,964.05</u>
Penalties Due Under Labor Code sections 1775 and 1813:	<u>\$185,475.00</u>
Penalties Due Under Labor Code section 1777.7:	<u>\$10,120.00</u>
Penalties Due Under Labor Code sections 1776:	<u>\$0.00</u>
Total Withholding Amount:	\$428,559.05

Distribution:

Awarding Body
Surety(s) on Bond
Prime Contractor
Subcontractor

PREVAILING WAGE DETERMINATION SUMMARY

CODE NO.	CLASSIFICATION	Effective Date	HOURLY RATE		Contributions	TRAINING TIME	1/2 SUNDAY	HOLIDAY TRAVEL & SUBSISTENCE		Other hourly Requirements
			9/27/2012	3/9/2013				1/2	SUNDAY	
1	Glazier AP 10 Group 1 for 44 miles round trip	9/27/2012	39,370	20,090	58,055	76,740	44,756			
2										
3	Glazier Exp. 12/31/12 - Group 2 for 73 miles round trip	3/4/2012	41,880	20,720	62,820	83,760	173,054			
4	Glazier Inc 1	1/1/2013	41,880	21,470	62,820	83,760	174,547			
5	Glazier Inc 2 Exp. 1/6/14 - Group 2 for 73 miles round trip	1/1/2014	41,880	22,220	62,820	83,760	176,039			
6	Glazier Inc 2 Group 3 for the average 100 miles for 11 workers Round trip	1/1/2014	41,880	22,220	62,820	83,760	244,333			
7	Glazier Inc 2 Group 4 for 117 miles round trip	1/1/2014	41,880	22,220	62,820	83,760	290,717			
8	Glazier Inc 2 Group 5 for 146 miles round trip	1/1/2014	41,880	22,220	62,820	83,760	373,492			
9	Glazier Inc 2 Group 6 for 235 miles round trip	1/1/2014	41,880	22,220	62,820	83,760	664,646			
10										
11										
12										

WAGE DETERMINATION INFORMATION

CODE NO.	CLASSIFICATION	WAGE DETERMINATION NO.
1	Glazier AP 10	2012-2
2		
3	Glazier	ALA-2012-2
4	Glazier Inc 1	ALA-2012-2
5	Glazier Inc 2	ALA-2012-2
6	Glazier Inc 2	ALA-2012-2
7	Glazier Inc 2	ALA-2012-2
8	Glazier Inc 2	ALA-2012-2
9	Glazier Inc 2	ALA-2012-2
10		
11		
12		

**CERTIFICATION OF SERVICE BY MAIL
(C.C.P. 1013a) OR CERTIFIED MAIL**

I, Thuy Pham, do hereby certify that I am a resident of or employed in the County of
Sacramento, over 18 years of age, and not a party to the within action, and that I am employed at
and my business address is:

Division of Labor Standards Enforcement
Bureau of Field Enforcement
2031 Howe Ave. Suite 100
Sacramento, CA. 95825

On April 5, 2017, I served the within: Civil Wage and Penalty Assessment

by placing a true copy thereof in an envelope addressed as follows:

California State University, East Bay
25800 Carlos Bee Blvd
Hayward, CA 94542
Attn: Keat Saw

Sundt Construction Inc.
2620 S 55th Street
Tempe, AZ 85282
Attn: Cody Pearson

Montez Glass, Inc., a California Corporation
7571- 14th Ave,
Sacramento, CA 95820
Attn: Suzanne Montez

Fidelity and Deposit Company of Maryland
525 Market Street
San Francisco, CA 94105
Attn: Betty L. Tolentino

and then sealing the envelope and with postage and certified mail fees (if applicable) thereon fully prepaid,
and then depositing it in the United States mail in Sacramento by:

- Ordinary first class mail
- Certified mail
- Registered mail


I certify under penalty of perjury that the foregoing is true and correct


Executed on April 5, 2017, at Sacramento, County of Sacramento, California





SIGNATURE

STATE CASE NO. 40-47828-042

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY												
<ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>X</p> <p>B. Received by (<i>Printed Name</i>) C. Date of Delivery</p>												
<p>1. Article Addressed to:</p> <p>Fidelity&Deposit Company of Marylan 525 Market Street San Francisco, CA 94105 Attn: Betty L. Tolentino Case# 40-47828-042 CWPA</p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>												
 <p>9590 9402 1630 6053 0740 12</p>	<p>3. Service Type</p> <table border="0"> <tr> <td><input type="checkbox"/> Adult Signature</td> <td><input type="checkbox"/> Priority Mail Express®</td> </tr> <tr> <td><input type="checkbox"/> Adult Signature Restricted Delivery</td> <td><input type="checkbox"/> Registered Mail™</td> </tr> <tr> <td><input checked="" type="checkbox"/> Certified Mail®</td> <td><input type="checkbox"/> Registered Mail Restricted Delivery</td> </tr> <tr> <td><input type="checkbox"/> Certified Mail Restricted Delivery</td> <td><input checked="" type="checkbox"/> Return Receipt for Merchandise</td> </tr> <tr> <td><input type="checkbox"/> Collect on Delivery</td> <td><input type="checkbox"/> Signature Confirmation™</td> </tr> <tr> <td><input type="checkbox"/> Collect on Delivery Restricted Delivery</td> <td><input type="checkbox"/> Signature Confirmation Restricted Delivery</td> </tr> </table>	<input type="checkbox"/> Adult Signature	<input type="checkbox"/> Priority Mail Express®	<input type="checkbox"/> Adult Signature Restricted Delivery	<input type="checkbox"/> Registered Mail™	<input checked="" type="checkbox"/> Certified Mail®	<input type="checkbox"/> Registered Mail Restricted Delivery	<input type="checkbox"/> Certified Mail Restricted Delivery	<input checked="" type="checkbox"/> Return Receipt for Merchandise	<input type="checkbox"/> Collect on Delivery	<input type="checkbox"/> Signature Confirmation™	<input type="checkbox"/> Collect on Delivery Restricted Delivery	<input type="checkbox"/> Signature Confirmation Restricted Delivery
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<p>2. Article Number (<i>Transfer from service label</i>)</p> <p>7014 0510 0001 3835 6097</p>	<p><input type="checkbox"/> Restricted Delivery</p>												
<p>PS Form 3811, July 2015 PSN 7530-02-000-9053 Domestic Return Receipt</p>													

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<p>1. Article Addressed to:</p> <p>Montez Glass, Inc 7571- 14th Ave, Sacramento, CA 95820 Attn: Suzanne Montez Case# 40-47828-042 CWPA</p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>												
 <p>9590 9402 1630 6053 0740 05</p>	<p>3. Service Type</p> <table border="0"> <tr> <td><input type="checkbox"/> Adult Signature</td> <td><input type="checkbox"/> Priority Mail Express®</td> </tr> <tr> <td><input type="checkbox"/> Adult Signature Restricted Delivery</td> <td><input type="checkbox"/> Registered Mail™</td> </tr> <tr> <td><input checked="" type="checkbox"/> Certified Mail®</td> <td><input type="checkbox"/> Registered Mail Restricted Delivery</td> </tr> <tr> <td><input type="checkbox"/> Certified Mail Restricted Delivery</td> <td><input checked="" type="checkbox"/> Return Receipt for Merchandise</td> </tr> <tr> <td><input type="checkbox"/> Collect on Delivery</td> <td><input type="checkbox"/> Signature Confirmation™</td> </tr> <tr> <td><input type="checkbox"/> Collect on Delivery Restricted Delivery</td> <td><input type="checkbox"/> Signature Confirmation Restricted Delivery</td> </tr> </table>	<input type="checkbox"/> Adult Signature	<input type="checkbox"/> Priority Mail Express®	<input type="checkbox"/> Adult Signature Restricted Delivery	<input type="checkbox"/> Registered Mail™	<input checked="" type="checkbox"/> Certified Mail®	<input type="checkbox"/> Registered Mail Restricted Delivery	<input type="checkbox"/> Certified Mail Restricted Delivery	<input checked="" type="checkbox"/> Return Receipt for Merchandise	<input type="checkbox"/> Collect on Delivery	<input type="checkbox"/> Signature Confirmation™	<input type="checkbox"/> Collect on Delivery Restricted Delivery	<input type="checkbox"/> Signature Confirmation Restricted Delivery
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<p>2. Article Number (<i>Transfer from service label</i>)</p> <p>7014 0510 0001 3835 6080</p>	<p><input type="checkbox"/> Restricted Delivery</p>												
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<p>1. Article Addressed to:</p> <p>California State University, East Bay 25800 Carlos Bee Blvd Hayward, CA 94542 Attn: Keat Saw Case# 40-47828-042 CWPA</p> <div style="text-align: center;">  9590 9402 1630 6053 0739 85 </div>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>
<p>2. Article Number (<i>Transfer from service label</i>)</p> <p style="text-align: center;">7014 0510 0001 3835 6066</p>	<p>3. Service Type <input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Registered Mail™</p> <p><input type="checkbox"/> Adult Signature <input type="checkbox"/> Registered Mail Restricted Delivery</p> <p><input type="checkbox"/> Adult Signature Restricted Delivery <input type="checkbox"/> Registered Mail Restricted Delivery</p> <p><input checked="" type="checkbox"/> Certified Mail® <input checked="" type="checkbox"/> Return Receipt for Merchandise</p> <p><input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Signature Confirmation™</p> <p><input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Signature Confirmation Restricted Delivery</p> <p><input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Signature Confirmation Restricted Delivery</p> <p style="text-align: center;">Mail Mall Restricted Delivery 00)</p>
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<p>1. Article Addressed to:</p> <p>Sundt Construction Inc. 2620 S 55th Street Tempe, AZ 85282 Attn: Cody Pearson Case# 40-47828-042 CWPA</p> <div style="text-align: center;">  9590 9402 1630 6053 0739 92 </div>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>
<p>2. Article Number (<i>Transfer from service label</i>)</p> <p style="text-align: center;">7014 0510 0001 3835 6073</p>	<p>3. Service Type <input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Registered Mail™</p> <p><input type="checkbox"/> Adult Signature <input type="checkbox"/> Registered Mail Restricted Delivery</p> <p><input type="checkbox"/> Adult Signature Restricted Delivery <input type="checkbox"/> Registered Mail Restricted Delivery</p> <p><input checked="" type="checkbox"/> Certified Mail® <input checked="" type="checkbox"/> Return Receipt for Merchandise</p> <p><input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Signature Confirmation™</p> <p><input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Signature Confirmation Restricted Delivery</p> <p><input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Signature Confirmation Restricted Delivery</p> <p style="text-align: center;">restricted Delivery</p>
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