

1 Heather Davis, SBN 239372
heather@protectionlawgroup.com
2 Amir Nayebdadash, SBN 232204
amir@protectionlawgroup.com
3 D. Luke Clapp, SBN 306040
luke@protectionlawgroup.com
4 PROTECTION LAW GROUP, LLP
237 California Street
5 El Segundo, California 90245
Telephone: (424)290-3095
6 Facsimile: (866) 264-7880

7 Attorneys for Plaintiff

8 Malcolm A. Heinicke, SBN 194174
malcolm.heinicke@mta.com
9 Joseph D. Lee, SBN 110840
joseph.lee@mta.com
10 MUNGER, TOLLES & OLSON LLP
350 South Grand Avenue, 50th floor
11 Los Angeles, CA 90071
Telephone: (213) 683-9100
12

13 T. Scott Belden, SBN 184387
scott@bbr.law
14 Jazmine Flores, SBN 317038
jazmine@bbr.law
15 BELDEN BLAINE RAYTIS, LLP
5016 California Avenue, Suite 3
16 Bakersfield, California 93309
Telephone: (661) 864-7826
17 Facsimile: (661) 878-9797

18 Attorneys for Defendant Grant Construction, Inc.
19

20 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

21 **COUNTY OF KERN**

22 ARNULFO MIJANGOS, individually and on
behalf of others similarly situated, and as an
23 aggrieved employee and Private Attorney
General

24 Plaintiff,

25 vs.

26 GRANT CONSTRUCTION, INC., a
California corporation; and DOES 1 through
27 50, inclusive,

28 Defendants.

Case No. BCV-23-102043

**STIPULATION RE: SETTLEMENT OF
CLASS AND PAGA ACTION**

Assigned to: Honorable T. Mark Smith
Dept.: T-2

Complaint Filed: August 6, 2021
Trial Date: None

1 IT IS HEREBY STIPULATED AND AGREED by and between Plaintiff Arnulfo
2 Mijangos (“Plaintiff” or “Class Representative”), on behalf of himself and on behalf of (a) the
3 proposed class of similarly situated individuals and (b) allegedly aggrieved employees under the
4 Private Attorneys General Act (“PAGA”), on the one hand, and defendant Grant Construction,
5 Inc. (“Grant Construction”), on the other hand (Plaintiff and Grant Construction being hereafter
6 collectively described as the “Settling Parties”), as set forth below:

7 **I. The Conditional Nature of This Stipulation.**

8 This Stipulation Re: Settlement of Class and Collective Actions including the
9 referenced Exhibits (hereafter referred to as “Stipulation”) is made for the sole purpose of
10 attempting to consummate settlement of the above captioned action (hereafter the “Litigation”) on
11 a class and representative action basis. This Stipulation, and the settlement it evidences, is made
12 in compromise of disputed claims. Because this Stipulation purports to settle the Litigation on a
13 class and representative action basis, this settlement must receive preliminary and final approval
14 from the Court. Accordingly, the Settling Parties enter into this Stipulation and associated
15 settlement on a conditional basis that the Court enter an Order Granting Final Approval of the
16 Settlement. In the event that the Court does not execute and file an Order Granting Final Approval
17 of Settlement as discussed hereafter, or in the event that the associated Judgment does not become
18 Final for any reason, this Stipulation shall be deemed null and void *ab initio*, it shall be of no force
19 or effect whatsoever; it shall not be referred to or utilized for any purpose whatsoever; and the
20 negotiation, terms, and entry of the Stipulation shall remain subject to the provisions of California
21 Evidence Code sections 1119 and 1152, except that the documents filed in support of the motion
22 for preliminary approval and/or final approval shall remain part of the public record.

23 Grant Construction denies all of the allegations and claims, including as to liability,
24 damages, penalties, interest, fees, restitution and all other forms of relief as well as the class and
25 representative action allegations asserted in the Litigation. Grant Construction has agreed to
26 resolve the Litigation via this Stipulation, but to the extent this Stipulation is disapproved by the
27 Court, deemed void, or does not otherwise take effect, Grant Construction does not waive, but
28 rather expressly reserves, all rights to challenge all such claims and allegations in the Litigation

1 upon all procedural and factual grounds, including without limitation the ability to challenge class
2 and/or representative action treatment on any grounds or assert any and all defenses or privileges.
3 The Class Representative and Class Counsel agree that Grant Construction retains and reserves
4 these rights, and agree not to take positions to the contrary; specifically, the Class Representative
5 and Class Counsel agree not to argue or present any argument, and hereby waive any argument,
6 that this Stipulation estops or otherwise precludes from Grant Construction contesting class and/or
7 representative treatment on any grounds if this Litigation were to proceed.

8 **II. The Parties to this Stipulation.**

9 This Stipulation is made and entered into by and among the Settling Parties, with
10 the assistance of their respective counsel of record. This Stipulation is intended by the Settling
11 Parties to fully, finally and forever resolve, discharge and settle the Released Class Claims and
12 Released PAGA Claims (as defined below) upon and subject to the terms and conditions hereof.
13 This Stipulation is also intended to result in the resolution with prejudice of the Litigation. This
14 Stipulation is intended to and will also result in the execution of a general release of all claims of
15 any nature held by the Class Representative against Grant Construction.

16 **III. The Litigation.**

17 In the above-captioned action, Plaintiff filed a Complaint against Grant
18 Construction in Fresno County Superior Court on August 6, 2021 and filed a First Amended
19 Complaint on October 28, 2021. On June 21, 2023, the Litigation was transferred by stipulation
20 of the parties to the Kern County Superior Court, case number BCV-23-102043.

21 In the First Amended Complaint, Plaintiff alleged class action claims under the
22 California Business and Professions Code and the California Labor Code, by reason of the
23 following alleged conduct: (1) failure to pay all minimum wages due; (2) failure to pay all
24 overtime wages due; (3) meal period violations, including without limitation failure to provide
25 required meal periods or to pay required premiums in lieu thereof; (4) rest period violations,
26 including without limitation failure to provide required rest periods or to pay required premiums in
27 lieu thereof; (5) untimely payment of wages; (6) wage statement violations, including without
28 limitation failure to provide accurate wage statements; (7) waiting time penalties, including

1 without limitation failure to timely pay final wages upon termination of employment; (8) failure to
2 reimburse necessary expenses; and (9) unfair business practices. Plaintiff also alleged individual
3 and representative claims seeking penalties under PAGA for the foregoing alleged violations of
4 the Labor Code. Grant Construction has answered the First Amended Complaint, and, as it did
5 with respect to the earlier complaint, it has denied the material allegations.

6 On May 12, 2023, counsel for Grant Construction and Class Counsel, all of whom
7 are experienced in these types of cases, attended a mediation session with David Rotman, an
8 experienced mediator knowledgeable of both wage and hour laws and class and representative
9 claims at issue in the Litigation. The mediation culminated in a binding Memorandum of
10 Understanding (“MOU”) executed by the Settling Parties and counsel, providing for the full and
11 final resolution of the Litigation.

12 This Stipulation is intended to result in the creation of a settlement class comprised
13 of all non-exempt employees of Grant Construction in California at any time during the period
14 from August 6, 2017 through the Preliminary Approval Date. Solely for the purpose of settling
15 this case, the Settling Parties stipulate and agree that the requirements for establishing class
16 certification with respect to this class have been met and are met. If this Settlement is not
17 approved by the Court for any reason, Grant Construction reserves its rights to contest class and/or
18 representative claims and the Settling Parties shall revert to the respective positions they held prior
19 to entering into the Stipulation.

20 This Stipulation, if approved by the Court, will result in the termination with
21 prejudice of the Litigation through the entry of the Judgment, and the release of all Released Class
22 Claims by all Settlement Class Members and all Released PAGA Claims by the PAGA Members
23 and LWDA. The Class Representative will also execute a separate agreement including a general
24 release of all claims.

25 **IV. Defendant’s Denial of Wrongdoing or Liability.**

26 Grant Construction denies all of the claims and contentions alleged by the Class
27 Representative in the Litigation. Nonetheless, Grant Construction has concluded that further
28 conduct of the Litigation would be protracted and expensive, and that it is desirable that the

1 Litigation be fully and finally settled in the manner and upon the terms and conditions set forth in
2 this Stipulation. Grant Construction has also taken into account the uncertainty and risks inherent
3 in any litigation, and Grant Construction has determined that it is desirable and beneficial that the
4 Litigation be settled now in the manner and upon the terms and conditions set forth in this
5 Stipulation.

6 **V. Claims of the Class Representative and Benefits of Settlement.**

7 The Class Representative and Class Counsel believe that the claims presently
8 asserted in the Litigation have merit and that evidence developed to date supports those claims.
9 However, the Class Representative and Class Counsel recognize and acknowledge the expense
10 and length of the type of continued proceedings necessary to prosecute the Litigation against Grant
11 Construction through trial and through appeals. The Class Representative and Class Counsel have
12 also taken into account the uncertain outcome and the risk of any litigation, as well as the
13 difficulties and delays inherent in such litigation. Based upon their evaluation, the Class
14 Representative and Class Counsel have determined that the settlement set forth in the Stipulation
15 is in the best interests of the Class Representative and the Class.

16 **VI. Terms of Stipulation and Agreement of Settlement.**

17 NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and
18 between the Class Representative (for himself and the Class Members) and Grant Construction,
19 with the assistance of their respective attorneys of record, that, as among the Settling Parties,
20 including all Class Members, the Litigation and the Released Class Claims and Released PAGA
21 Claims shall be finally and fully compromised, settled, and released, and the Litigation shall be
22 resolved with prejudice, as to all Settling Parties, upon and subject to the terms and conditions of
23 the Stipulation and the Judgment.

24 1. Definitions.

25 As used in all parts of this Stipulation, the following terms have the meanings
26 specified below:

27 1.1. "Class" means the collective group of Persons who are or were non-exempt
28 employees of Grant Construction in California at any point during the Class Period. Grant

1 Construction has calculated that as of March 31, 2023, the Class consisted of approximately 1,740
2 Persons.

3 1.2. "Class Counsel" means Protection Law Group.

4 1.3. "Class Member" or "Member of the Class" means a Person who is a
5 member of the Class.

6 1.4. "Class Notice" or "Notice" or "Notice to Class Members" means a notice
7 (and associated response forms) to be approved by the Court, which shall be submitted to the
8 Court substantially in the form attached hereto as Exhibit A. The Notice will be formatted by the
9 Settlement Administrator, and it will not appear on pleading paper when ultimately mailed to
10 Class Members. The Notice will be sent in both English and Spanish to each Class Member.

11 1.5. "Class Period" means the period from August 6, 2017 through and
12 including the Preliminary Approval Date, unless adjusted as provided for in this Stipulation.

13 1.6. "PAGA Period" shall mean the period from August 6, 2020 through and
14 including the Preliminary Approval Date, unless adjusted as provided for in this Stipulation.

15 1.7. "Court" means the Kern County Superior Court.

16 1.8. "Effective Date" means the date on which the Judgment becomes Final.

17 1.9. "Final" means the point at which the Judgment has become final and
18 irreversible because the latest of the following dates has occurred: (i) the date of final affirmance
19 on an appeal of the Judgment; (ii) the date of final dismissal with prejudice of the last pending
20 appeal from the Judgment; or (iii) if no appeal is filed, the expiration date of the time for the filing
21 or noticing of any form of valid appeal from the Judgment. Notwithstanding the foregoing, any
22 proceeding or order, or any appeal or petition for a writ pertaining solely to the award of attorneys'
23 fees or costs shall not, by itself, in any way delay or preclude the Judgment from becoming Final.

24 1.10. "Final Fairness Hearing" or "Final Approval Hearing" means a hearing set
25 by the Court to take place on or about the date which is twenty-five (25) days after the Notice
26 Response Deadline (or as otherwise specified by the Court) for the purpose of (i) determining the
27 fairness, adequacy and reasonableness of the Stipulation and associated settlement pursuant to
28 class and collective action procedures and requirements; (ii) determining the good faith of the

1 Stipulation; (iii) awarding attorneys' fees, costs, and enhancement awards; and (iv) entering
2 Judgment.

3 1.11. "Final Fairness Hearing Motion Date" shall mean the date on which the
4 motion for final approval is filed pursuant to Paragraph 2.5.6, and this date shall be approximately
5 16 court days prior to the Final Fairness Hearing, or as otherwise specified by the Court.

6 1.12. "Grant Construction" means Grant Construction, Inc. "Grant Construction
7 Releasees" means Grant Construction and each of its parents, affiliates, subsidiaries, predecessors,
8 successors, divisions, joint venturers, attorneys, and assigns and each of these entities' past or
9 present owners, directors, officers, employees, partners, members, principals, agents, insurers, co-
10 insurers, re-insurers, shareholders, attorneys, employee benefit plans, employee benefit plan
11 trustees, fiduciaries, and administrators, and personal or legal representatives (including, without
12 limitation, Grant Fraysier, Julio Vega and Hugo Montoya).

13 1.13. "Class Settlement Sum" means the total, gross amount due to an individual
14 Settlement Class Member, which shall be the product of the Class Settlement Sum Variable
15 (defined below) multiplied by the number of Qualifying Work Weeks worked by that Settlement
16 Class Member; Because of the withholdings described in Paragraphs 2.1.3 and 2.2.1 the net
17 amount ultimately received by each Settlement Class Member will be less than his or her gross
18 Class Settlement Sum.

19 1.14. "Class Settlement Sum Variable" means the number which is the quotient
20 of the Net Settlement Amount for Payments to Settlement Class Members divided by the total
21 number of Qualifying Work Weeks for all Settlement Class Members.

22 1.15. "Judgment" means the judgment to be rendered by the Court pursuant to
23 this Stipulation, substantially in the form attached hereto as Exhibit B.

24 1.16. "Last Known Address" or "Last Known Addresses" means the most
25 recently recorded mailing address for a Class Member as such information is contained in
26 employment or personnel records maintained by Grant Construction.

27 1.17. "Litigation" or "the Litigation" means the above-captioned Lawsuit pending
28 in Kern County Superior Court.

1 1.18. “Maximum Settlement Amount” means the maximum gross amount that
2 Grant Construction shall pay under the terms of this Stipulation, which is \$2,350,000.00 (two
3 million three hundred fifty thousand dollars). This amount shall cover all expenses associated
4 with the settlement, including: (a) the Net Settlement Amount for Payments to Settlement Class
5 Members; (b) Payroll Taxes on the wage portion of the Payments to Settlement Class Members;
6 (c) the maximum gross amount for Class Counsel’s attorneys’ fees to be paid in accordance with
7 the terms set forth in Paragraph 2.8.1, which is one-third of the Maximum Settlement Amount
8 (\$783,333.33) or such other amount approved by the Court; (d) the maximum gross amount for all
9 of Class Counsel’s and the Class Representative taxable litigation costs, as well as their normal
10 and customary expenses, which shall not exceed \$30,000; (d) the anticipated gross amount for
11 settlement administration costs, which is \$16,878; (f) the maximum gross amount for the
12 enhancement payment and consideration for individual release to be made by Grant Construction
13 to the Class Representative, which is a maximum of \$7,500; and (g) the maximum gross amount
14 for payment in consideration for the release of all Released PAGA Claims under the California
15 Private Attorneys General Act of 2004, codified at California Labor Code sections 2698 et seq.,
16 which is \$200,000 (75%, or \$150,000, of which shall sent to the California Labor Workforce
17 Development Agency, with the remaining 25% (or \$50,000) to be distributed to the PAGA
18 Members). In the event that the total number of Qualifying Work Weeks for the time period from
19 August 6, 2017 through the Preliminary Approval Date exceeds 76,335 by ten (10) percent or
20 more, then at Defendant’s option either (i) the end date for the Class Period shall be adjusted so
21 that the number of Workweeks does not exceed 83,968 Workweeks, or (ii) Defendant shall
22 increase the Maximum Settlement Amount on a pro-rata basis equal to the percentage increase in
23 the number of Workweeks worked by the Class Members above 10% (for example, if the number
24 of Workweeks increases by 11%, the Maximum Settlement Amount will increase by 1%), and the
25 amounts set forth as items (a) through (c) of this Paragraph 1.18 shall each be adjusted
26 accordingly. Except for any dollar increase pursuant to the preceding sentence, Grant
27 Construction will not under any circumstances pay more than the Maximum Settlement Amount.

28 1.19. “Net Settlement Amount for Payments to Settlement Class Members”

1 means the maximum amount for payments to Settlement Class Members, which is the Maximum
2 Settlement Amount less all other payments provided for in this Stipulation, namely Class
3 Counsel's Fees, Class Counsel's Costs, Settlement Administration Costs, the Incentive Payment to
4 Plaintiff, Payroll Taxes on the wage portion of the Payments to Settlement Class Members, and
5 the PAGA Payment.

6 1.20. "Notice Mailing Deadline" means the date thirty (30) days after the
7 Preliminary Approval Date.

8 1.21. "Notice Response Deadline" means the date ninety (90) days after the date
9 that the Settlement Administrator mails the Notice to the Class. If the 90th day falls on a Sunday
10 or holiday, the deadline will be the next business day that is not a Sunday or holiday.

11 1.22. "Opt Out" or "Opt Outs" means Class Members who submit written
12 requests, in the form specified in the Class Notices, to be excluded from the Settlement Class.

13 1.23. "Opt Out Request" means a written request by a Class Member to be
14 excluded from the Settlement Class, in the form specified in the Class Notices.

15 1.24. "Order of Final Approval" or "Order Granting Final Approval of
16 Settlement" means an order to be entered and filed by the Court, to be submitted to the Court
17 substantially in the form attached hereto as Exhibit C.

18 1.25. "PAGA Member" shall mean all current and former hourly-paid, non-
19 exempt employees of Grant Construction who worked for Grant Construction, in the State of
20 California, at any time during the PAGA Period.

21 1.26. "PAGA Payment" shall mean the payment of Two Hundred Thousand
22 Dollars (\$200,000) that the Parties shall allocate towards resolving the alleged PAGA claims.
23 Seventy-Five Percent (75%) of these funds shall be distributed to the LWDA. The remaining 25%
24 of the funds shall be allocated on a *pro rata* basis to the PAGA Members based on their respective
25 weeks worked during the PAGA Period.

26 1.27. "PAGA Period" shall mean the period commencing on August 6, 2020, and
27 ending on the date of preliminary approval of the settlement, unless adjusted as provided for in
28 this Stipulation.

1 1.28. "PAGA Settlement Sum" shall mean the amount that PAGA Members shall
2 receive from the PAGA Payment, which shall be the product of the PAGA Settlement Sum
3 Variable (defined below) multiplied by the number of Qualifying Work Weeks worked during the
4 PAGA Period by the individual PAGA Member. Each PAGA Settlement Sum shall be allocated
5 as 100% penalties.

6 1.29. "PAGA Settlement Sum Variable" means the number which is the quotient
7 of the 25% portion of the PAGA Payment allocated for distribution to the PAGA Members
8 (\$50,000) divided by the total number of Qualifying Work Weeks during the PAGA Period for all
9 PAGA Members.

10 1.30. "Payroll Taxes" shall mean the payroll taxes and associated payments that
11 an employer is required to make when making standard wage payments to employees, i.e., the
12 employer share of the payroll tax.

13 1.31. "Person" means a natural person.

14 1.32. "Preliminary Approval Date" means the date on which the Court enters the
15 Preliminary Approval Order.

16 1.33. "Preliminary Approval Order" means an order executed and filed by the
17 Court, to be submitted to the Court substantially in the form attached hereto as Exhibit D.

18 1.34. A "Qualifying Work Week" means any calendar week in which a Class
19 Member performed work on at least 1 day as a non-exempt employee for Grant Construction in
20 California during the Class Period.

21 1.35. A "Reasonable Address Verification Measure" means the utilization of the
22 National Change of Address Database maintained by the United States Postal Service to review
23 the accuracy of and, if possible, update a mailing address. A "Secondary Address Verification
24 Measure" means the use of Social Security numbers to run a standard skip trace.

25 1.36. "Released Class Claims" means any and all claims, demands, rights,
26 liabilities and causes of action of every nature and description whatsoever, including without
27 limitation statutory, constitutional, contractual or common law claims, against the Grant
28 Construction Releasees, or any of them, including without limitation claims for wages, damages,

1 unpaid costs, penalties, liquidated damages, punitive damages, interest, attorneys' fees, litigation
2 costs, restitution, or equitable relief, including Unknown Claims, that accrued during the Class
3 Period as a result of the Class Members' employment in California for Grant Construction, and
4 which were alleged or could have reasonably been alleged based on the factual allegations in the
5 operative complaint for each of the following categories of claims or allegations: (a) (i) failure to
6 pay minimum wages due and/or failure to calculate the regular rate of pay for any types of wages
7 or premiums; (ii) failure to pay any and all regular or premium wages, including but not limited to
8 overtime wages; (iii) failure to provide sufficient meal periods and/or to pay premiums in lieu
9 thereof; (iv) failure to provide sufficient rest periods and/or to pay premiums in lieu thereof; (v)
10 failure to pay vacation or sick leave wages, including without limitation COVID-19 supplemental
11 paid sick leave; (vi) untimely payment of wages; (vii) failure to furnish accurate itemized wage
12 statements; (viii) failure to timely pay all wages due to discharged, quitting or otherwise
13 terminated employees; (ix) failure to reimburse necessary business expenses; (x) failure to comply
14 with payroll or wage record-keeping requirements; (xi) unfair business practices relating to or
15 arising out of the previous claims; (xii) civil penalties under the Labor Code arising out of any of
16 the previous claims; and (xiii) to the extent not covered by the above, claims that were asserted or
17 could have been asserted based on the facts alleged in the First Amended Complaint filed in the
18 Litigation; (b) any and all claims alleging statutory violations based on the factual allegations in
19 the complaint including factual allegations relating to the claims set forth above in Paragraph
20 1.31(a), including without limitation claims under the California Labor Code sections 201, 202,
21 203, 204, 204b, 210, 216, 225.5, 226, 226.2, 226.3, 226.7, 227.3, 246 *et seq.*, 256, 510, 512, 516,
22 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 1199, and 2802, any applicable
23 California Industrial Welfare Commission Wage Orders, California Business & Professions Code
24 sections 17200 *et seq.*, and the federal Fair Labor Standards Act ("FLSA"); (c) any and all claims
25 for penalties or liquidated damages or other available remedies arising from the factual allegations
26 in the complaint including factual allegations relating to the claims set forth above in Paragraph
27 1.31(a) and (b), including without limitation claims under the California Labor Code sections 201,
28 202, 203, 204, 204b, 210, 216, 225.5, 226, 226.2, 226.3, 226.7, 227.3, 246 *et seq.*, 256, 510, 512,

1 516, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 1199, and 2802, any
2 applicable California Industrial Welfare Commission Wage Orders, California Business &
3 Professions Code sections 17200 *et seq.*; and (d) any and all claims for interest, costs, or
4 attorneys' fees arising from the categories of allegations set forth above in Paragraph 1.31(a) and
5 (b), including without limitation claims under California Labor Code sections 218.5, 1194, and
6 California Code of Civil Procedure section 1021.5. It is agreed that California Labor Code
7 Section 2804 does not affect or impede this release because part of the Judgment reflects a court-
8 approved settlement.

9 1.37. "Released PAGA Claims" shall mean any and all claims, including
10 Unknown Claims, arising under the California Labor Code Private Attorneys General Act (PAGA)
11 for civil penalties, that accrued during the PAGA Period as a result of the PAGA Members'
12 employment in California for Grant Construction, and that could have been premised on the facts
13 alleged in the PAGA Letter sent on Plaintiff's behalf to the LWDA or in the First Amended
14 Complaint in the Litigation, or both, including without limitation factual allegations regarding (a)
15 any of the Labor Code provisions set forth in Paragraph 1.36 or (b) Defendant's alleged (i) failure
16 to pay minimum wages due and/or failure to calculate the regular rate of pay for any types of
17 wages or premiums; (ii) failure to pay any and all regular or premium wages, including but not
18 limited to overtime wages; (iii) failure to provide sufficient meal periods and/or to pay premiums
19 in lieu thereof; (iv) failure to provide sufficient rest periods and/or to pay premiums in lieu thereof;
20 (v) failure to pay vacation or sick leave wages, including without limitation COVID-19
21 supplemental paid sick leave; (vi) untimely payment of wages; (vii) failure to furnish accurate
22 itemized wage statements; (viii) failure to timely pay all wages due to discharged, quitting or
23 otherwise terminated employees; (ix) failure to reimburse necessary business expenses; and (x)
24 failure to comply with payroll or wage record-keeping requirements.

25 1.38. "Settlement Administrator" means the third-party claims administration
26 firm of Rust Consulting, Inc.

27 1.39. "Settlement Class Members" means the group of all Class Members who do
28 not opt out of the Class by submitting Opt Out Requests pursuant to Paragraph 2.5.1, and thus

1 means the collective group of all of the Class Members who will become subject to and bound by
2 the Judgment if the Effective Date occurs.

3 1.40. "Stipulation" means this agreement and all of its attachments and exhibits,
4 which the Settling Parties understand and agree sets forth all material terms and conditions of the
5 settlement between them, and which is subject to Court approval.

6 1.41. "Unknown Claims" means those Released Class Claims by the Class
7 Representative and Settlement Class Members that could have reasonably been based on the same
8 factual allegations as those in the First Amended Complaint in the Litigation. In addition, the
9 Class Representative—but not the Settlement Class Members—shall be deemed to have waived
10 the provisions, rights, and benefits of California Civil Code § 1542 or any like provision of the law
11 of any other pertinent jurisdiction. California Civil Code § 1542 provides:

12 1.41.1. A general release does not extend to claims that the creditor or releasing
13 party does not know or suspect to exist in his or her favor at the time of executing the release and
14 that, if known by him or her, would have materially affected his or her settlement with the debtor
15 or released party. The Class Representative and Settlement Class Members acknowledge that they
16 shall release all claims which could have reasonably been based on the same factual predicate as
17 the allegations in the First Amended Complaint in the Litigation, with respect to the subject matter
18 of the Released Class Claims, whether alleged or not alleged. However, the Class Representative
19 and Settlement Class Members, upon occurrence of both the Effective Date and Grant
20 Construction's full funding and payment of the Maximum Settlement Amount, pursuant to the
21 payment terms set forth in Paragraph 2.6, shall be deemed to have, and by operation of the
22 Judgment shall have, fully, finally, and forever settled and released the Released Class Claims.
23 The Class Representative acknowledges that the foregoing waiver was separately bargained for
24 and a key element of the settlement of which this release is a part. It is understood and agreed that
25 Unknown Claims include only those claims that meet the definition of Released Class Claims and
26 could have been raised based on the same factual allegations in the First Amended Complaint.
27 Unknown claims therefore do not include, for example, claims for wrongful termination,
28 workplace harassment or discrimination, or Workers Compensation Claims.

1 1.42. "Updated Address" means a mailing address that was updated via a
2 Reasonable Address Verification Measure or via an updated mailing address provided by the
3 United States Postal Service or a Class Member.

4 1.43. "Wage" or "Wages" Or "wage" or "wages" shall have the same meaning as
5 the term wages under California Labor Code section 200.

6 2. The Settlement.

7 2.1. *Consideration to Settlement Class Members and PAGA Members.*

8 2.1.1. Within fourteen (14) days of the Effective Date, and only if the Effective
9 Date occurs, Grant Construction shall fund the Maximum Settlement Amount. Within seven (7)
10 days of funding of the Maximum Settlement Amount, Grant Construction, through the Settlement
11 Administrator, and according to the terms, conditions, and procedures set forth in this Stipulation,
12 shall pay each Settlement Class Member and/or PAGA Member his or her Class Settlement Sum
13 and/or PAGA Settlement Sum. With this payment, the Settlement Administrator will include a
14 post card or other notice stating: "This notice is being mailed to all Settlement Class Members and
15 PAGA Members, including you, pursuant to California Rule of Court 3.771(b) to advise you that
16 the Court has approved the settlement of this matter and entered judgment accordingly. No further
17 action is required on your part." The settlement administrator shall issue a single check to
18 recipients who are both Settlement Class Members and PAGA Members, which shall include both
19 the Class Settlement Sum and PAGA Settlement Sum due to such individuals.

20 2.1.2. The Class Settlement Sums shall be allocated for reporting reasons as
21 follows: (a) 15% shall be deemed payment in settlement of claims for unpaid wages; and (b) 85%
22 shall be deemed payment for penalties and interest The PAGA Settlement Sum will be allocated
23 as 100% penalties.

24 2.1.3. As further detailed in this Section 2, Grant Construction, itself or through
25 the Settlement Administrator, will report each payment made pursuant to this Stipulation to
26 government authorities, including the Internal Revenue Service, as required by law, and it shall
27 make all required deductions and/or withholdings.

28 2.1.4. Only Settlement Class Members are entitled to payment of their Class

1 Settlement Sum under this Stipulation and the associated Judgment. However, PAGA Members
2 shall receive their portion of the PAGA payment regardless of their decision to opt out of the
3 Class, because the opt-out process does not apply to PAGA claims.

4 2.2. *Taxes.*

5 2.2.1. Those payments (or portions thereof) allocated to the settlement of claims
6 for unpaid wages (a) shall be subject to required withholdings and deductions, and so the net
7 amounts payable will be less than the gross amounts; and (b) shall be reported in the year of
8 payment as wage income to the Settlement Class Members on a Form W-2 or analogous form.
9 Those payments (or portions thereof) allocated to any other claims, including without limitation
10 claims for unreimbursed business expenses, penalties, liquidated damages, and interest (a) shall
11 not be subject to withholdings and deductions, and so the net amounts payable will be equal to the
12 gross amounts; and (b) shall be reported in the year of payment as non-wage income to the
13 Settlement Class Members/PAGA Members on a Form 1099 or analogous form. Other than as set
14 forth above, Grant Construction will not, unless otherwise required by law, make any deductions,
15 withholdings or additional payments from the Class Settlement Sum of any Settlement Class
16 Member, including without limitation, medical or other insurance payments or premiums,
17 employee 401(k) contributions or matching employer contributions, wage garnishments, or charity
18 withholdings. Any amount paid to Settlement Class Members shall not create any credit or
19 otherwise affect the calculation of any deferred compensation, benefit, or other compensation plan
20 provided by Grant Construction.

21 2.2.2. Other than the withholding and reporting requirements set forth in
22 Paragraphs 2.1.2, 2.1.3, and 2.2.1, the Settlement Class Members/PAGA Members shall be solely
23 responsible for the reporting and payment of any federal, state and/or local income or other tax or
24 any other withholdings, if any, on any of the payments made pursuant to this Stipulation. Grant
25 Construction makes no representations, and it is understood and agreed that Grant Construction
26 has made no representations, as to the taxability of any portions of the settlement payments to any
27 Settlement Class Members, the payment of any costs or attorneys' fee awards, any payments to the
28 Class Representative, or any other payments made pursuant to this Stipulation. The Notice will

1 advise Class Members to seek their own tax advice prior to acting in response to that notice.

2 2.3. *Approval of Notice to the Class and Scheduling of a Final Fairness*
3 *Hearing.*

4 2.3.1. The Class Representative, through Class Counsel, shall file this
5 Stipulation with the Court and move for preliminary approval of this Stipulation. Class Counsel
6 will provide an advance copy of this motion to counsel for Grant Construction. Via this
7 submission, and a supporting motion, the Class Representative, through Class Counsel, will
8 request that the Court enter the Preliminary Approval Order thereby scheduling the Final Fairness
9 Hearing for the purposes of determining the good faith of this settlement, granting final approval
10 of the settlement, and entering Judgment. Via this same motion, the Class Representative, through
11 Class Counsel, shall advise the Court of the agreements set forth in Paragraphs 2.8.1, 2.8.2 and
12 2.8.3 of this Stipulation.

13 2.3.2. The Class Representative shall endeavor to notice the motion for entry of
14 the Preliminary Approval Order described in Paragraph 2.3.1 for a hearing before the Court as
15 soon as possible, subject to Court availability. Failure of the Court to enter the Preliminary
16 Approval Order in its entirety or in a substantially similar form following the efforts of the
17 Settling Parties to obtain such entry will be grounds for Grant Construction to terminate the
18 settlement and the terms of this Stipulation.

19 2.3.3. If the Court enters the Preliminary Approval Order more than twenty (20)
20 days after the hearing date for the motion for preliminary approval, Class Counsel and counsel for
21 Grant Construction shall meet and confer to reach agreement on any necessary revisions of the
22 deadlines and timetables set forth in this Stipulation. In the event that the Settling Parties fail to
23 reach such agreement, any of the Settling Parties may apply to the Court via a noticed motion for
24 modification of the dates and deadlines in this Stipulation, provided that such a request to the
25 Court may seek only reasonable modifications of the dates and deadlines contained in this
26 Stipulation and no other changes.

27 2.3.4. If the Court enters the Preliminary Approval Order, then at the resulting
28 Final Fairness Hearing, the Class Representative and Grant Construction, through their counsel of

1 record, shall address any written objections from Class Members, any concerns from Class
2 Members who attend the hearing, and any concerns of the Court. Unless the Stipulation is
3 terminated or voided per its terms, the Settling Parties and their counsel will seek, and take all
4 reasonable steps to obtain, approval of the Stipulation and entry of the Judgment by the Court.

5 2.4. *Notice to Class Members.*

6 2.4.1. If, by entering the Preliminary Approval Order, the Court provides
7 authorization to send the Class Notice to Class Members, Grant Construction, through the
8 Settlement Administrator, will facilitate the mailing of the Notice to all Class Members at their
9 Last Known Addresses. The Notices shall be mailed via first class mail through the United States
10 Postal Service, postage pre-paid. The Notice shall include, as an attached form, a pre-printed
11 change of address form. The Notice shall also include instructions on how a Class Member can
12 submit an Opt Out Request. No other materials will be included with the mailings enclosing these
13 notices. No Settling Party shall send any other materials to any Class Member, provided that
14 Class Counsel may respond to individual inquiries from Class Members.

15 2.4.2. The Notice and their envelopes or coverings shall be marked to denote the
16 return address of the Settlement Administrator as set forth on the change of address form in the
17 Notice.

18 2.4.3. Grant Construction shall compile information respecting the name, Last
19 Known Address, Last Known Telephone Number, Social Security Number, and number of
20 Qualifying Work Weeks for each Class Member for the Settlement Administrator during the Class
21 Period and the PAGA Period so that the Settlement Administrator. This information will not be
22 provided to the Class Representative or Class Counsel. The Settlement Administrator will provide
23 anonymized calculations regarding each individual's expected gross Class Settlement Sum and
24 number of Qualifying Work Weeks, along with each individual's expected gross PAGA
25 Settlement Sum and the number of associated Qualifying Work Weeks, to Class Counsel, prior to
26 the processing and mailing of each Notice. Employee names, telephone numbers, addresses, social
27 security numbers, or other personal identifying information will not be provided to the Class
28 Representative or Class Counsel, except that if Class Counsel are contacted by a Class Member

1 with respect to the Settlement, and such Class Member authorizes the Settlement Administrator in
2 writing (which may include email) to disclose their personal information, Class Counsel may send
3 an email to the Settlement Administrator forwarding such authorization and copying Grant
4 Construction's counsel (joseph.lee@mto.com and scott@bbr.law), and the Settlement
5 Administrator shall thereafter promptly provide Class Counsel (with copy to Grant Construction's
6 counsel) the requested information respecting the specific Settlement Class Member at issue. Any
7 such information provided to Class Counsel shall be highly confidential and shall not be disclosed
8 to any Person not employed by Class Counsel. Nothing in this provision shall be interpreted as
9 preventing the Class Member from freely providing such information to Class Counsel
10 themselves, rather than such information being disclosed by the Settlement Administrator. By
11 preliminarily approving this settlement, the Court will be deemed to have authorized (a) Grant
12 Construction to provide the Settlement Administrator with the class list data and Social Security
13 Number of each Class Member/PAGA Member, and (b) the Settlement Administrator to provide
14 certain information to Class Counsel as set forth above. The number of Qualifying Work Weeks
15 and the associated calculation of Class Settlement Sums and PAGA Settlement Sums will be
16 determined by reference to Grant Construction's records, which shall be presumed to be correct.

17 2.4.4. Prior to mailing the Notice to each Class Member, the Settlement
18 Administrator shall include in the space provided on each such notice (a) the Qualifying
19 Workweeks attributed to the Class/PAGA Member in the Class Period and the PAGA Period and
20 the estimated gross Class Settlement Sum and PAGA Settlement Sum for the Class/PAGA
21 Member in question.

22 2.4.5. Prior to mailing the Notice to each Class Member, the Settlement
23 Administrator shall undertake a Reasonable Address Verification Measure to ascertain the current
24 accuracy of the Last Known Address of each Class Member. To the extent this process yields an
25 Updated Address, that Updated Address shall replace the Last Known Address and be treated as
26 the new Last Known Address for purposes of this Stipulation and for subsequent mailings in
27 particular.

28 2.4.6. The Notice Mailing Deadline is the last date for the Settlement

1 Administrator to mail the Notices to the Last Known Address of each Class Member and post the
2 Notices on the Settlement Administrator's website.

3 2.4.7. All costs of the mailing described in Paragraph 2.4.1 (including, for
4 example, the fees charged by the Settlement Administrator, the cost of the envelopes in which the
5 Notice will be mailed, the cost of reproducing the Notice, and the cost of postage to send the
6 Notice), shall be included in the portion of the Maximum Settlement Amount allocated for
7 settlement administration costs.

8 2.4.8. Each Notice shall be deemed mailed and received by the Class Member
9 upon mailing. In the event that subsequent to the first mailing of a Notice, and prior to the Notice
10 Response Deadline, a Notice is returned to the Settlement Administrator by the United States
11 Postal Service with a forwarding address for the recipient, the Settlement Administrator shall re-
12 mail that Notice to the forwarding address, that Notice will be deemed mailed and received at that
13 point, and the forwarding address shall be deemed the Updated Address for that Class Member. In
14 the event that subsequent to the first mailing of a Notice, and prior to the Notice Response
15 Deadline, a Notice is returned to the Settlement Administrator by the United States Postal Service
16 because the address of the recipient is no longer valid, e.g., the envelope is marked "Return to
17 Sender," the Settlement Administrator shall undertake another Reasonable Address Verification
18 Measure to attempt to ascertain the current address of the particular Class Member in question
19 and, if such an address is ascertained, the Settlement Administrator will re-send that Notice within
20 five (5) days of receiving such information. If no Updated Address is obtained for that Class
21 Member through this second effort, the Notice shall be sent again to the Last Known Address, and
22 in either event, the Notice shall be deemed received once it is mailed for the second time. In the
23 event that subsequent to the second mailing of a Notice, and on or after the Notice Response
24 Deadline, a Notice is returned to the Settlement Administrator by the United States Postal Service
25 because the address of the recipient is no longer valid, i.e., the envelope is marked "Return to
26 Sender," the Settlement Administrator shall be required to take no further action with that Notice
27 and it shall be deemed to have been delivered. Nothing in this Paragraph 2.4.8 shall be deemed to
28 extend the Notice Response Deadline.

1 2.5. *Responses to the Notice; Motion for Final Approval.*

2 2.5.1. Class Members may elect to opt out of the Class and thus exclude
3 themselves from the Class. Class Members who wish to exercise this option must mail to the
4 Settlement Administrator a timely, fully completed Opt Out Request consistent with the
5 instructions contained in the Notice. Class Members who do not properly submit Opt Out
6 Requests postmarked on or before the Notice Response Deadline shall be deemed Members of the
7 Settlement Class and will be deemed to have forever waived his or her right to opt out of the
8 Settlement. Class Members who properly submit Opt Out Requests shall have no further role in
9 the Litigation, and for all purposes they shall be regarded as if they never were parties to this
10 Litigation. To the extent that any Class Members properly submit Opt Out Requests, the funds
11 that would have been allocated to them for payment of the Class Settlement Sums shall be
12 allocated to the Settlement Class Members on a pro rata basis and included in the distributions to
13 Settlement Class Members pursuant to this Stipulation.

14 2.5.2. Within ten (10) business days after the Notice Response Deadline, the
15 Settlement Administrator will provide copies of all Opt Out Requests to counsel for the Parties by
16 email. If more than 10% of the Class Members opt out of the settlement, Grant Construction shall
17 have the unilateral right to terminate this settlement this settlement within 30 days of receipt of the
18 Opt Out Requests.

19 2.5.3. Class Members who have not filed a valid Opt Out Request may object to
20 the Stipulation by submitting written objections to the Settlement Administrator no later than the
21 Notice Response Deadline. The Notice shall advise Class Members of this option. The
22 Settlement Administrator shall immediately provide any such objections to the Settling Parties,
23 who shall subsequently provide them to the Court during the final approval process. The Settling
24 Parties agree to respond to any objections at a hearing before the Court, and may submit a written
25 response to the Court prior to the final approval hearing. Class Members who attend the final
26 approval hearing retain the right to object orally at such hearing.

27 2.5.4. Class Members who, for future reference and mailings from the Court or
28 Settlement Administrator, if any, wish to change the name or address listed on the envelope in

1 which the Notice was first mailed to them, must either (a) add their new address information to a
2 timely submitted Opt Out Request; or (b) fully complete, execute, and mail, per the instructions
3 therein, the form entitled “Change of Name or Address Information” attached to the Notice as
4 Form A. All name or address change requests must be postmarked or received on or before the
5 Notice Response Deadline. To the extent that a Class Member requests a replacement Notice or
6 associated forms prior to the Notice Response Deadline, the Settlement Administrator shall
7 provide that Class Member with a replacement Notice.

8 2.5.5. In the event that a Class Member or PAGA Member disputes his or her
9 Class Settlement Sum or PAGA Settlement Sum, the Settlement Administrator shall consult with
10 Grant Construction and Class Counsel to provide them an opportunity to review the dispute. If
11 Grant Construction and Class Counsel do not agree on resolution of the dispute, the dispute shall
12 be resolved by the Court. The Settlement Administrator shall provide written notice of such
13 conclusion to the Class Member no later than 30 days after Final Approval.

14 2.5.6. Prior to the Final Fairness Hearing and consistent with the rules imposed
15 by the Court, the Class Representative shall move the Court for entry of the Order of Final
16 Approval (and the associated entry of Judgment). Class Counsel shall provide an advance copy of
17 this motion to Grant Construction. Through this motion, the Class Representative shall advise the
18 Court of the agreements in Paragraphs 2.8.1, 2.8.2, and 2.8.3 of this Stipulation. The Class
19 Representative and Class Counsel shall be responsible for justifying the agreed upon payments set
20 forth in Paragraphs 2.8.1, 2.8.2, and 2.8.3 of this Stipulation. The Settling Parties shall make all
21 reasonable efforts to secure entry of the Order of Final Approval and Judgment. If the Court, after
22 the Settling Parties exhaust all reasonable good faith efforts to effectuate the material terms of this
23 Stipulation, rejects the Stipulation, or fails to enter the Order of Final Approval, or enter the
24 Judgment, Grant Construction shall have the option to void this Stipulation ab initio, and if it does
25 so, Grant Construction shall have no obligations to make any payments under the Stipulation. In
26 the event that the Stipulation becomes void for this or any other reason, Grant Construction agrees
27 to pay the reasonable fees and costs already incurred by the Settlement Administrator and retains
28 all rights to challenge all claims and allegations in the Litigation upon all procedural and factual

1 grounds, including without limitation the ability to challenge class or representative action
2 treatment on any grounds or assert any and all defenses.

3 2.5.7. In the event the Court declines to certify the Class or grant approval to
4 this settlement, the Settling Parties agree to work in good faith to amend this Agreement to
5 effectuate the settlement terms contained here in order to further seek approval in a subsequent
6 motion.

7 2.6. *Timing of Payment to Settlement Class Members and PAGA Members.*

8 2.6.1. Within fourteen (14) days of the Effective Date, and only if the Effective
9 Date occurs, Grant Construction shall fund the Maximum Settlement Amount. Within seven (7)
10 days of funding of the Maximum Settlement Amount, Grant Construction, through the Settlement
11 Administrator, shall pay to each Settlement Class Member his or her respective Class Settlement
12 Sum and each PAGA Member his or her respective PAGA Settlement Sum.. Checks sent to
13 Settlement Class Members will include a notice that, by cashing the check, the Settlement Class
14 Member will be releasing covered FLSA claims.

15 2.6.2. In accordance with the terms of Paragraphs 2.1.1 and 2.1.2, Grant
16 Construction, through the Settlement Administrator, shall issue to each Settlement Class
17 Member/PAGA Member a check or checks from an account administered by the Settlement
18 Administrator and funded by Grant Construction, less required withholdings. Grant Construction,
19 through the Settlement Administrator, shall mail such checks to each Settlement Class
20 Member/PAGA Member at his or her Last Known Address, or Updated Address if obtained, on or
21 before the date which is ten (10) days after the Effective Date. For any checks returned as
22 undeliverable, the Settlement Administrator shall undertake a Secondary Address Verification
23 Measure with information in the possession of and reasonably available to Grant Construction,
24 including Social Security Numbers, California Driver's License, or other such information, for the
25 Settlement Class Member in question, and such checks shall be re-mailed to the updated address if
26 one is obtained.

27 2.6.3. Checks issued to Settlement Class Members/PAGA Members pursuant to
28 this Agreement shall state that they shall remain negotiable for a period of one hundred eighty

1 (180) days from the date of mailing. If a check has not been cashed within ninety (90) days of
2 issuance, the Settlement Administrator shall send the Settlement Class Member/PAGA Member a
3 letter or postcard reminder about the deadline for cashing the check and information on how to
4 request a replacement check. The funds associated with any checks that remain uncashed after
5 180 days shall be sent by the Settlement Administrator, in the name of the Settlement Class
6 Member/PAGA Member, to the State of California's Unclaimed Property Division. Settlement
7 Class Members who fail to negotiate their settlement checks in a timely fashion shall remain
8 subject to the terms of the Settlement and associated Judgment.

9 2.6.4. Following the mailing of the payments pursuant to Paragraph 2.6.2, the
10 Settlement Administrator shall provide counsel for the Settling Parties with a written confirmation
11 that such payments have been made.

12 2.7. *Releases and Dismissals.*

13 2.7.1. Upon the occurrence of both the Effective Date and Grant Construction's
14 full funding and payment of the Maximum Settlement Amount, pursuant to the payment terms set
15 forth in Paragraph 2.6, Class Representative and each of the Settlement Class Members shall be
16 deemed to have, and by operation of the Judgment shall have, fully, finally, and forever released,
17 relinquished, and discharged all Released Class Claims.

18 2.7.2. Upon the occurrence of both the Effective Date and Grant Construction's
19 full funding and payment of the Maximum Settlement Amount, pursuant to the payment terms set
20 forth in Paragraph 2.6, Class Representative, each of the PAGA Members, and the California
21 Labor and Workforce Development Agency shall be deemed to have, and by operation of the
22 Judgment shall have, fully, finally, and forever released, relinquished, and discharged all Released
23 PAGA Claims.. The Settling Parties agree that Grant Construction's payment of \$200,000 (as part
24 of the Maximum Settlement Amount) to settle these claims is appropriate and proper
25 consideration. The Settling Parties agree that Class Counsel shall submit this Agreement to the
26 LWDA before, or at the same time as, their papers seeking preliminary approval, and once the
27 Judgment is entered, Class Counsel will submit it to the LWDA and make any other similar
28 submissions to the LWDA as required by the California Labor Code.

1 2.8. *Payment of Costs, Attorneys' Fees, and Class Representative*
2 *Enhancements.*

3 2.8.1. Class Counsel shall be entitled, subject to Court approval and the
4 occurrence of the Effective Date, to an award of reasonable attorneys' fees and litigation costs and
5 associated expenses, not to exceed the amounts specified herein. Subject to Court approval, Class
6 Counsel may seek a gross amount up to, but not to exceed, one-third of the Maximum Settlement
7 Amount (\$783,333.33) for all attorneys' fees, and a gross amount not to exceed \$30,000.00 for all
8 taxable litigation costs, as well as their normal and customary expenses. The Class Representative
9 and Class Counsel agree that they shall be responsible for justifying their requested fee, cost, and
10 expense awards to the Court, and they agree to submit the necessary materials to justify the
11 requested fee, cost and enhancement awards along with an application/motion for approval of fees
12 and costs prior to the Final Fairness Hearing. Grant Construction agrees not to oppose any
13 submission regarding, or request for approval of, an award of attorneys' fees, costs, and expenses,
14 provided that it is consistent with this Paragraph 2.8.1 of this Stipulation and, in particular,
15 provided that Grant Construction not be required to pay any more than one third of the Maximum
16 Settlement amount in fees and \$30,000 in costs to Class Counsel for all attorneys' fees, costs, and
17 expenses combined. In the event that the Court (or appellate court) awards less than the requested
18 amounts for attorneys' fees, costs and expenses, only the awarded amounts shall be paid and shall
19 constitute full satisfaction of any claims for attorneys' fees, costs and expenses in the Litigation,
20 and any remaining or unawarded portion of the maximum gross amount for attorneys' fees, costs,
21 or expenses shall be allocated to the Settlement Class Members on a pro rata basis and included in
22 the distributions to Settlement Class Members pursuant to this Stipulation, subject to Class
23 Counsel's right to file and pursue an appeal of any lesser award of fees made by the Court. As
24 provided in Paragraph 1.9 above, any such appeal shall not delay or preclude the Judgment from
25 becoming Final. If the Effective Date occurs, no more than twenty-one (21) days after the
26 Effective Date, Grant Construction shall make payment of any attorneys' fees, costs, and expenses
27 awarded by the Court pursuant to this Paragraph 2.8.1 to Class Counsel through the Settlement
28 Administrator, and prior to Grant Construction making this payment, Class Counsel shall provide

1 counsel for Grant Construction and the Settlement Administrator with the pertinent taxpayer
2 identification numbers for the payees and Form(s) W-9. Other than any reporting of this fee
3 payment as required by this Stipulation or law, which Grant Construction shall make, Class
4 Counsel and the Class Representative shall alone be responsible for the reporting and payment of
5 any federal, state and/or local income or other form of tax on any payment made pursuant to this
6 paragraph. Payments awarded and made pursuant to this paragraph shall constitute full
7 satisfaction of any claim for attorneys' fees, costs, or expenses incurred in this Litigation, and the
8 Class Representative and Class Counsel, on behalf of themselves and all Settlement Class
9 Members, agree that they shall neither seek nor be entitled to any additional attorneys' fees, costs,
10 or expenses under any theory, nor shall they seek amounts in excess of those specified herein.
11 Other than as provided in this Paragraph 2.8.1 for the limited purpose discussed herein, no party
12 shall be deemed the prevailing party in the Litigation for any purpose.

13 2.8.2. Within twenty-one (21) days of the Effective Date, and the execution of
14 the general releases discussed below, whichever is later, Grant Construction, through the
15 Settlement Administrator, will forward a check payable to the Class Representative, in his
16 personal capacity only, in the gross amount of \$7,500 (seven thousand five hundred dollars). If
17 the Court approves a lesser amount for the individual enhancement award, payment shall be in
18 such amount as the Court orders, and the unawarded portions shall be redistributed on a pro rata
19 basis to the Settlement Class Members pursuant to this Stipulation. Such payment shall be the
20 total compensation and consideration for (i) Plaintiff's efforts as Class Representative in the
21 Litigation; and (ii) his execution of an agreement including a full, general release to the benefit of
22 Grant Construction. Such agreement shall be executed immediately following the Order granting
23 Preliminary Approval, subject to the eventual occurrence of the Effective Date, and through it,
24 Class Representative (on his own behalf only, and not on behalf of the Class or any members of
25 the class) shall release, acquit, and discharge Grant Construction from any and all claims,
26 demands, claims for costs and attorneys' fees, or causes of action of any kind whatsoever (upon
27 any legal or equitable theory whether contractual, common law, statutory, federal, state or
28 otherwise), whether known or unknown, that arose, accrued or took place at any time on or prior

1 to the date on which the full and general release is executed, including without limitation all
2 claims pled in the Litigation, which will also be released per the Judgment. Through the full and
3 general release discussed in this Paragraph 2.8.2, the Class Representative will expressly waive the
4 benefit of Section 1542 of the California Civil Code, and will agree and represent that he has not
5 assigned or in any way conveyed, transferred or encumbered all or any portion of the claims or
6 rights otherwise released. The enhancement award is separate from and in addition to any
7 payments to which Class Representative is entitled under this Stipulation as a Settlement Class
8 Member/PAGA Member. The Class Representative shall be deemed a Settlement Class Member
9 but he will not be sent a Class Notice.

10 2.8.3. Unless otherwise expressly provided, Grant Construction shall have no
11 responsibility for, and no liability whatsoever with respect to, the allocation among Class
12 Representative, Class Counsel, and/or any other Person who may assert some claim thereto, of any
13 award or payment issued or made in the Litigation or pursuant to this Stipulation, including, but
14 not limited to, any award or payment made pursuant to Paragraph 2.8.1 or 2.8.2.

15 2.9. *Settlement Administrator.*

16 2.9.1. All fees and expenses reasonably incurred by the Settlement
17 Administrator as a result of procedures and processes expressly required by this Stipulation shall
18 be paid by Grant Construction and taken from the Maximum Settlement Amount. The Class
19 Representative and Class Counsel shall have no responsibility for such fees or expenses, whether
20 or not the Effective Date occurs. The Settling Parties estimate that the fees to be charged by the
21 Settlement Administrator will be approximately \$16,878.

22 2.9.2. The actions of the Settlement Administrator shall be governed by the
23 terms of this Stipulation. The Settling Parties shall work cooperatively to ensure that the
24 Settlement Administrator receives information necessary to carrying out its responsibilities. The
25 Settlement Administrator shall provide the counsel for the Parties, at least ten (10) days prior to
26 the filing of the Motion for Final Approval a declaration of due diligence and proof of mailing
27 with respect to (i) the mailing of the Notice, (ii) attempts to locate Class members, (iii) the number
28 of Class Members for whom the Notice was ultimately undeliverable; and (iv) objection and Opt

1 Out rates and the identity of the individuals who opted out of the Class. Class Counsel shall
2 promptly file such declaration with the Court.

3 2.9.3. In the event that any of the Settling Parties take the position that the
4 Settlement Administrator is not acting in accordance with the terms of the Stipulation, that party's
5 counsel shall meet and confer with counsel for the other Settling Parties prior to raising any such
6 issue with the Settlement Administrator or the Court.

7 2.10. *Termination or Voidance of Settlement or Stipulation.*

8 2.10.1. In the event that the Stipulation is not substantially approved by the Court
9 or the settlement set forth in the Stipulation is terminated, cancelled, or declared void, or fails to
10 become effective in accordance with its terms, or if the Judgment does not become Final, the
11 Settling Parties shall resume the Litigation at that time as if no Stipulation had been entered, with
12 each of the Settling Parties bearing their own costs and fees with regard to the efforts to implement
13 this Stipulation and obtain Court approval, and no payments whatsoever being made by Grant
14 Construction to anyone in accordance with the terms of this Stipulation, except that Grant
15 Construction will be responsible for any reasonable costs incurred by the Settlement Administrator
16 up to the point in time that the Stipulation is terminated, cancelled, or declared void. In such
17 event, any judgment or order entered by the Court in accordance with the terms of the Stipulation
18 shall be treated as vacated *nunc pro tunc*, and the Stipulation shall have no further force and effect
19 with respect to the Settling Parties, and shall not be used in this Litigation or in any other
20 proceeding for any purpose, including in relation to issues of class or collective action
21 certification. Specifically, the Class Representative and Class Counsel agree not to argue or
22 present any argument, and hereby waive any argument, that this Stipulation precludes Grant
23 Construction from contesting class or collective action certification or representative status on any
24 grounds if this Litigation were to proceed. This Stipulation shall not be deemed an admission by,
25 or ground for estoppel against, Grant Construction that class and/or collective action certification
26 in the Litigation is proper or cannot be contested on any grounds. The terms, negotiation, and
27 entry of this Stipulation and the settlement shall remain subject to Federal Rule of Evidence 408
28 and California Evidence Code sections 1119 and 1152, regardless of whether this Stipulation or

1 the settlement are terminated, cancelled, or declared void, although any documents filed in support
2 of the motion for preliminary approval and/or final approval shall remain part of the public record.

3 2.10.2. If the Court changes the dates of hearings provided for in this Stipulation,
4 this shall not be deemed a substantial change necessitating termination of the settlement, providing
5 that the Settling Parties agree to adjust other dates and deadlines in the Stipulation accordingly.

6 2.10.3. Notwithstanding any other provision of this Stipulation, no order of the
7 Court or modification or reversal on appeal of any order of the Court concerning the amount or
8 allocation of any attorneys' fee or litigation cost or expense awards or class representative
9 enhancement award to be paid by Grant Construction shall constitute grounds for cancellation or
10 termination of the Stipulation or grounds for limiting any other provision of the Judgment,
11 provided that Grant Construction shall never be required to pay in excess of the total gross
12 amounts for attorneys' fees and litigation costs and expenses and enhancement awards specified in
13 Paragraphs 2.8.1 and 2.8.2. It is further agreed that no order of the Court, including any order
14 concerning attorneys' fees, may alter the Maximum Settlement Amount.

15 2.10.4. Any finding that California Code of Civil Procedure section 384 applies
16 to this Stipulation to require payment by Grant Construction other than as set forth in this
17 Stipulation shall be handled in good faith by the Settling Parties to the extent modification of this
18 settlement is required.

19 2.10.5. Unless otherwise ordered by the Court, in the event the Stipulation shall
20 be terminated, cancelled, or declared void, or fails to become effective in accordance with its
21 terms, or if the Judgment is reversed on appeal, within thirty (30) days after written notification of
22 such event, Grant Construction and Class Counsel shall notify each other of this event in writing.

23 2.11. *Miscellaneous Provisions.*

24 2.11.1. No Person shall have any claim against Class Counsel, the Settlement
25 Administrator, or counsel for Grant Construction based on the payments made or other actions
26 taken substantially in accordance with the Stipulation and the settlement contained therein or
27 further orders of the Court.

28 2.11.2. The Settling Parties (a) acknowledge that it is their intent to consummate

1 this agreement; and (b) agree to exercise their best efforts to obtain Court approval, secure the
2 effectiveness of the Judgment, and implement all terms and conditions of the Stipulation.

3 2.11.3. The Stipulation compromises claims which are contested in good faith,
4 and it shall not be deemed an admission by any of the Settling Parties as to the merits of any claim
5 or defense. The Settling Parties agree that the amounts paid in settlement and the other terms of
6 the settlement were negotiated at arms-length and in good faith by the Settling Parties, and reflect
7 a settlement that was reached voluntarily after consultation with competent legal counsel.

8 2.11.4. Neither the Stipulation nor the settlement, nor any act performed or
9 document executed pursuant to, or in furtherance of, the Stipulation or the settlement: (a) is or may
10 be deemed to be or may be used as an admission of, or evidence of, the validity of any Released
11 Claim, or of any wrongdoing or liability of any of the Grant Construction Releasees; or (b) is or
12 may be deemed to be or may be used as an admission of, or evidence of, any fault or omission of
13 any of the Grant Construction Releasees, in any civil, criminal or administrative proceeding in any
14 court, administrative agency, or other tribunal.

15 2.11.5. All of the exhibits to the Stipulation are material and integral parts hereof
16 and are fully incorporated herein by this reference.

17 2.11.6. The Stipulation may be amended or modified only by a written instrument
18 signed by or on behalf of all Settling Parties or their respective successors-in-interest. Such
19 amendments or modifications may be made by counsel of record for the Settling Parties in a
20 separate, signed written instrument.

21 2.11.7. The Stipulation constitutes the entire agreement among the Settling
22 Parties hereto and no representations, warranties, or inducements have been made to any party
23 concerning the Stipulation or its exhibits other than the representations, warranties, and covenants
24 contained and memorialized in such documents. Except as otherwise provided herein, each party
25 shall bear its own costs.

26 2.11.8. Class Counsel are expressly authorized by the Class Representative to
27 take all appropriate action required or permitted to be taken by the Class pursuant to the
28 Stipulation to effect its terms, and also are expressly authorized to enter into any modifications or

1 amendments to, or documents or pleadings filed in support of, the Stipulation on behalf of the
2 Class which they deem appropriate.

3 2.11.9. Each counsel or other Person executing the Stipulation or any of its
4 exhibits on behalf of any party hereto hereby warrants that such Person has the full authority to do
5 so.

6 2.11.10. The Stipulation may be executed in one or more counterparts by email,
7 facsimile, or DocuSign (or similar such online signature methods). All executed counterparts and
8 each of them shall be deemed to be one and the same instrument. A complete set of original
9 executed counterparts shall be filed with the Court.

10 2.11.11. The Stipulation shall be binding upon, and inure to the benefit of, the
11 successors and assigns of the parties hereto; but this Stipulation is not designed to and does not
12 create any third-party beneficiaries.

13 2.11.12. The Court shall retain jurisdiction with respect to implementation and
14 enforcement of the terms of the Stipulation, and all parties hereto submit to the jurisdiction of the
15 Court for purposes of implementing and enforcing the settlement embodied in the Stipulation.

16 2.11.13. The Stipulation and the exhibits hereto shall be considered to have been
17 negotiated, executed, and delivered, and to have been wholly performed, in the State of California,
18 and the rights and obligations of the parties to the Stipulation shall be construed and enforced in
19 accordance with, and governed by, the internal, substantive laws of the State of California without
20 giving effect to that State's choice of law principles.

21 2.11.14. The language of all parts of this Stipulation shall in all cases be construed
22 as a whole, according to its fair meaning, and not strictly for or against either party. No party shall
23 be deemed the drafter of this Stipulation. The parties acknowledge that the terms of the
24 Stipulation are contractual and are the product of negotiations between the Settling Parties and
25 their counsel. Each party and their counsel cooperated in the drafting and preparation of the
26 Stipulation. In any construction to be made of the Stipulation, the Stipulation shall not be
27 construed against any party and the canon of contract interpretation set forth in California Civil
28 Code § 1654 and other similar statutory provisions shall not be applied.

1 2.11.15. Grant Construction will not retaliate against Class Members for any
2 actions taken or not taken with respect to this settlement.

3 2.11.16. Grant Construction will not assert any claims against Class Counsel for
4 their conduct in connection with the Litigation. Grant Construction acknowledges that Class
5 Counsel, and Class Counsel acknowledge that Grant Construction's counsel, have complied with
6 the requirements of California Code of Civil Procedure, section 128.7 to this point in the
7 Litigation.

8 2.11.17. Except as expressly provided herein, at no time shall the Settlement
9 Administrator or Grant Construction be requested or required to provide Class Counsel or the
10 Class Representative with the Social Security Number, Last Known Address, or other contact
11 information of Class Members.

12 2.11.18. The Settling Parties recognize and acknowledge that at the time of the
13 execution of this Stipulation, there are issues of law that may be unresolved which could impact
14 the claims at issue in the Litigation absent this Stipulation. The Settling Parties further recognize
15 that they are reaching this settlement in light of the risks created by these and all other issues of
16 unsettled law, and that all parties will take all efforts to enforce this Stipulation and obtain Court
17 approval for this settlement regardless of any subsequent legal developments. The Settling Parties
18 and Class Counsel agree that the proposed class is receiving benefit from this settlement by
19 obtaining a settlement (and associated consideration) prior to such possible developments, and the
20 Settling Parties and their counsel agree not to argue otherwise or seek to void this settlement or
21 prevent court approval on the basis of any subsequent precedent.

22 2.11.19. Prior to the submission of this Stipulation and settlement agreement for
23 preliminary approval by the Court, neither the Class Representative nor Class Counsel shall
24 communicate any terms of this settlement to any third parties. Following the submission for
25 preliminary approval and thereafter, the Class Representative and Class Counsel shall not
26 publicize the settlement in this action or the terms thereof via (a) press releases; (b) Internet
27 postings; or (c) any form of communications with the media. This shall not prohibit Class
28 Counsel from (1) discussing this case or any aspect of this settlement with the Class

1 Representative, any Class Member (absent or otherwise) in this case, or any court or opposing
2 counsel, or (2) disclosing their mere status as counsel in the case.

3
4 IN WITNESS WHEREOF, the parties hereto have caused the Stipulation to be executed.

5 DATED _____
6

7
8 _____
ARNULFO MIJANGOS, Plaintiff

9 DATED: 8/25/23
10

11 
12 _____
GRANT CONSTRUCTION, INC.

13 By: Grant Fraysier
14 GRANT FRAYSIER, President
15

16 **APPROVED AS TO FORM.**

17 DATED: _____
18

PROTECTION LAW GROUP, LLP

19 By: _____
20 Heather Davis
21 Amir Nayebdadash
22 *Attorneys for Plaintiff*
ARNULFO MIJANGOS

23 DATED: August 25, 2023
24

MUNGER, TOLLES & OLSON, LLP

25 
26 By: _____
27 Joseph D. Lee
28 *Attorneys for Defendant*
GRANT CONSTRUCTION INC.

Representative, any Class Member (absent or otherwise) in this case, or any court or opposing counsel, or (2) disclosing their mere status as counsel in the case.

IN WITNESS WHEREOF, the parties hereto have caused the Stipulation to be executed.

DATED 8-29-23


ARNULFO MIJANGOS, Plaintiff

DATED: _____

GRANT CONSTRUCTION, INC.

By: _____
GRANT FRAYSIER, President

APPROVED AS TO FORM.

DATED: 8/31/2023

PROTECTION LAW GROUP, LLP

By: 
Heather Davis
Amir Nayebdadash
Attorneys for Plaintiff
ARNULFO MIJANGOS

DATED: _____

MUNGER, TOLLES & OLSON, LLP

By: _____
Joseph D. Lee
Attorneys for Defendant
GRANT CONSTRUCTION INC.

EXHIBIT A

1 Malcolm A. Heinicke, SBN 194174
malcolm.heinicke@mto.com
2 Joseph D. Lee, SBN 110840
joseph.lee@mto.com
3 MUNGER, TOLLES & OLSON LLP
350 South Grand Avenue
4 Los Angeles, CA 90071
Telephone: (213) 683-9100

5 T. Scott Belden, SBN 184387
scott@bbr.law
Jazmine Flores, SBN 317038
6 *jazmine@bbr.law*
BELDEN BLAINE RAYTIS, LLP
8 5016 California Avenue, Suite 3
Bakersfield, California 93309
9 Telephone: (661) 864-7826
Facsimile: (661) 878-9797

10 Attorneys for Defendant Grant Construction, Inc.

11 Heather Davis, SBN 239372
heather@protectionlawgroup.com
Amir Nayebdadash, SBN 232204
13 *amir@protectionlawgroup.com*
D. Luke Clapp, SBN 306040
14 *luke@protectionlawgroup.com*
PROTECTION LAW GROUP, LLP
15 237 California Street
El Segundo, California 90245
16 Telephone: (424)290-3095
Facsimile: (866) 264-7880

17 Attorneys for Plaintiff

19 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

20 **COUNTY OF KERN**

21 ARNULFO MIJANGOS, individually and on
behalf of others similarly situated,

22 Plaintiff,

23 vs.

24 GRANT CONSTRUCTION, INC., a
25 California corporation; and DOES 1 through
50, inclusive,

26 Defendants.

Case No. BCV-23-102043

**NOTICE OF PENDING CLASS ACTION
SETTLEMENT**

Assigned to: Honorable T. Mark Smith
Dept.: T-2

Complaint Filed: August 6, 2021
Trial Date: None

1 PLEASE READ THIS NOTICE CAREFULLY AS YOUR LEGAL
2 RIGHTS MAY BE AFFECTED.

3 AUTHORIZED BY THE SUPERIOR COURT FOR THE COUNTY OF KERN
4 *Arnulfo Mijangos v. Grant Construction, Inc.*
5 *Case No. BCV-23-102043*

6 YOU ARE RECEIVING THIS NOTICE BECAUSE THE BUSINESS RECORDS OF
7 GRANT CONSTRUCTION, INC. ("GRANT CONSTRUCTION") INDICATE THAT YOU
8 WERE EMPLOYED AS A NON-EXEMPT (HOURLY) EMPLOYEE BY GRANT
9 CONSTRUCTION BETWEEN AUGUST 6, 2017 AND <<PRELIMINARY APPROVAL
10 DATE>> (HEREAFTER CALLED THE "CLASS PERIOD").

11 THIS NOTICE PROVIDES YOU WITH INFORMATION ON A CLASS AND
12 REPRESENTATIVE ACTION SETTLEMENT, WHICH MAY AFFECT YOUR RIGHTS AND
13 WHICH MAY ENTITLE YOU TO A SETTLEMENT PAYMENT.

14 THIS NOTICE IS NOT AN EXPRESSION OF THE COURT'S VIEWS ON THE
15 MERITS OF ANY CLAIMS BY PLAINTIFF OR ANY DEFENSE RAISED BY GRANT
16 CONSTRUCTION. THE NOTICE IS SOLELY INTENDED TO ADVISE YOU OF THE
17 EXISTENCE OF THE LAWSUIT AND THE PENDING SETTLEMENT, AND OF YOUR
18 RIGHTS ARISING OUT OF THE SETTLEMENT.

19 **I. INTRODUCTION AND SUMMARY OF THE LAWSUIT**

20 Plaintiff Arnulfo Mijangos ("Plaintiff") filed the above-referenced lawsuit (the "Lawsuit")
21 against Grant Construction in Fresno County Superior Court on August 6, 2021, and filed a First
22 Amended Complaint on October 28, 2021. The Lawsuit was transferred to Kern County Superior
23 Court on June 26, 2023, per agreement of the parties.

24 The settlement described in this notice has two components. One component, the Class
25 Claims, relates to Plaintiff's claims on behalf of non-exempt employees of Grant Construction in
26 California during the Class Period, relating to their compensation during that period. Specifically,
27 Plaintiff asserted a variety of claims, including claims related to meal periods, rest periods,
28 minimum and overtime wages, reimbursement of expenses, and payments to departing or
terminated employees. The other component, the PAGA Claims, relates to Plaintiff's claims for

1 penalties under California's Labor Code Private Attorneys General Act ("PAGA"). The PAGA
2 Claims are brought on behalf of all non-exempt (hourly) employees of Grant Construction in
3 California between August 6, 2020 and <preliminary approval date> (the "PAGA Period"). This
4 settlement, if approved by the Court, would finally resolve both the Class Claims and the PAGA
5 Claims.

6 Grant Construction denies the allegations of Plaintiff's claims and specifically contends
7 that it properly compensated its non-exempt employees. However, Grant Construction has chosen
8 to resolve the Lawsuit to save legal costs and avoid disruption, without any admission of
9 wrongdoing. This Notice provides instructions on the following options available to you:

If You Wish to Receive Your Full Settlement Payment – Take No Action	<u>PAGA Claims:</u> If the Court approves the settlement, you will receive a payment for the settlement of the PAGA Claims and you will release (give up) the PAGA Claims, as set forth below in Section VI. <u>Class Claims:</u> If you do not opt out of (exclude yourself from) the settlement of the Class Claims, you will also receive payment for settlement of those claims, assuming the Court approves the settlement. You do not have to submit a claim form or take any other action to receive this payment. By taking no action and thus participating in the settlement of the Class Claims, you will be releasing (giving up) the Class Claims, as set forth below in Section V.
You Can Exclude Yourself from (or "opt out of") the Settlement of the Class Claims	If you do not want to be a part of the settlement of the Class Claims and do not want to receive a payment for those Claims, you must exclude yourself by NOTICE RESPONSE DEADLINE . Instructions on how to do this are below in Section IV.C. If you opt out of the settlement of the Class Claims, you will not receive a payment as part of that settlement, but you will retain any rights against Grant Construction relating to the claims in the Lawsuit that you could still otherwise assert personally, subject to the statute of limitations and other pertinent restrictions. You cannot exclude yourself from the settlement of the PAGA Claims as explained in Section IV below because this procedure does not apply to these claims. Thus, if you are a PAGA Member, you will receive a check for your portion of the PAGA settlement, even if you opt out of the settlement of the Class Claims.

1 **Object to the Settlement of the**
2 **Class Claims**

If you want to object to the settlement of the Class Claims, you can submit a written objection, which must be postmarked by **[NOTICE RESPONSE DEADLINE]**. Instructions on how to do this appear below in Section IV.D. Unless you opt out of the settlement of the Class Claims, you will remain in the class and subject to the settlement and resulting judgment. (Please note that if you opt out of the settlement class, you will not be permitted to object to the class settlement. You also are not permitted to object to the settlement of the PAGA Claims, as the PAGA statute does not allow for such objections.)

8 **II. THE PEOPLE RECEIVING THIS NOTICE**

9 This Notice is being mailed to the last known addresses of all persons who were non-
10 exempt (hourly) employees of Grant Construction in California within the Class Period (“Class
11 Members”).

12 If you worked as a non-exempt (hourly) employee of Grant Construction in California
13 between August 6, 2020, and <<preliminary approval date>> you also qualify as a “PAGA
14 Member” and are entitled to an additional payment for the release of the PAGA Claims.

15 Grant Construction will not retaliate in any way against any Class Members or PAGA
16 Members for exercising any rights described in this Notice or for participating in the settlement.

17 **III. DESCRIPTION OF THE SETTLEMENT**

18 **A. Summary of the Settlement**

19 On behalf of the Class, Plaintiff has reached a voluntary settlement agreement with Grant
20 Construction. The total amount of the settlement is \$2,350,000. This amount is referred to below
21 as the “Maximum Settlement Amount.” This amount will cover payments to participating Class
22 Members as well as (i) attorneys’ fees that are awarded by the Court (as described below, Class
23 Counsel may request fees not to exceed \$783,333.33, which is one-third of the settlement
24 amount), (ii) payroll taxes on the wage portion of the Payments to the Settlement Class Members;
25 (iii) court costs allowed by the Court (Class Counsel will seek reimbursement in an amount not to
26 exceed \$30,000, to reimburse them for the costs they incurred in this case), (iv) the reasonable
27 costs of administering the settlement, not to exceed \$16,878; (v) an incentive payment to the
28

1 Plaintiff in the gross amount of \$7,500; and (vi) an amount to be paid in consideration for the
2 release of claims under the California Private Attorney Generals Act of 2004 (“PAGA”), codified
3 at California Labor Code sections 2698 et seq., which is \$200,000 (75% (or \$150,000) of which
4 shall be sent to the California Labor Workforce Development Agency, with the remaining 25% (or
5 \$50,000) to be paid pro rata to the PAGA Members based on the number of weeks worked for
6 Grant Construction between August 6, 2020, and <<preliminary approval date>>. The settlement
7 and these specific and estimated payments are all subject to the approval of the Court.

8 Grant Construction has not admitted any liability or wrongdoing. To the contrary, Grant
9 Construction contends that it properly compensated all of its employees at all pertinent times. A
10 full copy of the settlement agreement, which is entitled the Stipulation Re: Settlement of Class
11 Action, as well as other public documents filed with regard to this matter, can be inspected in the
12 Office of the Court Clerk (see below) or at this website: <https://www.kern.courts.ca.gov/>. After its
13 initial review of the settlement, the Court has granted preliminary approval of the settlement, and
14 has directed the parties to send this Notice.

15 **As set forth in greater detail in the Release of Claims section below, Class Members**
16 **who do not opt out of (exclude themselves from) the settlement will give up any claims**
17 **against Grant Construction and its affiliates as set forth in the Release of Class Claims**
18 **section below, for the time period of August 6, 2017, through <<date of preliminary approval**
19 **>>. Class Members who opt out of the settlement will not be subject to this release, but they**
20 **also will not receive any payment from the Class portion of this settlement.**

21 **PAGA Members will give up all claims set forth in the Release of PAGA Claims**
22 **section below for the period of August 6, 2020, through <<date of preliminary approval >>,**
23 **whether or not they opt out of the class portion of the settlement.**

24 **B. What Will I Get Under the Settlement?**

25 Class Members who do not opt out of the settlement (“Settlement Class Members”) will be
26 mailed a settlement payment approximately 75 days following final approval by the Court
27 (approximately 150 days from now), assuming the Court grants final approval for the settlement.
28 The payments to the Settlement Class Members will be calculated according to the number of

1 weeks they actively worked for Grant Construction in California during the Class Period, as a
2 percentage of the total number of weeks worked by all of the Settlement Class Members in
3 California during the Class Period.

4 Class Members who worked between August 6, 2020, and <<preliminary approval date>>)
5 (“PAGA Members”) will also receive a share of the PAGA penalties allocated for distribution to
6 the aggrieved employees. PAGA Members’ share of this amount shall be calculated ratably based
7 on the total number of weeks actively worked by each PAGA Member during the PAGA Period
8 (i.e., the period from August 6, 2020, to <<preliminary approval date>>). Therefore, those
9 employees who worked more workweeks during the PAGA Period will receive larger settlement
10 checks than those who worked fewer weeks during the PAGA Period.

11 **Grant Construction’s records reflect that you worked XXX workweeks during the Class Period.**
12 **The amount you are eligible to receive from the class portion of the settlement (your “Class**
13 **Settlement Sum”) is estimated to be \$XXX.XX. The amount of the payment may change depending**
14 **on the number of timely and valid requests for exclusions submitted in the Settlement, if any.**

15 **Grant Construction’s records reflect that you worked XXX workweeks during the PAGA Period.**
16 **The amount you are eligible to receive from the PAGA portion of the settlement (your “PAGA**
17 **Settlement Sum”) is estimated to be \$XXX.XX.**

18 **The total payment you are eligible to receive is estimated to be (combined PAGA Settlement Sum**
19 **and Class Settlement Sum)**

20 If you disagree with the number of your work weeks during the Class Period or the PAGA
21 Period as listed above, you can contact the Settlement Administrator (see instructions below).

22 You will have 180 days within which to cash your check. Any checks remaining uncashed
23 after 180 days shall become void, and the funds associated therewith will be tendered, in the name
24 of the Settlement Class Member or PAGA Member, to the State of California’s Unclaimed
25 Property Division. Persons who fail to cash their settlement checks in a timely fashion will remain
26 subject to the terms of the settlement and associated judgment.

27 **C. Is My Settlement Payment Taxed?**

28 Grant Construction will report 15% of your Class Settlement Sum to relevant government
entities as a wage payment, and will report the remaining 85% as a non-wage payment. This
means you will receive a W-2 for 15% of any payment and a 1099 for the remaining 85% of any
payment. The wage portion of the payment you receive under the settlement will be subject to

1 required wage withholdings and deductions. These amounts will be deducted from the payment
2 you receive, and so the net amount that you will be paid if you remain a part of the settlement will
3 be lower than the gross amount of the payment listed above. For tax purposes, the payment will be
4 reported in the tax year that the settlement payment is mailed to you. Grant Construction will
5 report 100% of all PAGA Settlement Sums as penalties.

6 Each Settlement Class Member/PAGA Member will be solely responsible for the required
7 tax reporting of any payment received under this settlement and for paying any taxes associated
8 with the payment. Neither Grant Construction, Plaintiff, nor Plaintiff's attorneys (referred to
9 below as "Class Counsel") make any representations concerning the tax consequences of this
10 settlement or your participation in it. If you have any questions about the tax consequences of the
11 payments you may receive under the settlement, you should consult your tax advisor.

12 **D. How Much Will Class Counsel Be Paid in Attorneys' Fees?**

13 As stated above, Class Counsel will request that the Court award them attorneys' fees not
14 to exceed \$783,333.33, which is one-third of the settlement amount. Class Counsel will also seek
15 reimbursement in an amount not to exceed \$30,000 to reimburse them for the costs they incurred
16 in this case, which will also be subject to Court approval.

17 **IV. THE RIGHTS AND OPTIONS OF CLASS MEMBERS**

18 Class Members like you have three options with respect to the class portion of the
19 settlement: (1) you can do nothing and participate in that portion of the settlement; (2) you can opt
20 out of that portion of the Settlement; or (3) you can object to that portion of the settlement. Further
21 information about these options and how to receive a payment from the class settlement is
22 described below. You cannot opt out of or object to the PAGA portion of the settlement, as the
23 PAGA statute does not authorize such action.

24 **A. How Do I Receive Payment?**

25 **If the settlement is finally approved by the Court, you will not need to take any action**
26 **to be sent a settlement payment.** If you are a PAGA Member, you will automatically receive
27 your share of the PAGA Settlement. You will also receive your portion of the class settlement, so
28 long as you do not opt out of that portion of the settlement. The settlement administrator will mail

1 your settlement payment to the address to which this notice was sent unless you have updated your
2 address. Class Members who take no action and remain in the class will give up the Released
3 Class Claims, and PAGA Members will release the Released PAGA Claims.

4 Class Members who remain in the class will be represented by Plaintiff and Class Counsel.
5 Heather Davis and Amir Nayebdadash of Protection Law Group have been appointed as Class
6 Counsel in this matter for purposes of this settlement and the associated approval process. The
7 contact information for Class Counsel is listed below:

8 **PROTECTION LAW GROUP LLP**

9 Heather Davis, Esq.
10 Amir Nayebdadash, Esq.
11 Luke Clapp, Esq.
237 California Street
El Segundo, California 90245
Telephone: (424) 290-3095

12 Settlement Class Members may choose to retain their own attorneys. Settlement Class
13 Members who choose this option will be responsible for their own attorneys' fees and costs.

14 Settlement Class Members—i.e. individuals who do not opt out of the settlement— may
15 also object to the terms or nature of the settlement at or prior to the hearing on the settlement using
16 the procedure set forth below.

17 **B. How Do I Make Corrections to My Name or Address?**

18 Any settlement payment to which you are entitled will be sent to the same address as the
19 Notice. If you wish to change the name or address listed on the envelope in which this Notice was
20 sent, please complete Form “A” attached to this Notice and submit it to the settlement
21 administrator before the deadline specified on the form.

22 **C. How Do I Opt Out of the Settlement?**

23 PAGA Members may not opt out of the Released PAGA Claims as this procedure does not
24 apply to PAGA. Accordingly, if you are a PAGA Member you will still receive your share of the
25 PAGA Payment even if you choose to opt out of the class portion of the settlement, and you will
26 still release (give up) your claims against Grant Construction under the PAGA statute.

27 Class Members may, however, elect to “opt out” of the class portion of the settlement and
28 thus exclude themselves from the associated settlement and judgment of the Class Claims. **Class**

1 **Members who opt out will NOT receive a payment for the Class Claims** and will remain free,
2 subject to the statute of limitations and other similar restrictions, to bring claims against Grant
3 Construction relating to the Released Class Claims described below.

4 Class Members who wish to opt out of the class portion of the settlement must mail a
5 timely written request to the settlement administrator at [SETTLEMENT ADMINISTRATOR
6 ADDRESS]. The opt out request must state the Class Member's full name, address, date of birth,
7 and the dates of employment by Grant Construction, and it must contain the following or a
8 substantially similar statement: "I wish to opt out of the class portion of the settlement in *Anulfo*
9 *Mijangos v. Grant Construction, Inc.*, Case No. BCV-23-102043 and I understand by doing so, I
10 will not receive a payment for the class portion of the settlement." To be effective, the request to
11 opt out must be postmarked on or before [Notice Response Deadline]. This deadline is final and
12 opt out requests that are not postmarked on or before that date will not be honored.

13 **D. How Do I Object to or Raise Issues Concerning the Settlement?**

14 If you do not opt out of the class portion of the settlement, you can elect to (but are not
15 required to) submit a written objection to any terms with respect to the class portion of the
16 settlement. PAGA Members may not object to the settlement of the Released PAGA Claims as
17 this procedure does not apply to PAGA. Your objection must be in writing and include your full
18 name, address, telephone number, and signature. Any written objection must include a statement
19 that you object to the settlement in *Anulfo Mijangos v. Grant Construction, Inc.*, Case No. BCV-
20 23-102043 and the reason(s) for your objection. Such objection must be mailed to
21 [SETTLEMENT ADMINISTRATOR ADDRESS] postmarked no later than [NOTICE
22 RESPONSE DEADLINE]. The settlement administrator will then provide your objection to the
23 parties' attorneys to provide to the Court for its review. If the Court overrules your objection, or
24 otherwise approves the Settlement, you will remain in the Class, you will still be entitled to
25 receive your payment, and you will release the claims as set forth below in Section V. You cannot
26 opt out of the class portion of the settlement and also object to it.

1 **V. RELEASE OF CLASS CLAIMS**

2 In return for participating in the settlement and receiving the Class Settlement Sum set
3 forth above, Settlement Class Members will release the “Grant Construction Releasees” from the
4 “Released Class Claims” that arose during the “Class Period.”

5 The Grant Construction Releasees include Grant Construction and each of its parents,
6 affiliates, subsidiaries, predecessors, successors, divisions, joint venturers, attorneys, and assigns
7 and each of these entities’ past or present owners, directors, officers, employees, partners,
8 members, principals, agents, insurers, co-insurers, re-insurers, shareholders, attorneys, employee
9 benefit plans, employee benefit plan trustees, fiduciaries, and administrators, and personal or legal
10 representatives (including, without limitation, Grant Fraysier, Julio Vega and Hugo Montoya.

11 The Released Class Claims include all claims, demands, rights, liabilities and causes of
12 action of every nature and description whatsoever, including without limitation statutory,
13 constitutional, contractual or common law claims, against the Grant Construction Releasees, or
14 any of them, including without limitation claims for wages, damages, unpaid costs, penalties,
15 liquidated damages, punitive damages, interest, attorneys’ fees, litigation costs, restitution, or
16 equitable relief, including Unknown Claims, that accrued during the Class Period as a result of the
17 Class Members’ employment in California for Grant Construction and which were alleged or
18 could have reasonably been alleged based on the factual allegations in the operative complaint for
19 each of the following categories of claims or allegations: (a) (i) failure to pay minimum wages due
20 and/or failure to calculate the regular rate of pay for any types of wages or premiums; (ii) failure to
21 pay any and all regular or premium wages, including but not limited to overtime wages; (iii)
22 failure to provide sufficient meal periods and/or to pay premiums in lieu thereof; (iv) failure to
23 provide sufficient rest periods and/or to pay premiums in lieu thereof; (v) failure to pay vacation or
24 sick leave wages, including without limitation COVID-19 supplemental paid sick leave; (vi)
25 untimely payment of wages; (vii) failure to furnish accurate itemized wage statements; (viii)
26 failure to timely pay all wages due to discharged, quitting or otherwise terminated employees; (ix)
27 failure to reimburse necessary business expenses; (x) failure to comply with payroll or wage
28 record-keeping requirements; (xi) unfair business practices relating to or arising out of the

1 previous claims; (xii) civil penalties under the Labor Code arising out of any of the previous
2 claims; and (xiii) to the extent not covered by the above, claims that were asserted or could have
3 been asserted based on the facts alleged in the First Amended Complaint filed in the Litigation; (b)
4 any and all claims alleging statutory violations based on the factual allegations in the complaint
5 including factual allegations relating to the claims set forth above in Paragraph 1.31(a), including
6 without limitation claims under the California Labor Code sections 201, 202, 203, 204, 204b, 210,
7 216, 225.5, 226, 226.2, 226.3, 226.7, 227.3, 246 *et seq.*, 256, 510, 512, 516, 558, 1174, 1174.5,
8 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 1199, and 2802, any applicable California Industrial
9 Welfare Commission Wage Orders, California Business & Professions Code sections 17200 *et*
10 *seq.*, and the federal Fair Labor Standards Act (“FLSA”); (c) any and all claims for penalties or
11 liquidated damages or other available remedies arising from the factual allegations in the
12 complaint including factual allegations relating to the claims set forth above in Paragraph 1.31(a)
13 and (b), including without limitation claims under the California Labor Code sections 201, 202,
14 203, 204, 204b, 210, 216, 225.5, 226, 226.2, 226.3, 226.7, 227.3, 246 *et seq.*, 256, 510, 512, 516,
15 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 1199, and 2802, any applicable
16 California Industrial Welfare Commission Wage Orders, California Business & Professions Code
17 sections 17200 *et seq.*; and (d) any and all claims for interest, costs, or attorneys’ fees arising
18 from the categories of allegations set forth above in Paragraph 1.31(a) and (b), including without
19 limitation claims under California Labor Code sections 218.5, 1194, and California Code of Civil
20 Procedure section 1021.5.

21 The Class Period during which the release of the “Released Class Claims” applies is from
22 August 6, 2017, through <<Preliminary Approval Date>>

23 **VI. RELEASE OF CLAIMS ARISING UNDER PAGA**

24 As part of the Settlement, PAGA Members and the California Labor and Workforce
25 Development Agency will release the Grant Construction Releases from the “Released PAGA
26 Claims” that arose during the PAGA Period.

27 The Released PAGA Claims include all claims, including Unknown Claims, arising under
28 the California Labor Code Private Attorneys General Act (PAGA) for civil penalties, that accrued

1 during the PAGA Period as a result of the PAGA Members' employment in California for Grant
2 Construction, and that could have been premised on the facts alleged in the PAGA Letter sent on
3 Plaintiff's behalf to the LWDA or in the First Amended Complaint in the Litigation, or both,
4 including without limitation factual allegations regarding (a) any of the Labor Code provisions set
5 forth in Section V above or (b) Defendant's alleged (i) failure to pay minimum wages due and/or
6 failure to calculate the regular rate of pay for any types of wages or premiums; (ii) failure to pay
7 any and all regular or premium wages, including but not limited to overtime wages; (iii) failure to
8 provide sufficient meal periods and/or to pay premiums in lieu thereof; (iv) failure to provide
9 sufficient rest periods and/or to pay premiums in lieu thereof; (v) failure to pay vacation or sick
10 leave wages, including without limitation COVID-19 supplemental paid sick leave; (vi) untimely
11 payment of wages; (vii) failure to furnish accurate itemized wage statements; (viii) failure to
12 timely pay all wages due to discharged, quitting or otherwise terminated employees; (ix) failure to
13 reimburse necessary business expenses; and (x) failure to comply with payroll or wage record-
14 keeping requirements.

15 The PAGA Period during which the Released PAGA Claims applies is from August 6,
16 2020, through <<Preliminary Approval Date>>.

17 You may not opt out of or object to the release of the Released PAGA Claims, because the
18 PAGA statute does not allow such opt-outs.

19 **VII. FINAL FAIRNESS HEARING**

20 On [INSERT DATE], the Court granted preliminary approval for the settlement of the
21 Class Claims, ordered that this Notice of Pending Settlement be mailed to all Class Members, and
22 scheduled a hearing on final approval of the settlement for [INSERT DATE]. This hearing will
23 take place before the Honorable T. Mark Smith in Department T-2 of the Superior Court of the
24 State of California, County of Kern, located at 1415 Truxtun Avenue, Bakersfield, CA 93301.
25 Settlement Class Members can express their views on the class portion of the settlement at or
26 before this hearing but you are not required to do so, nor are you required to attend this hearing to
27 receive payment or exercise other rights. You may appear at the hearing to object to the class
28 portion of the settlement even if you failed to a written objection in advance, provided that you

1 have not opted out of the class portion of the settlement This hearing may be conducted remotely,
2 and virtual attendance at the Final Approval Hearing is possible. The Final Approval Hearing may
3 be continued without further notice to the class. Settlement Class Members can consult Court's
4 website to confirm the hearing date and time, and to obtain further information on how to attend
5 virtually.

6 Prior to this hearing, the settlement administrator will present any timely written objections
7 to counsel for the parties, who will in turn present them to the Court and the Court will hear any
8 oral objections.

9 Again, your attendance at this hearing is completely optional, and Settlement Class
10 Members do not need to appear at this hearing or take any other action to receive payment.

11 **VIII. EXAMINATION OF PAPERS FILED IN THIS LAWSUIT**

12 This Notice does not include all the details set forth in the full Settlement Agreement. All
13 persons whose rights may be affected by the settlement described above, as well as the general
14 public, may inspect the files (including the full settlement agreement) on the Court's website or
15 through the Court Clerk at the following address: at 1415 Truxtun Avenue, Bakersfield, CA
16 93301, and you will need to make an appointment to so inspect the files in person. The Court's
17 website is free to use, and it can be found at: <https://www.kern.courts.ca.gov/>. At that site, you can
18 run a case query using the case number for this matter, which is BCV-23-102043.

19 **PLEASE DO NOT CALL OR WRITE THE COURT WITH QUESTIONS**
20 **REGARDING THIS ACTION. IF YOU HAVE ANY QUESTIONS CONTACT THE**
21 **SETTLEMENT ADMINISTRATOR OR CLASS COUNSEL:**

22 Name of Company: **Rust Consulting, Inc.**

23 Email Address: [Insert email]

24 Mailing Address: [Insert mailing address]

25 Telephone: [Insert phone number]

26 **PROTECTION LAW GROUP LLP**

27 Heather Davis, Esq.

28 Amir Nayebdadash, Esq.

Luke Clapp, Esq.

237 California Street

El Segundo, California 90245

Telephone: (424) 290-3095

1 **FORM A**

2 **Change of Name and/or Address Information**

3 Pursuant to the class notice, I wish to change my name and/or mailing address information
4 to the following:

5 Name:

6 Street and Apt. No., if any:

7 City, State and Zip Code:

8 For purposes of verification only, I began working at Grant Construction, Inc. in

9 _____, _____.

10 (Month) (Year)

11 I understand that all future correspondence in this action, including but not necessarily
12 limited to important notices or payments to which I may be entitled, will be sent to the address
13 listed above and not to the address previously used. I hereby request and consent to the use of the
14 address listed above for these purposes.

15 Please be advised that further verification of this change of name or address may be sought
16 by the settlement administrator, via mail or by telephone. Thus it is critical that you provide your
17 current phone number below.

18 DATED: _____, 2023

Submitted by:

19
20 _____
Print Name

21
22 _____
Signature

23
24 _____
Current Telephone Number

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PLEASE RETURN THIS FORM VIA UNITED STATES MAIL TO:

Rust Consulting, Inc

<address>

Re: *Mijangos* Class Action Settlement

EXHIBIT B

1 Heather Davis, SBN 239372
heather@protectionlawgroup.com
2 Amir Nayebdadash, SBN 232204
amir@protectionlawgroup.com
3 D. Luke Clapp, SBN 306040
luke@protectionlawgroup.com
4 PROTECTION LAW GROUP, LLP
237 California Street
5 El Segundo, California 90245
Telephone: (424)290-3095
6 Facsimile: (866) 264-7880

7 Attorneys for Plaintiff

8 Malcolm A. Heinicke, SBN 194174
malcolm.heinicke@mto.com
9 Joseph D. Lee, SBN 110840
joseph.lee@mto.com
10 MUNGER, TOLLES & OLSON LLP
350 South Grand Avenue, 50th floor
11 Los Angeles, CA 90071
Telephone: (213) 683-9100

12 T. Scott Belden, SBN 184387
scott@bbr.law
13 Jazmine Flores, SBN 317038
jazmine@bbr.law
14 BELDEN BLAINE RAYTIS, LLP
5016 California Avenue, Suite 3
15 Bakersfield, California 93309
Telephone: (661) 864-7826
16 Facsimile: (661) 878-9797

17 Attorneys for Defendant Grant Construction, Inc.
18

19 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

20 **COUNTY OF KERN**

21 ARNULFO MIJANGOS, individually and on
22 behalf of others similarly situated,

23 Plaintiff,

24 vs.

25 GRANT CONSTRUCTION, INC., a
California corporation; and DOES 1 through
26 50, inclusive,

27 Defendants.
28

Case No. BCV-23-102043

[PROPOSED] JUDGMENT

Assigned to: Honorable T. Mark Smith
Dept.: T-2

Complaint Filed: August 6, 2021
Trial Date: None

1 This matter came on for hearing upon the application of the Plaintiff Arnulfo Mijangos for
2 approval of the settlement set forth in the Stipulation Re: Settlement of Class and PAGA Action in
3 this matter. Due and adequate notice having been given to the Class, and the Court having
4 considered the Stipulation, all papers filed and proceedings had herein, and all oral and written
5 comments received regarding the proposed settlement, and having reviewed the record in this
6 litigation, and good cause appearing for issuance of this order,

7 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED AS FOLLOWS:

8 1. All defined terms contained herein shall have the same meanings as set forth in the
9 Stipulation Re: Settlement of Class and PAGA Action executed by the Settling Parties and filed
10 with this Court (the "Stipulation").

11 2. The Court has jurisdiction over the subject matter of the Litigation and the Class
12 Representative, the Members of the Class, and defendant Grant Construction, Inc.

13 3. The Court finds that the distribution of the Notice as provided for in the Order
14 Granting Preliminary Approval and Setting Settlement Hearing constituted the best notice
15 practicable under the circumstances to all Persons within the definition of the Class, and fully met
16 the requirements of due process under California law. The Notice informed the Class of the terms
17 of the settlement, their right to receive a settlement payment without any required action, their
18 right to comment upon or object to the settlement, and their right to appear in person or by counsel
19 at the final approval hearing and to be heard regarding approval of the settlement. Adequate
20 periods of time were provided for each of these procedures. Based on evidence and other material
21 submitted in conjunction with the Settlement Hearing, the actual notices to the Class were
22 adequate.

23 4. The Court finds that the Litigation presented a good faith dispute over the payment
24 of wages, penalties, and various Labor Code provisions, and the Court finds in favor of settlement
25 approval.

26 5. The Court approves the settlement of the above-captioned action, as set forth in the
27 Stipulation, including the releases and other terms set forth in the Stipulation, as fair, just,
28 reasonable, and adequate as to the Settling Parties. The Settling Parties are directed to perform in

1 accordance with the terms set forth in the Stipulation. The Settling Parties are to bear their own
2 costs, except as otherwise provided in the Stipulation.

3 6. Those Persons who have validly and timely requested exclusion from the Class
4 [INSERT NAMES] shall not be bound by the terms of this Judgment insofar as it relates to the
5 Released Class Claims, but shall still release the Released PAGA Claims and receive their portion
6 of the PAGA payment (if any) regardless of their decision to opt out of the class.

7 7. Solely for purposes of effectuating this settlement, this Court has certified a class
8 consisting of all Class Members, and the Court deems this definition sufficient for purposes of due
9 process and California Code of Civil Procedure section 382 as well as California Rules of Court
10 rule 3.764.

11 8. For purposes of approving this settlement only, this Court finds and concludes that:
12 (a) the Members of the Class are ascertainable and so numerous that joinder of all members is
13 impracticable; (b) there are questions of law or fact common to the Class, and there is a well-
14 defined community of interest among Members of the Class with respect to the subject matter of
15 the Litigation; (c) the claims of the Class Representative are typical of the claims of the Members
16 of the Class; (d) the Class Representative has fairly and adequately protected the interests of the
17 Members of the Class; (e) a class action is superior to other available methods for an efficient
18 adjudication of this controversy; and (f) Class Counsel are qualified to serve as counsel for the
19 Plaintiff in his individual and representative capacities and for the Class.

20 9. By this Judgment, subject to the occurrence of the Effective Date and Grant
21 Construction's funding of the Maximum Settlement Amount, the Class Representative shall
22 release, relinquish, and discharge, and each of the Settlement Class Members shall be deemed to
23 have, and by operation of the Judgment shall have, fully, finally, and forever released,
24 relinquished, and discharged the Grant Construction Releasees from all Released Class Claims as
25 defined in Section 1.36 of the Stipulation. All Class Members who have not timely opted out of
26 the settlement are permanently enjoined and forever barred from reasserting any of the Released
27 Class Claims that arose during the Class Period against the Grant Construction Releasees, or any
28 of them.

1 10. Pursuant to the Private Attorneys General Act of 2004 (“PAGA”) and Labor Code
2 section 2699(1)(2) in particular, the Court approves the Settlement and finds that it is fair and
3 reasonable and furthers PAGA’s objectives. The Court further finds that notice of the Settlement
4 has been provided to the California Labor and Workforce Development Agency (“LWDA”) as
5 required by PAGA and Labor Code section 2699(1)(2), in particular. This Judgment shall be
6 binding on Plaintiff, all PAGA Members, and the State of California, who are hereby barred by the
7 doctrine of res judicata from asserting any and all of the Released Claims, as that term is defined
8 by the Settlement. (See *Arias v. Superior Court* (2009) 46 Cal.4th 969, 986 [judgment in a
9 representative action brought by an aggrieved employee under PAGA is binding not only on the
10 named employee plaintiff but also on state labor law enforcement agencies and any aggrieved
11 employee not a party to the proceeding].) Accordingly, upon the occurrence of the Effective Date
12 and the funding of the Maximum Settlement Amount, Plaintiff, each of the PAGA Members, and
13 the LWDA shall be deemed to have, and by operation of the Judgment shall have, fully, finally,
14 and forever released, relinquished, and discharged the Grant Construction Releasees from the
15 “Released PAGA Claims” as defined in Section 1.37 of the Stipulation.

16 11. Neither the Stipulation nor the settlement contained therein, nor any act performed
17 or document executed pursuant to or in furtherance of the Stipulation or the settlement: (i) is or
18 may be deemed to be or may be used as an admission of, or evidence of, the validity of any
19 Released Class Claims or Released PAGA Claims, or of any wrongdoing or liability of any of the
20 Grant Construction Releasees; or (ii) is or may be deemed to be or may be used as an admission
21 of, or evidence of, any fault or omission of any of the Grant Construction Releasees in any civil,
22 criminal, or administrative proceeding in any court, administrative agency, or other tribunal. In
23 the event that the Effective Date does not occur, Grant Construction shall not be estopped or
24 otherwise precluded from contesting class or collective action certification in the Litigation on any
25 grounds. Grant Construction may file the Stipulation and/or the Judgment from the Litigation in
26 any other action that may be brought against them in order to support a defense, claim or
27 counterclaim based on principles of *res judicata*, collateral estoppel, release, good faith settlement,
28

1 judgment bar, or reduction or any theory of claim preclusion or issue preclusion or similar
2 defense, claim or counterclaim.

3 12. Checks sent to the Settlement Class Members and PAGA Members shall remain
4 effective for 180 days. The funds from all checks that remain uncashed after 180 days shall be sent
5 by the Settlement Administrator, in the name of the Settlement Class Member/PAGA Member, to
6 the State of California's Unclaimed Property Division. Settlement Class Members/PAGA
7 Members who fail to negotiate their settlement checks in a timely fashion shall remain subject to
8 the terms of the Settlement and this Judgment.

9 13. As contemplated by the Stipulation, Class Counsel have filed a motion for approval
10 of certain fees, costs, and enhancement payments, and the Court has approved the following
11 payments:

- 12 (1) an award of attorneys' fees for Class Counsel in the amount of \$783,333.33;
- 13 (2) allowable litigation costs and expenses of \$_____;
- 14 (3) the reasonable costs of \$16,878 for administering the settlement;
- 15 (4) payment to the Plaintiff in the gross amount of \$7,500 in consideration for his
16 individual general release of all claims and the Class Representative's enhancement
17 award; and
- 18 (5) an amount to be paid in consideration for the release of claims under the
19 California Private Attorney Generals Act of 2004, codified at California Labor
20 Code sections 2698 et seq., which is \$200,000, 75% (or \$150,000) of which shall
21 be sent to the California Labor Workforce Development Agency, with the
22 remaining 25% (or \$50,000) to be paid pro rata to the PAGA Members based on
23 their respective weeks worked during the PAGA Period. PAGA Members will
24 receive their respective payments regardless of their decision to participate in the
25 Class.

26 14. The Court finds that such amounts, and Grant Construction, Inc.'s agreement to pay
27 such amounts, are fair and reasonable. Grant Construction, Inc. is directed to make such payments
28 out of the Maximum Settlement Amount in accordance with the terms of the Stipulation.

1 15. The Court reserves exclusive and continuing jurisdiction over the Litigation, the
2 Class Representative, the Class, and Grant Construction, Inc. for the purposes of supervising the
3 implementation, enforcement, construction, administration and interpretation of the Stipulation
4 and this Judgment.

5 16. This document shall constitute a judgment for purposes of California Code of Civil
6 Procedure sections 577 and 664.6.

7

8 DATED: _____

9

10

11

The Honorable T. Mark Smith
Judge, Kern County Superior Court

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

EXHIBIT C

1 Heather Davis, SBN 239372
heather@protectionlawgroup.com
2 Amir Nayebdadash, SBN 232204
amir@protectionlawgroup.com
3 D. Luke Clapp, SBN 306040
luke@protectionlawgroup.com
4 PROTECTION LAW GROUP, LLP
237 California Street
5 El Segundo, California 90245
Telephone: (424)290-3095
6 Facsimile: (866) 264-7880

7 Attorneys for Plaintiff

8 Malcolm A. Heinicke, SBN 194174
malcolm.heinicke@mto.com
9 Joseph D. Lee, SBN 110840
joseph.lee@mto.com
10 MUNGER, TOLLES & OLSON LLP
350 South Grand Avenue, 50th Floor
11 Los Angeles, CA 90071
Telephone: (213) 683-9100

12 T. Scott Belden, SBN 184387
scott@bbr.law
13 Jazmine Flores, SBN 317038
jazmine@bbr.law
14 BELDEN BLAINE RAYTIS, LLP
5016 California Avenue, Suite 3
15 Bakersfield, California 93309
Telephone: (661) 864-7826

16 Attorneys for Defendant Grant Construction, Inc.

18 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

19 **COUNTY OF KERN**

20 ARNULFO MIJANGOS, individually and on
21 behalf of others similarly situated,

22 Plaintiff,

23 vs.

24 GRANT CONSTRUCTION, INC., a
California corporation; and DOES 1 through
25 50, inclusive,

26 Defendants.

Case No. BCV-23-102043

**[PROPOSED] ORDER GRANTING
FINAL APPROVAL OF SETTLEMENT**

Assigned to: Honorable T. Mark Smith
Dept.: T-2

Complaint Filed: August 6, 2021
Trial Date: None

1 Having considered the Stipulation Re: Settlement of Class and PAGA Action
2 (“Stipulation”) and all other materials properly before the Court, and having conducted an inquiry
3 pursuant to the California Code of Civil Procedure section 382 and California Rules of Court rule
4 3.764, the Court finds that the Stipulation was entered by the parties in good faith and at arm’s
5 length, and the Stipulation is approved, including:

- 6 1) Payment of a Maximum Settlement Amount by Grant Construction, Inc. of
7 \$2,350,000.00, out of which the following amounts shall be taken;
- 8 2) an award of attorneys’ fees for Class Counsel from the Maximum Settlement
9 Amount in the amount of \$783,333.33;
- 10 3) allowable litigation costs and expenses of \$ _____ from the Maximum
11 Settlement Amount;
- 12 4) the reasonable costs of \$16,878 from the Maximum Settlement Amount to Rust
13 Consulting for administrating the settlement;
- 14 5) payment to the Plaintiff in the gross amount of \$7,500 from the Maximum
15 Settlement Amount as an enhancement payment and consideration for an individual
16 general release of all claims;
- 17 6) payment from the Maximum Settlement Amount in consideration for the release of
18 claims under the California Private Attorneys General Act of 2004, codified at
19 California Labor Code sections 2698 et seq., in the amount \$200,000, 75% (or
20 \$150,000) of which shall be sent to the California Labor Workforce Development
21 Agency, with the remaining 25% (or \$50,000) to be paid pro rata to the PAGA
22 Members based on their weeks worked during the PAGA Period; and .
- 23 7) Payment of the remaining balance of the Maximum Settlement Amount, namely
24 \$ _____ (the Net Settlement Amount for Payments to Settlement Class
25 Members) which shall be paid to the Settlement Class Members on a pro rata basis
26 based on their weeks worked during the Class Period.

27 The Clerk of the Court shall forthwith enter the Judgment provided in the Stipulation.
28 Grant Construction shall deliver the Maximum Settlement Amount to the Settlement

1 Administrator, and the Settlement Administrator shall deliver the payments to the Settlement Class
2 Members and PAGA Members, the Class Representative, Class Counsel, and the Labor and
3 Workforce Development Agency as set forth in the Stipulation and provided for in this Order.

4 Capitalized terms used in this Order have same meaning as set forth in the Stipulation.

5 IT IS SO ORDERED.

6

7 DATED: _____

8

9

10

The Honorable T. Mark Smith
Judge, Kern County Superior Court

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

EXHIBIT D

1 Heather Davis, SBN 239372
heather@protectionlawgroup.com
2 Amir Nayebdadash, SBN 232204
amir@protectionlawgroup.com
3 D. Luke Clapp, SBN 306040
luke@protectionlawgroup.com
4 PROTECTION LAW GROUP, LLP
237 California Street
5 El Segundo, California 90245
Telephone: (424)290-3095
6 Facsimile: (866) 264-7880

7 Attorneys for Plaintiff

8 Malcolm A. Heinicke, SBN 194174
malcolm.heinicke@mto.com
9 Joseph D. Lee, SBN 110840
joseph.lee@mto.com
10 MUNGER, TOLLES & OLSON LLP
11 350 South Grand Avenue, 50th floor
Los Angeles, CA 90071
12 Telephone: (213) 683-9100

13 T. Scott Belden, SBN 184387
scott@bbr.law
14 Jazmine Flores, SBN 317038
jazmine@bbr.law
15 BELDEN BLAINE RAYTIS, LLP
5016 California Avenue, Suite 3
16 Bakersfield, California 93309
Telephone: (661) 864-7826
17 Facsimile: (661) 878-9797

18 Attorneys for Defendant Grant Construction, Inc.

19
20 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

21 **COUNTY OF KERN**

22 ARNULFO MIJANGOS, individually and on
behalf of others similarly situated,

23 Plaintiff,

24 vs.

25 GRANT CONSTRUCTION, INC., a
California corporation; and DOES 1 through
26 50, inclusive,

27 Defendants.
28

Case No. BCV-23-102043

**[PROPOSED] ORDER GRANTING
PRELIMINARY APPROVAL AND
SETTING SETTLEMENT HEARING**

Assigned to: Honorable T. Mark Smith
Dept.: T-2

Complaint Filed: August 6, 2021
Trial Date: None

1 Plaintiff's motion for an order preliminarily approving a class action and collective
2 action settlement and setting a settlement hearing, came on regularly for hearing on [REDACTED],
3 2023. Defendant Grant Construction, Inc. ("Grant Construction") has stated its non-opposition to
4 the motion. The Court has considered the Stipulation Re: Settlement of Class Action (and its
5 exhibits), the submissions of counsel, and all other papers filed in this action. The matter having
6 been submitted and good cause appearing therefore, the Court finds as follows:

7 All defined terms contained herein shall have the same meanings as set forth in the
8 Stipulation Re: Settlement of Class and PAGA Action executed by the Settling Parties and filed
9 with this Court (the "Stipulation");

10 The Class Representative and Grant Construction, through their counsel of record
11 in the Litigation and per the terms of the Stipulation, have reached an agreement to resolve the
12 Litigation and settle all Released Class Claims and Released PAGA Claims;

13 The Class consists of the collective group of all non-exempt employees of Grant
14 Construction in California during the period from August 6, 2017, through the date of issuance of
15 this order granting preliminary approval to this settlement;

16 The Court conditionally finds that, for the purposes of approving this settlement
17 only and for no other purpose and with no other effect, the proposed Class meets the requirements
18 for certification under California Code of Civil Procedure, section 382: (a) the proposed Class is
19 ascertainable and so numerous that joinder of all members of the class is impracticable; (b) there is
20 a well-defined community of interest in the questions of law and fact common to the proposed
21 Class; (c) the claims of the Class Representative are typical of the claims of the members of the
22 proposed Class; (d) the Class Representative will fairly and adequately protect the interests of the
23 proposed Class Members; (e) a class action is superior to other available methods for an efficient
24 adjudication of this controversy, especially given the settlement context here; and (f) the counsel
25 of record for the Class Representative are qualified to serve as counsel for the Class
26 Representative in his own capacity as well as his representative capacity and for the Class;

1 Plaintiff has presented to the Court for review a Stipulation Re: Settlement of Class
2 Action. The Stipulation is within the range of reasonableness and meets the requirements for
3 preliminary approval;

4 Plaintiff has also presented to the Court for review a plan to provide notice to the
5 Members of the proposed Class which sets out the terms of the settlement and the Class Members'
6 options including, inter alia, their options (i) to opt out of the Class, (ii) to be represented by
7 counsel of their choosing, and (iii) to object to the terms of the settlement. The Notices will be
8 mailed to all Class Members at their Last Known Addresses. The plan regarding Notice proposed
9 by the Settling Parties is the best practical under the circumstances and satisfies pertinent due
10 process requirements and the requirements of the California Code of Civil Procedure.

11 Good cause appearing therefore, IT IS HEREBY ORDERED that:

12 1. Pursuant to California Code of Civil Procedure, section 382 and California
13 Rules of Court, rule 3.764, the Class is provisionally certified, and the Stipulation of Settlement is
14 preliminarily approved;

15 2. Notice of the proposed settlement, and the rights of Class Members to opt
16 out of the class portion of the settlement or object to the class portion of the settlement, , shall be
17 given by mailing of the Notice by first class mail, postage prepaid, to all Class Members pursuant
18 to the applicable provisions in the Stipulation. Grant Construction shall provide the Settlement
19 Administrator with the information necessary to conduct this mailing as set forth in the
20 Stipulation;

21 3. The Court hereby appoints, for settlement purposes only, Plaintiff Arnulfo
22 Mijangos as Class Representative;

23 4. The Court hereby appoints as Class Counsel, for settlement purposes only,
24 Heather Davis of Protection Law Group, LLP, Amir Nayebedadash of Protection Law Group, LLP,
25 and D. Luke Clapp of Protection Law Group, LLP;

26 5. The Court hereby appoints Rust Consulting, Inc as the Settlement
27 Administrator;

1 6. Grant Construction has agreed to pay Class Counsel their reasonable
2 attorneys' fees in this matter in the maximum total gross amount not to exceed \$783,333.33 as
3 well as certain allowable costs in this matter up to the maximum gross amount of \$30,000 and
4 Grant Construction has agreed to make payment to the Plaintiff in the gross amount of \$7,500, in
5 consideration for Plaintiff's individual general release of all claims and the Class Representative's
6 enhancement award. The Court preliminarily finds that these agreements are fair and reasonable;

7 7. Class Representative and Grant Construction have agreed the settlement
8 shall result in the release by the PAGA Members and the Labor and Workforce Development
9 Agency ("LWDA") of all Released PAGA Claims and that Grant Construction shall pay \$200,000
10 (as part of the Maximum Settlement Amount) to settle such claims, with Grant Construction
11 paying through the Claims Administrator 75% of the \$200,000 (or \$150,000) out of the Maximum
12 Settlement Amount to the LWDA, with the remaining 25% (or \$50,000) to be allocated ratably to
13 the PAGA Members based on their respective weeks worked during the PAGA Period. Prior to
14 seeking preliminary approval, Class Counsel provided notice of such amounts and this settlement
15 to the LWDA, as agreed in the Stipulation of Settlement. The Court preliminarily finds that these
16 agreements are fair and reasonable;

17 8. A hearing shall be held before this Court on _____, 2024 at 8:30
18 a.m. to consider whether the settlement should be given final approval by the Court:

19 (a) Written objections by the Settlement Class Members to the proposed class
20 portion of the settlement or to Class Counsel's request for attorneys' fees, costs, or the
21 enhancement award will be considered if received by the Claims Administrator on or before the
22 Notice Response Deadline;

23 (b) At the Settlement Hearing, Settlement Class Members may be heard orally
24 in support of, or in opposition to, the class settlement or the award of attorneys' fees, costs, or the
25 enhancement award regardless of whether they have submitted a written objection;

26 (c) Class Counsel and counsel for Grant Construction should be prepared at the
27 hearing to respond to objections filed by Class Members, if any, and to provide, as appropriate,
28 other information bearing on whether or not the settlement should be approved; and

(d) In the event that the Effective Date occurs, all Settlement Class Members will be deemed to have forever released and discharged the Released Class Claims and the LWDA and all PAGA Members shall release the Released PAGA Claims. In the event that the Effective Date does not occur for any reason whatsoever, the Stipulation shall be deemed null and void and shall have no effect whatsoever;

(e) Prior to the Settlement Hearing, Plaintiff shall file a motion or motions for final approval of the settlement and an award of attorneys' fees, costs, and the Plaintiff's enhancement award; and

(f) The Court orders the following implementation schedule for further proceedings:

Event	Timing
(a) Deadline for Grant Construction to send class data to settlement administrator	(21 days after Preliminary Approval Date)
(b) Notice Mailing Deadline (i.e., deadline for settlement administrator to mail class action notices to class members)	(30 days after Preliminary Approval Date)
(c) Notice Response Deadline (i.e., deadline to opt out or object)	(90 days after Class Notices are mailed)
(d) Deadline for Claims Administrator to file declaration of due diligence, proof of mailing, and objection and Opt Out rates	(10 days before filing of Motion for Final Approval)
(e) Deadline for Class Counsel to file motion(s) for final approval of settlement and for award of attorneys' fees, costs, and Class Representative enhancement award	(16 court days before Final Approval Hearing)
(f) Final Fairness Hearing	_____, 2024 at 8:30 a.m.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: _____, 2023

The Honorable T. Mark Smith
Judge, Kern County Superior Court