


<b>Labor Commissioner, State of California</b> Department of Industrial Relations Division of Labor Standards Enforcement 7718 Meany Ave. Bakersfield, CA 93308 TEL: (661) 587-3071 FAX: (661) 587-3081	Gavin Newsom, Governor 
CITY OF LA HABRA 201 E. LA HABRA BLVD LA HABRA, CA 90631 ELIAS SAYKALI	
DATE: April 11, 2023	In Reply Refer to Case No: 40-59961-522

**NOTICE OF COMPLAINT CLOSED**

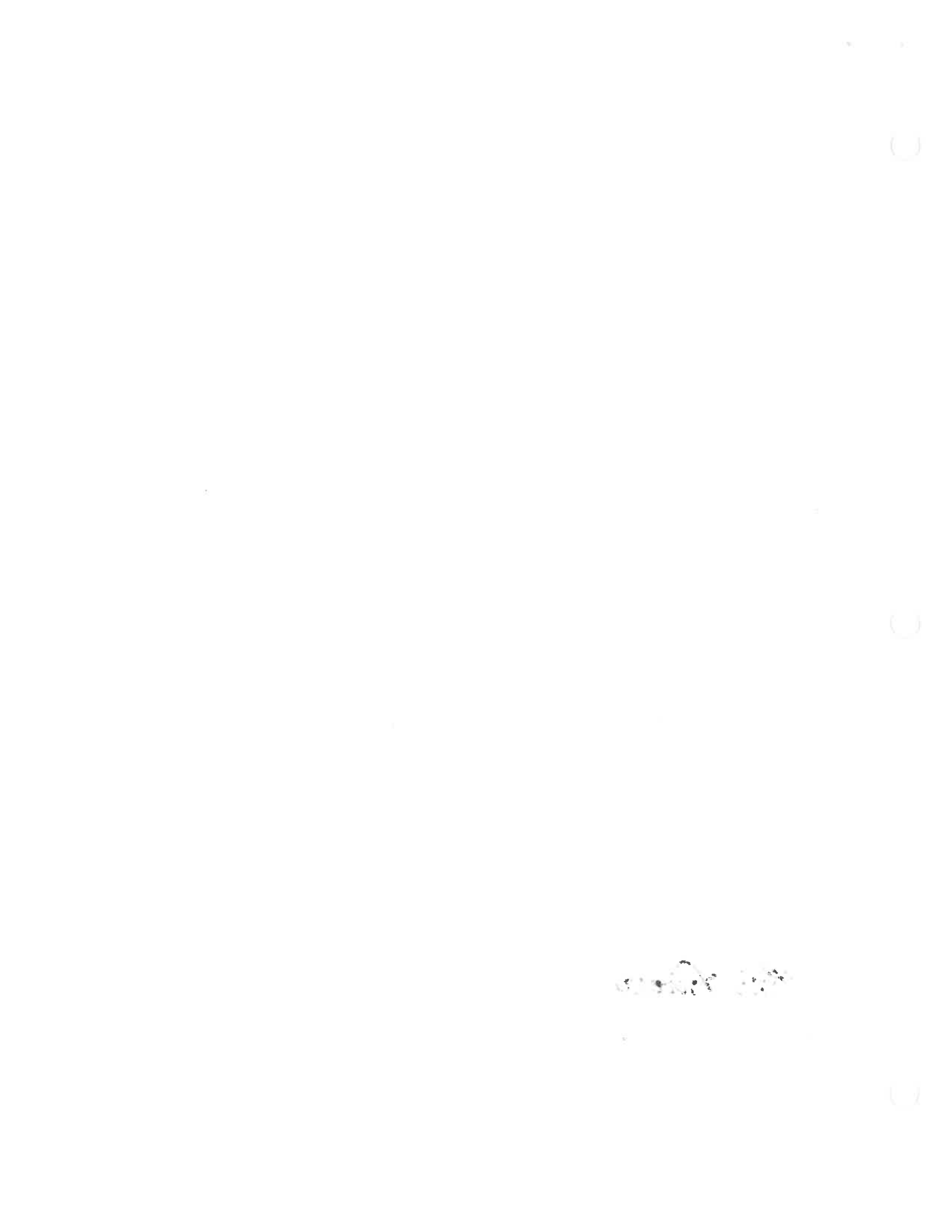
Project Name CITY OF LA HABRA CIVIC CENTER	Project No. 01-14-052
Prime Contractor De La Secura Inc., dba D L S Builders, a California corp.	
Subcontractor Mega Plastering Systems Inc., a California corp.	

The complaint against the above-named contractor(s) is being closed for the following reason(s):

- Subject firm has satisfactorily paid all prevailing wages and/or penalties found due.
- The statute of limitations for the Labor Commissioner to prosecute California Public Work Law (Labor Code sections 1720 through 1861) has expired. Information for claimant please note: There are other legal claims which you may still pursue even though the statute of limitations has expired for the Labor Commissioner to enforce the public work provisions of the Labor Code. You may want to review the California Court of Appeals decision in the case of *Tippett v Terich* (1995), 37 Cal.App.4th 1517, 44Cal.Rptr.2d 862 and/or consult with an attorney to determine if you may pursue any of the legal actions discussed in the *Tippett v Terich* decision.
- There is insufficient evidence to confirm California Public Work Law was violated.
- Subject firm was not within the jurisdiction of California Public Work Law on this project.
- Other: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

STATE LABOR COMMISSIONER

By *Lori Rivera*  
 Lori Rivera  
 Deputy Labor Commissioner



Labor Commissioner, State of California  
Department of Industrial Relations  
Division of Labor Standards Enforcement  
Bureau of Field Enforcement- Public Works  
7718 Meany Ave.  
Bakersfield, CA 93308  
TEL: (661) 587-3071 FAX: (661) 587-3081

Gavin Newsom, Governor



CITY OF LA HABRA  
201 E. LA HABRA BLVD  
LA HABRA, CA 90631  
ELIAS SAYKALI

DATE:  
April 11, 2023

In Reply Refer to Case No:  
40-59961-522

### RELEASE OF CIVIL WAGE AND PENALTY ASSESSMENT

Project Name CITY OF LA HABRA CIVIC CENTER	Awarding Body CITY OF LA HABRA	Project No. 01-14-052
Prime Contractor De La Secura Inc., dba D L S Builders, a California corp.		
Subcontractor Mega Plastering Systems Inc., a California corp.		

On November 22, 2022, this Division filed a CIVIL WAGE AND PENALTY ASSESSMENT (copy attached) on the above-named Public Work Project in the total amount due of: \$6,526.08

Please consider this Notice as a full release of our CIVIL WAGE AND PENALTY ASSESSMENT dated November 22, 2022.

Executed on April 11, 2023, at Bakersfield, California.


Sincerely,

STATE LABOR COMMISSIONER

By Lori Rivera  
Lori Rivera  
Deputy Labor Commissioner



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<b>Labor Commissioner, State of California</b> Department of Industrial Relations Division of Labor Standards Enforcement Bureau of Field Enforcement- Public Works	Gavin Newsom, Governor  
DATE: November 22, 2022	In Reply Refer to Case No: <b>40-59961-522</b>

**CIVIL WAGE AND PENALTY ASSESSMENT**

Awarding Body: CITY OF LA HABRA	Work Performed in County of ORANGE	
Project Name CITY OF LA HABRA CIVIC CENTER	Project No. 01-14-052	DIR Project ID No. 45056
Prime Contractor De La Secura Inc., dba D L S Builders, a California corp.	CSLB License No. 467925	Contractor Registration (PWCR) No. 467925
Subcontractor(s) Mega Plastering Systems Inc., a California corp.	CSLB License No. 923526	Contractor Registration (PWCR) No. 923526

After an investigation concerning the payment of wages to workers employed in the execution of the contract for the above-named public works project, compliance with the apprenticeship standards found in Labor Code section 1777.5, or compliance with the registration requirements set forth in Labor Code section 1725.5, the Labor Commissioner has determined that violations of the California Labor Code have been committed by the contractor and/or subcontractor(s) identified above. In accordance with Labor Code section 1741, the Labor Commissioner hereby issues this Civil Wage and Penalty Assessment.

<b>TOTAL ASSESSMENT:</b>	<b><u>\$6,526.08</u></b>
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The nature of the violations of the Labor Code and the basis for the assessment are as follows:

**Wage Violations:** The contractor violated Labor Code section 1771 and 1774, when they misclassified two plaster tender employees as apprentices while they worked unsupervised by a plaster tender journeyman. Due to the misclassification the two employees were under paid their wages and employer contributions. Additionally, the payroll records for an employee classified as a plasterer showed hours worked; however, no wages were issued for the hours that employee worked. Therefore, that employee was considered to be unpaid. (See attached audit summary)

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, if applicable.

The Labor Commissioner has determined the total amount of **wages** due is: **\$3,926.08**

The Labor Commissioner has determined the amount of penalties assessed under Labor Code section **1775** is: **\$400.00**

The Labor Commissioner has determined the amount of penalties assessed under Labor Code section **1813** is: **\$0.00**

(continued on next page)

STATE LABOR COMMISSIONER

By Lori Rivera  
 Lori Rivera  
 Deputy Labor Commissioner

**Apprenticeship Violations:** The contractor violated Labor Code section 1777.5 when they failed to submit the DAS 140 to all local programs. Additionally, although not calculated into the penalties, the DAS 142 request for apprentices was invalid because the contractor submitted the request 24-hours in advance rather than the required 72-hours.

The Labor Commissioner has determined the amount of penalties assessed under Labor Code section 1777.7 is: **\$2,200.00**

Labor Code Section 1776 Violations:

The Labor Commissioner has determined the amount of penalties assessed under Labor Code section 1776(h) against Mega Plastering Systems Inc., a California corp. is: **\$0.00**

Public Works Contractor Registration Violations:

The Labor Commissioner has determined the amount of penalties assessed under Labor Code section 1771.1 against	
General contractor	is: <b><u>\$0.00</u></b>
Subcontractor	is: <b><u>\$0.00</u></b>
Second-tier subcontractor	is: <b><u>\$0.00</u></b>
Third-tier subcontractor, if applicable	is: <b><u>\$0.00</u></b>

**Please refer to page 6 for specific withholding obligations pertaining to these amounts.**

(continued on next page)

### **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 32889  
Long Beach, CA 90832

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)

### **Payment of Civil Wage and Penalty Assessment**

Payment of the assessed wages and/or penalties, including interest on all due and unpaid wages pursuant to Labor Code section 1741(b), 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

### **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 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 Lori Rivera at the following address:

State of California - Department of Industrial Relations  
Division of Labor Standards Enforcement - Public Works Unit  
7718 Meany Ave.  
Bakersfield, CA 93308

(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.

Notwithstanding the above, in accordance with Labor Code section 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.

**The full amount of the assessment that should be deposited is:**

**\$6,526.08**

Deposits must be made by check or money order payable to the Department of Industrial Relations with a cover 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

(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>\$3,926.08</u>
Training Funds Due:	<u>                    </u>
Penalties Due Under Labor Code section 1775:	<u>\$400.00</u>
Penalties Due Under Labor Code section 1813:	<u>                    </u>
Penalties Due Under Labor Code section 1777.7:	<u>\$2,200.00</u>
Penalties Due Under Labor Code section 1776(h):	<u>                    </u>
Penalties Due Under Labor Code section 1771.1:	<u>                    </u>
<b>Total Withholding Amount:</b>	<b><u>\$6,526.08</u></b>

### 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>\$3,926.08</u>
Training Funds Due:	<u>                    </u>
Penalties Due Under Labor Code section 1775:	<u>\$400.00</u>
Penalties Due Under Labor Code section 1813:	<u>                    </u>
Penalties Due Under Labor Code section 1777.7:	<u>\$2,200.00</u>
Penalties Due Under Labor Code section 1776(h):	<u>                    </u>
Penalties Due Under Labor Code section 1771.1:	<u>                    </u>
<b>Total Withholding Amount:</b>	<b><u>\$6,526.08</u></b>

Distribution:  
Awarding Body  
Surety(s) on Bond  
Prime Contractor  
Subcontractor(s)

PUBLIC WORKS AUDIT WORKSHEET

**CWPA Audit**

TOTAL AMOUNT DUE/OWING  
**\$4,326.08**

EMPLOYER / FIRM <b>MEGA PLASTERING SYSTEMS INC</b>			DEPUTY Lori Rivera		OFFICE Bakersfield		WAGES DUE AND OWING <b>\$3,926.08</b>				
ADDRESS CITY 11505 TELEGRAPH R SANTA FE SPRINGS, CA 90670			TRANSCRIBER		PENALTIES DUE AND OWING <b>\$400.00</b>						
PROJECT CITY OF LA HABRA CIVIC CENTER	AWARDING BODY CITY OF LA HABRA	PRIME DE LA SECURA INC AS A D. S. BUILDERS	AUDIT NUMBER/CASE NUMBER <b>40-59961-522</b>			Audit 1 of 1		TRAINING FUND DUE/OWING <b>\$0.00</b>			

EMPLOYEE	CLASSIFICATION	PERIOD WORKED	HOURS WORKED			OTHER WAGES PAID	TOTAL WAGES PAID	PREVAILING WAGE REQUIREMENTS		AMOUNT OWING AND UNPAID	PENALTIES LC 1775	PENALTIES LC 1813	TRNG FUND	TOTAL AMOUNT DUE
			ST	OT	D T			OTHER	TOTAL WAGES					
Alonso Elberth	Plasterer	12/03/16 - 12/31/16	80.00	0	0	\$0.00	\$0.00	\$0.00	\$2,383.68	\$2,383.68	\$240.00			\$2,623.68
Apodaca Arturo	Plaster Tender App Pd 2 Plaster Tender	01/21/17 - 01/21/17	24.00	0	0	\$0.00	\$0.00	\$0.00	\$1,156.80	\$1,156.80	\$120.00			\$1,276.80
Diaz Michael	Plaster Tender App Pd 1 Plaster Tender	01/21/17 - 01/21/17	8.00	0	0	\$0.00	\$0.00	\$0.00	\$385.60	\$385.60	\$40.00			\$425.60
						\$0.00	\$0.00	\$0.00	\$3,926.08	\$3,926.08	\$400.00			\$4,326.08

The following entries represent the amounts relied upon for calculating Labor Code 1775 and 1813 penalties.

1775	40.00	Per Day
1813	25.00	Per Day

§1777 penalties \$2,200.00  
 Total w/ §1777 pen. **\$6,526.08**

Summary

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

I, Lori Rivera, do hereby certify that I am a resident of or employed in the County of  
Kern, 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  
7718 Meany Ave.  
Bakersfield, CA 93308

On November 22, 2022, I served the within: (1) Civil Wage and Penalty Assessment

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

CITY OF LA HABRA
201 E. LA HABRA BLVD
LA HABRA, CA 90631
ELIAS SAYKALI

De La Secura Inc., dba D L S Builders, a California corp.
1975 N Batavia St.
Orange, CA 92865
David Schalliol Jr.
CSLB & SOS

Mega Plastering Systems Inc., a California corp.
11506 Telegraph Rd., Ste 210
Santa Fe Springs, CA 90670
Francisco Aranda

Mega Plastering Systems Inc., a California corp.
431 W. Lambert Rd., Ste 304
Brea, CA 92821
Francisco Aranda
CSLB Address as of 11/21/22

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 Bakersfield by:

- Ordinary first class mail
- Certified mail
- Registered mail

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

Executed on November 22, 2022, at Bakersfield, County of Kern, California

*Lori Rivera*

SIGNATURE

STATE CASE NO.  
40-59961-522  
PW 34

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, Lori Rivera, do hereby certify that I am a resident of or employed in the County of  
Kern, 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  
7718 Meany Ave.  
Bakerfield, CA 93308

On November 22, 2022, I served the within: (1) Civil Wage and Penalty Assessment

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

Mega Plastering Systems Inc., a  
California corp.  
13627 Allegan St.  
Whittier, CA 90605  
Jessica Lucero  
Agent for Service




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 Bakersfield by:

- Ordinary first class mail
- Certified mail
- Registered mail

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

Executed on November 22, 2022, at Bakersfield, County of Kern, California

Lori Rivera

SIGNATURE

STATE CASE NO.  
40-59961-522

PW 34 (Revised - 4/2002)

