

UNITED STATES OF AMERICA
OCCUPATIONAL SAFETY & HEALTH REVIEW COMMISSION

SECRETARY OF LABOR,

Complainant,

v.

LITANA DEVELOPMENT INC.,

Respondent.

OSHRC DOCKET

NOS. 22-0796 & 22-1439

STIPULATED SETTLEMENT AGREEMENT

Based upon the following recital, the Complainant and the Respondent herein agree to the following as a conclusion of this matter:

1) The Secretary hereby amends the notifications of proposed penalties for Docket No. 22-0796, Citation 1, Item 1 and Citation 2, Items 1 and 2, and for Docket No. 22-1439, Citation 1, Items 1, 2, and 3 to amend the total proposed penalty for the two cases to \$180,000, to be apportioned as follows:

Docket No.	Citation & Item	Original Proposed Penalty	Amended Proposed Penalty
22-0796	Citation 1, Item 1	\$3,108.00	\$3,000.00
22-0796	Citation 2, Item 1	\$24,861.00	\$13,500.00
22-0796	Citation 2, Item 2	\$29,005.00	\$13,500.00
22-1439	Citation 1, Item 1	\$145,027.00	\$50,000.00
22-1439	Citation 1, Item 2	\$145,027.00	\$50,000.00
22-1439	Citation 1, Item 3	\$145,027.00	\$50,000.00
	Total:	\$492,055.00	\$180,000.00

2) Respondent affirmatively states that:
a) All violations alleged in the citations have been abated.
b) It will comply in the future with the Occupational Safety and Health Act.

3) In addition to the abatement measures set forth in paragraph 2 above, Respondent affirmatively states and agrees that it will implement the following additional abatement measures.

The citations are hereby amended to incorporate these measures as required abatement of the citations:

a) By 30 days after the Order Terminating Proceeding becomes a final order of the OSHRC, Respondent will create a written safety program and email a copy of it to the OSHA Hasbrouck Heights Area Office at mesuk.paul@dol.gov.

b) By 30 days after the Order Terminating Proceeding becomes a final order of the OSHRC, Respondent will ensure that a job hazard analysis is conducted by a safety professional for all existing worksites. Until October 1, 2026, Respondent will ensure a job hazard analysis is conducted by a safety professional at all future worksites prior to beginning work.

c) By 30 days after the Order Terminating Proceeding becomes a final order of the OSHRC, Respondent will implement a written subcontractor management plan, which will include a requirement for all subcontractors that all onsite managers for the subcontractors have completed an OSHA 30-hour training course and all onsite employees for the subcontractors have completed an OSHA 10-hour training course. By 30 days after the Order Terminating Proceeding becomes a final order of the OSHRC, Respondent will email a copy of its written subcontractor management plan to the OSHA Hasbrouck Heights Area Office at mesuk.paul@dol.gov

d) Until October 1, 2026, Respondent will report all job sites to the OSHA Hasbrouck Heights Area Office via email to mesuk.paul@dol.gov.

e) Until October 1, 2026, Respondent will allow OSHA representatives on site to conduct site inspections at all worksites, allowing for the usual and customary wait time for a consultant to arrive. If OSHA observes fall hazards or work too close to power lines, Respondent will allow OSHA immediate access to the relevant site for inspection.

4) Respondent will pay the amended proposed penalty of \$180,000 pursuant to the following schedule:

November 1, 2023	\$1,000.00
December 1, 2023	\$1,000.00
January 1, 2024	\$1,000.00
February 1, 2024	\$1,000.00
March 1, 2024	\$1,000.00
April 1, 2024	\$1,000.00
May 1, 2024	\$2,500.00
June 1, 2024	\$2,500.00
July 1, 2024	\$2,500.00
August 1, 2024	\$2,500.00
September 1, 2024	\$2,500.00
October 1, 2024	\$2,500.00
November 1, 2024	\$2,500.00
December 1, 2024	\$2,500.00
January 1, 2025	\$2,500.00
February 1, 2025	\$2,500.00
March 1, 2025	\$2,500.00
April 1, 2025	\$2,500.00
May 1, 2025	\$4,000.00
June 1, 2025	\$4,000.00
July 1, 2025	\$4,000.00
August 1, 2025	\$4,000.00
September 1, 2025	\$4,000.00
October 1, 2025	\$4,000.00
November 1, 2025	\$4,000.00
December 1, 2025	\$4,000.00
January 1, 2026	\$4,000.00
February 1, 2026	\$4,000.00
March 1, 2026	\$4,000.00
April 1, 2026	\$4,000.00
May 1, 2026	\$4,000.00
June 1, 2026	\$4,000.00
July 1, 2026	\$4,000.00
August 1, 2026	\$4,000.00
September 1, 2026	\$4,000.00
October 1, 2026	\$76,000.00

The preferred method of payment is via www.Pay.gov. The direct link to make a payment is:

<https://www.pay.gov/paygov/forms/formInstance.html?agencyFormId=53090334>. In the

alternative, Respondent may also make payments by forwarding checks made payable to

“Occupational Safety and Health-Labor” to the following address: U.S. Department of Labor,

Occupational Safety and Health Administration, Hasbrouck Heights Area Office, 500 Route 17 South, 2nd Floor, Hasbrouck Heights, New Jersey 07604. The memorandum fields of the checks shall indicate Inspection Nos. 1563430 & 1595046. A ten-day grace period shall be allowed for receipt of each payment. In the event that OSHA does not receive any payment within ten days after it is due, OSHA will notify Respondent of such fact by regular mail or email. If OSHA does not receive payment within ten days of such notification, the entire unpaid balance shall become due immediately. No action or non-action by OSHA shall constitute a waiver of this paragraph.

5) Each party hereby agrees to bear its own fees and other expenses incurred by such party in connection with any stage of this proceeding.

6) Respondent withdraws its notice of contest in this matter, and agrees that the citations, penalties, and abatement measures (as set forth and amended herein by this Stipulated Settlement) shall become a final order of the Commission on the same date that the Order Terminating Proceeding becomes a final order, as set forth in the Notice of Docketing issued by the Executive Secretary of the Commission.

Date: September 25, 2023

EXECUTED BY:

Brian Flynn

NAME: Brian Flynn

TITLE: Safety Consultant

On behalf of Respondent,

LITANA DEVELOPMENT INC.

/s/ Amanda M. Wilmsen

NAME: Amanda M. Wilmsen

TITLE: Trial Attorney

On behalf of Complainant,

Secretary of Labor.

RESPONDENT’S CERTIFICATIONS FOR POSTING AND SERVICE

1. POSTING

Respondent certifies that on the following date: September 25, 2023, a copy of this Stipulated Settlement was posted where affected employees may see it, and will remain posted for at least 14 days thereafter.

2. AUTHORIZED EMPLOYEE REPRESENTATIVE(S)?

(Mark “X” next to Option 1 OR Option 2 as appropriate)

Option 1

Respondent certifies that there is no authorized employee representative for the employees affected by the action which is the subject of this Stipulated Settlement.

OR

Option 2

Respondent certifies that there is one or more authorized employee representatives for the employees affected by the action which is the subject of this Stipulated Settlement. The names and addresses of the authorized employee representative(s) are as follows:

3. SERVICE ON AUTHORIZED EMPLOYEE REPRESENTATIVE(S)

Respondent certifies that this Stipulated Settlement was served on the authorized employee representative(s) of the affected employees on the following date: N/A, by the following method(s) of service (i.e. first-class mail, overnight delivery, personal delivery): N/A.

CERTIFIED BY [*print name and title*]:

Brian Flynn, Safety Consultant