Labor Commissioner, State of California

Department of Industrial Relations Division of Labor Standards Enforcement Bureau of Field Enforcement- Public Works 2031 Howe Avenue, Suite #100

Sacramento, CA 95825

TEL: (916) 263-2901

FAX: (916) 263-2906

Edmund G. Brown Jr., Governor



DATE: March 13, 2017	In Reply Refer to Case No: 40-53259			
CIVIL WAGE AND PENALTY ASSESSMENT				
Awarding Body	Work Performed in County of			
San Jose State University Facilities & Development Ops Project Name	Santa Clara Project No.			
Campus Village Phase 2	0			
Prime Contractor Sundt Construction Inc., An Arizona Corporation				
Subcontractor				
Green Growth Industries Inc., A California Corporation				
After an investigation concerning either the payment of wages to worker above-named public works project or compliance with the apprenticeship or both, the Division of Labor Standards Enforcement (the "Division") he Labor Code have been committed by the contractor and/or subcontractor section 1741, the Division hereby issues this Civil Wage and Penalty Assertion 1741, the Division hereby issues this Civil Wage and Penalty Assertion 1741, the Division hereby issues this Civil Wage and Penalty Assertion 1741, the Division hereby issues this Civil Wage and Penalty Assertion 1741, the Division hereby issues this Civil Wage and Penalty Assertion 1741, the Division hereby issues this Civil Wage and Penalty Assertion 1741, the Division hereby issues this Civil Wage and Penalty Assertion 1741, the Division hereby issues this Civil Wage and Penalty Assertion 1741, the Division hereby issues this Civil Wage and Penalty Assertion 1741, the Division hereby issues this Civil Wage and Penalty Assertion 1741, the Division hereby issues this Civil Wage and Penalty Assertion 1741, the Division hereby issues this Civil Wage and Penalty Assertion 1741, the Division hereby issues this Civil Wage and Penalty Assertion 1741, the Division hereby issues this Civil Wage and Penalty Assertion 1741, the Division hereby issues this Civil Wage and Penalty Assertion 1741, the Division hereby issues this Civil Wage and Penalty Mage and Penalty Mage and Penalty Mage Assertion 1741, the Division hereby issues this Civil Wage and Penalty Mage Assertion 1741, the Division hereby Mage Assertion 1741, the Division 1741	p standards found in Labor Code section 1777.5, as determined that violations of the California identified above. In accordance with Labor Code			
The nature of the violations of the Labor Code and the basis for the assess Wage Violations: Violated Labor Code Section 1774 for from pursuant to the Director's General Prevailing Wage Determination STC-2 Bricklayer, Stonemason. Misclassification of Workers.	ailure to pay the correct prevailing wage			
	- 1990-abited			
	ailure to pay training funds for the craft of			
Blocklayer, Bricklayer, Stonemason. Violated Labor Code Section 1777	7.1 for failure to notify, dispatch and			
employ apprentices at the minimum ratio for the craft of Blocklayer, Bri	cklayer, Stonemason in Santa Clara			
County.				
The attached Audit Summary further details the basis for this Assessment penalties due under Labor Code sections 1775 and 1813.	at and itemizes the calculation of wages and			
The Division has determined that the total amount of wages due is:	\$2,812.68			
The Division has determined that the total amount of penalties assessed a sections 1775 and 1813 is:	under Labor Code\$3,480.00			
The Division has determined that the amount of penalties assessed under Labor Code section 1777.7 is:	\$360.00			
The Division has determined that the amount of penalties assessed under Green Growth Industries Inc., A California Corporation is:	Labor Code section 1776 against \$0.00			

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

STATE LABOR COMMISSIONER

Deputy Labor Commissioner I

PW 33 (Revised - 7/2013)

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:

State of California - Labor Commissioner
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 at the following address:

Jerry McClain

State of California - Department of Industrial Relations
Division of Labor Standards Enforcement - Public Works Unit
2031 Howe Avenue, Suite #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

(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:

State of California - Department of Industrial Relations
Division of Labor Standards Enforcement - Cashiering Unit
P.O. Box 420603
San Francisco, CA 94142

The Amount of Liquidated Damages Available Under this Assessment is:

\$2,812.68

(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:	\$2,812.68
Penalties Due Under Labor Code sections 1775 and 1813:	\$3,480.00
Penalties Due Under Labor Code section 1777.7:	\$360.00
Penalties Due Under Labor Code sections 1776:	\$0.00
Total Withholding Amount:	\$6,652.68

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.

X 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:

Total Withholding Amount:	\$6,652.68
Penalties Due Under Labor Code sections 1776:	\$0.00
Penalties Due Under Labor Code section 1777.7:	\$360.00
Penalties Due Under Labor Code sections 1775 and 1813:	\$3,480.00
Wages Due:	\$2,812.68

Distribution:

Awarding Body Surety(s) on Bond Prime Contractor Subcontractor

UDIT WORKSHEET
PUBLIC WORKS A

PUBLIC WORKS AUDIT WORKSHEET	WORKSHEET										TOTAL AMOUNT DUE/OWING 6292.68	T DUE/OW	ING
EMPLOYER / FIRM Green Growth Industries Inc., a California corporation	Inc., a California co	orporation			DEPUTY Jerry McClain		OFFICE Sacramento				WAGES DUE AND OWING 2728.44	ND OWING	
ADDRESS P.O. Box 1275	CITY Pleasanton, CA 94566	.266			TRANSCRIBER						PENALTIES DUE AND OWING 3480.00	E AND OW	ING
PROJECT AWARDING BODY Campus Village Phase San Jose State University Fac Sundt Construction Inc	AWARDING BODY	ر بانversity Fac	PRIME Sundt Co	nstruction Inc	AUDIT NUMB 40-53259	AUDIT NUMBER/CASE NUMBER 40-53259	1BER				TRAINING FUND DUE/OWING	D DUE/OW	ING
EMPLOYEE	CLASSIFICATION	PERIOD WORKED	HOURS WORKED ST. OT. C	VORKED OT. D.T.	OTHER WAGES PAID	TOTAL WAGES PAID	PREVAILING W *OTHER	PREVAILING WAGE REQUIREMENTS *OTHER TOTAL WAGES	AMOUNT OWING AND UNPAID	PENALTIES NO.1	PENALTIES NO. 2	TRNG. FUND	TOTAL AMOUNT DUE
Bojorquez, Luis	Tradesman II	07/10/16 - 07/31/16	80.00	0 0	1697.60	1697.60	44.00	1697.60	00'0	00'0		00.0	0.00
Cervantes, Isaias	Landscape Pipefitter	03/13/16 -	31.00	0 0	1144.52	1144.52	17.06	1144.52	00'0	00'0	00'0	00'0	00.0
Gomez, Adolfo	Laborer G3	l	60.00	0		2696.56	15.40	2696,56	00'0	00'0		00'0	0:00
Gomez, Alejandro	Landscape Pipefitter		64.00	0 0		2362.88	35.20	2362.88	00'0	0.00	0:00	0.00	0.00
Guadalupe, Aguilera	Landscape Pipefitter		80.00	0 0	2362,88	2953,60	44.00	2953.60	00'0	00'0	00'0	00'0	0:00
Jimenez, Javier	Laborer G3	05/01/16 - 08/28/16	446.00	0	ļ		231.06	16727.80	906.48	1080.00	0.00	28.08	2014.56
Lopez, Jesus	Tradesman I	08/07/16 -	48.00	0 0		861.60	26.40	861.60	00'0	00'0	00:0	0.00	0.00
Pena, Gerardo	Laborer G3	05/01/16 - 08/21/16	456.00	0	12015.64	15565.96	262.16	16472.44	906.48	1080.00	0.00	28.08	2014.56
Pena, Sergio	Laborer G3	04/17/16 - 08/21/16	550.00	0	22868.08	26418.40	160.26	27333.88	915.48	1320.00	0.00	28.08	2263.56
Rubio, Ricardo	04/10/16 - Assistant Journeymar 04/24/16	04/10/16 - ar 04/24/16	22.00	0		570.24	12.10	570.24	00:0	00'0	00:00		
Pena, Sergio	Landscape Pipefitter	05/01/16 -	278.00	0	7835.60	7835.60	152.90	7835.60	00'0	00:0	0.00	0.00	0.00
Pena, Pedro	Laborer G3	07/17/16 -	72.00	0		3445.92	10.80	3445,92	0.00	0.00			0.00
	avs	01/02/99 -	00.00	0 0	0:00	00'0	00.00	0.00	0.00	0:00	00:0		0.00
	avs	07/16/97 -	00.00	0 0	00.00	0.00	00.00	0.00	00.00	00'0	00'0	00:00	0.00
	avs	07/16/97 - 01/07/98	00:00	0 0	0.00	0.00	0.00	0.00	0.00	0.00	0.00	00.00	0:00
	SAB	07/16/97 - 01/07/98	00:00	0 0	0.00	00.00	0.00	0.00	00.00	0.00	0.00	0.00	0.00
	avs	07/16/97 - 01/07/98	00'00	0 0	0.00	0.00	0.00	0.00	0.00	0.00	00:00	00:00	0:00
	SAB	07/16/97 - 01/07/98	00'0	0 0	00:0	0.00	00'0	0.00	0:00	0.00	0.00	0:00	0.00
	avs	07/16/97 - 01/07/98	00'0	0 0	0:00	0.00	00:00	0.00	00'0	0.00	0.00	00:00	0.00
	avs	07/16/97 -	0.00	0 0	0.00	00'0	00:0	0:00	00:0	0.00	0.00	0.00	0.00
	avs	07/16/97 - 01/07/98	0.00	0	0:00	0.00	00:00	00.0	00'0	0.00	00'0	00.0	00.00
	avs	07/16/97 -	0.00	0	0.00	0.00	0.00	00'0	00:0	0:00	00'0	00'0	0.00
	avs	07/16/97 - 01/07/98	00'00	0 0	0.00	0.00	00:0	00:00	0.00	0:00	00'0	0.00	00:00
	avs	07/16/97 - 01/07/98	0.00	0	0,00	00:0	00.00	0.00	0.00	0.00	0.00	00'0	00:00
Balance Brought forward from audit3 Summary	om audit3 Summary				0.00	0.00	00.00	0.00	0.00	0.00	0.00	0.00	00.00
The following entries represent the amounts relied upon for	ent the amounts relied	d upon for			70132.52	81374.20	1011.33	84102.64	2728.44	3480.00	0.00	84.24	\$6,292.68
calculating Labor Code 1775 and 1813 penalties.	775 and 1813 pena	Ities.							:				

Summary

PREVAILING WAGE DETERMINATION SUMMARY

CODE		Ĭ	ַבַּן נַ				HOLIDAY TRAVEL	TRAVEL &	Other hourly	CODE
Š	CLASSIFICATION	Effective Date RATE	i	Confributions	TRAINING .	TIME 1/2	SUNDAY	Contributions TRAINING TIME 1/2 SUNDAY SUBSISTENCE	Requirements	NO.
-	Laborer G3	6/30/2014	28.140	19.570	0.410	42.210	58.280		0.150	
	NC-23-102-1-201 Final	Final								2
7	2 Landscape Pipefitt	9/1/2013	26,550	9.820	0.450	39.825	53.100		0.550	6
	STC-2013-2	Fina	2.33							4
e	3 Assistant Journey	9/1/2013	15.550	9.820	0.450	23.325	31.100		0.550	150
	STC-2013-2	Final	333							9
4	4 Tradesman	9/1/2013	10.500	6.900	0.450	15.750	21.000		0.550	
			800							
	STC-2013-2	Final					-			8
ų	5 Tradesman II	9/1/2013	10.850	9.820	0.450	16.275	21.700		0.550	6
	STC-2013-2	Final								10
ď	Bricklaver	9/1/2013	37 980	DB9 22	0 800	56 970	75.960		1 230	- -
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	STC-2013-2	Final								12
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WAGE DETERMINATION INFORMATION

STATE OF CALIFORNIA DEPARTMENT OF INDUSTRIAL RELATIONS - DIVISION OF LABOR STANDARDS ENFORCEMENT

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

I,	Jerry McClain , do hereby certify the	nat I am a resident of or employed in the County of
	Sacramento, over 18 years of age, and no	t a party to the within action, and that I am employed at
and n	ny business address is:	
	Division of Labor St Bureau of Field Enfo 2031 Howe Ave. Su Sacramento, CA. 95	ite 100
On	March 13, 2017 , I served the within	(1) Civil Wage and Penalty Assessment
	San Jose State University Facilities & Development Ops One Washington Square San Jose, CA 95192 Sylvia Sosa	Sundt Construction Inc., An Arizona Corporation 2620 S. 55th Street Tempe, AZ 85282 John Mathew Llinen
	Green Growth Industries Inc., A California Corporation P.O. Box 1275 Pleasanton, CA 94566 Roger Scott Eckholm No. CA Tile Industry Labor Mgmt 10806 Biggie St.	Fidelity and Deposit Company of Maryland 2710 Gateway Oaks Dr. Ste 150N Sacramento, CA 95833 Lawyers Incorporating Service Bond #8828988
	San Leandro, CA 94577 Anthony Narducci	
	hen sealing the envelope and with postage and hen depositing it in the United States mail in	certified mail fees (if applicable) thereon fully prepaid, Sacramento by:
	X Ordinary first cla X Certified mail Registered mail	ass mail
I cert	tify under penalty of perjury that the foregoin	g is true and correct
Exec	uted on March 13, 2017, at Sacramento	, County of Sacramento, California
STA'	TE CASE NO.	

PW

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(Revised - 4/2002)