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13 **SUPERIOR COURT OF CALIFORNIA**

14 **COUNTY OF TULARE**

15 STATE OF CALIFORNIA ex rel. JAVIER
16 MIRELES, as Private Attorney General,

17 Plaintiff,

18 vs.

19 CENTRAL VALLEY CONSTRUCTION;
and DOES 1-25, inclusive,
20 Defendants.

CASE NO. VCU293499

**PRIVATE ATTORNEYS GENERAL
ACT SETTLEMENT AGREEMENT
AND RELEASE**

Complaint Filed: September 26, 2022
Trial Date: April 28, 2025

21
22 This Private Attorneys General Act Settlement Agreement and Release ("Agreement" or
23 "Settlement") is entered into by and between JAVIER MIRELES ("Plaintiff"), for himself and as
24 a representative of the State of California and the Aggrieved Employees, and CENTRAL
25 VALLEY CONSTRUCTION ("Defendant"), subject to review and approval by the Court
26 (Tulare County Superior Court, hereinafter, the "Court"). The Agreement refers to Plaintiff and
27 Defendant collectively as "Parties" or individually as "Party". This Settlement is contingent on
28 the review and approval of the Court as required under the previous version of California Labor

1 Code section 2699(1)(2) in effect at the time Plaintiff submitted the requisite PAGA Notice.

2 **1. DEFINITIONS**

3 1.1. "Action" means Plaintiff's lawsuit against Defendant captioned "*STATE OF*
4 *CALIFORNIA ex rel. JAVIER MIRELES, as Private Attorney General, Plaintiff v. CENTRAL*
5 *VALLEY CONSTRUCTION; and DOES 1-25, inclusive, Defendant*" Case No. VCU293499,
6 initiated on September 26, 2022, in Superior Court of California, County of Tulare.

7 1.2. "Administrator" means Phoenix Class Action Administration Solutions, the
8 neutral entity the Parties have agreed to appoint to administer the Settlement and related matters.

9 1.3. "Administration Expenses Payment" means the amount the Administrator will be
10 paid by Defendant to reimburse its reasonable fees and expenses for the cost of its services.

11 1.4. "Aggrieved Employee(s)" means all current and former persons who worked for
12 Defendant within the State of California at any time during the PAGA Period as either hourly-
13 paid or non-exempt employee.

14 1.5. "Aggrieved Employee Data" means the Aggrieved Employee's name, last-known
15 mailing address, Social Security number, and number of PAGA Pay Periods in Defendant's
16 possession.

17 1.6. "Aggrieved Employee Address Search" means the Administrator's investigation
18 and search for current Aggrieved Employee mailing addresses using all reasonably available
19 sources, methods, and means including, but not limited to, the National Change of Address
20 database, skip traces, and direct contact by the Administrator with Aggrieved Employees.

21 1.7. "Court" means the Superior Court of California, County of Tulare.

22 1.8. "Defense Counsel" means Herr Pedersen & Berglund LLP.

23 1.9. "Effective Date" means the date by when both of the following have occurred:
24 (a) the Court confirms and approves and enters a Judgment on the PAGA Settlement and (b) the
25 Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) the day
26 the Court enters Judgment; (b) if the California Labor and Workforce Development Agency
27 ("LWDA") or any other individual or entity does not object to the Settlement, the day the Court
28 enters Judgment; (c) if the LWDA or any other individual or entity objects to the Settlement, the

1 day after the deadline for filing a notice of appeal from the Judgment; or (d) if a timely appeal
2 from the Judgment is filed by the LWDA or any other individual or entity, the day after the date
3 of final resolution of that appeal (including any requests for rehearing and/or petitions for
4 certiorari), resulting in final and complete judicial approval of the Settlement in its entirety, with
5 no further challenge to the Settlement being possible.

6 1.10. "Gross Settlement Amount" means One Hundred Thousand Dollars and No/100
7 Cents (\$100,000.00), which is the Defendant agrees to pay under the Settlement except as
8 provided in Paragraph 8 below. The Gross Settlement Amount will be used to pay Individual
9 PAGA Payments, The LWDA PAGA Payment, PAGA Counsel Fees Payment, PAGA Counsel
10 Litigation Expenses Payment, and the Administrator's Expense Payment.

11 1.11. "Individual PAGA Payment" means the Aggrieved Employee's pro rata share of
12 25% of the PAGA Penalties calculated according to the number of PAGA Pay Periods for the
13 Aggrieved Employee during the PAGA Period.

14 1.12. "Judgment" means the judgment or the dismissal entered by the Court based upon
15 the approval of the Settlement.

16 1.13. "LWDA" means the California Labor and Workforce Development Agency, the
17 agency entitled, under the prior version of California Labor Code section 2699, subd. (i) in effect
18 at the time Plaintiff submitted the requisite PAGA Notice.

19 1.14. "LWDA PAGA Payment" means 75% of the PAGA Penalties paid to the LWDA
20 under the prior version of California Labor Code section 2699, subd. (i) in effect at the time
21 Plaintiff submitted the requisite PAGA Notice

22 1.15. "Net Settlement Amount" means the Gross Settlement Amount, less the following
23 payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA
24 Payment, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, and the
25 Administration Expenses Payment. The remainder is to be paid to Aggrieved Employees as
26 Individual PAGA Payments.

27 1.16. "PAGA Counsel" or "Plaintiff's Counsel" means Grochow Law, A Professional
28 Corp.

1 1.17. "PAGA Counsel Fees Payment" and "PAGA Counsel Litigation Expenses
2 Payment" mean the amounts allocated to PAGA Counsel for reimbursement of reasonable
3 attorneys' fees and expenses, respectively, incurred to prosecute the Action.

4 1.18. "PAGA Pay Periods" means the total number of pay periods during which an
5 Aggrieved Employee worked for Defendant for at least one day during the PAGA Period.

6 1.19. "PAGA Period" means the period from July 1, 2021 to December 31, 2023.

7 1.20. "PAGA" means the Private Attorneys General Act (California Labor Code
8 §§ 2698, et seq.).

9 1.21. "PAGA Notice" means Plaintiff's July 20, 2022, letter to Defendant and the
10 LWDA providing notice pursuant to Labor Code section 2698.

11 1.22. "PAGA Penalties" means the total amount of PAGA civil penalties to be paid
12 from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees and 75% to the
13 LWDA in settlement of the Released PAGA Claims. In this case, the entire Gross Settlement
14 Amount will be PAGA Penalties. PAGA Counsel shall give timely notice of the Settlement and
15 the Court's judgment and order approving this Settlement to the LWDA under the prior version
16 of California Labor Code section 2699(1)(2)-(3) in effect at the time Plaintiff submitted the
17 requisite PAGA Notice.

18 1.23. "Plaintiff" means Javier Mireles, the named plaintiff in the Action.

19 1.24. "Approval Order" means the proposed Court Order Granting Approval of PAGA
20 Settlement.

21 1.25. "Released PAGA Claims" means all penalties, claims, causes of actions,
22 liabilities, demands, obligations, interest, damages, liquidated damages, equitable relief,
23 restitution, declaratory relief, expenses, costs, attorneys' fees, and all other legal responsibilities
24 of any form whatsoever, under the California Private Attorneys General Act, California Labor
25 Code section 2698 *et seq.*, that were asserted or could have been asserted based upon the facts
26 and allegations made in the PAGA Notice and Operative Complaint during the PAGA Period,
27 including, but not limited to, being predicated on the failure to pay minimum, regular, and
28 overtime wages, failure to pay for all hours worked, failure to provide compliant meal periods

1 and associated premiums, failure to provide compliant rest periods and associated premiums,
2 failure to timely pay wages during employment, failure to timely pay wages upon termination
3 and separation of employment, failure to provide compliant and accurate wage statements,
4 failure to maintain complete and accurate payroll records, and failure to reimburse necessary
5 business-related expenses and costs, in violation of California Labor Code sections 201, 201.3,
6 201.5, 201.9, 202, 204.1, 204.2, 205.5, 226, 226.7, 1174, 1182.12, 1197, 1198, 6400, 6401, 6402,
7 6403, 6404, and 6401.7; Health and Safety Code section 25910; and applicable Industrial
8 Welfare Commission Wage Orders.

9 1.26. "Released Parties" means Defendant and each of its past, present, and future
10 agents, employees, representatives, administrators, officers, directors, boards, members,
11 shareholders, attorneys, accountants, insurers, receivers, advisors, consultants, partners,
12 partnerships, parents, divisions, owners, auditors, subsidiaries, affiliates or related entities,
13 assigns, successors, heirs, executors, pension and welfare benefit plans, predecessors in interest,
14 joint venturers, trustees, investors, fiduciaries, and commonly controlled corporations, as well as
15 any individual or entity who or which could be jointly liable with Defendant, and all persons or
16 entities acting by, through, under, or in concert with any of them, and Defendant's counsel of
17 record in the Action.

18 1.27. "Settlement" means the disposition of the Action effected by this Agreement and
19 the Judgment.

20 1.28. "Service Payment" means the payment to the Plaintiff for initiating the Action
21 and providing services in support of the Action.

22 1.29. "Defendant" means Defendant Central Valley Construction.

23 **2. RECITALS**

24 2.1. Plaintiff is a former employee of Defendant.

25 2.2. On July 20, 2022, pursuant to California Labor Code section 2698, subd. (a),
26 Plaintiff's Counsel submitted the PAGA Notice on behalf of Plaintiff, to the LWDA and
27 Defendant, to notify the LWDA and Defendant, pursuant to the PAGA, of Plaintiff's intent to
28 seek civil penalties under PAGA for Defendant's alleged violations of California Labor Code

1 sections 201, 201.3, 201.5, 201.9, 202, 204.1, 204.2, 205.5, 226, 226.7, 1174, 1182.12, 1197,
2 1198, 6400, 6401, 6402, 6403, 6404, and 6401.7; Health and Safety Code section 25910; and
3 applicable Industrial Welfare Commission Wage Orders, thereby initiating LWDA Case Number
4 LWDA-CM-896585-22.

5 2.3. On September 26, 2022, Plaintiff filed a complaint in Tulare County Superior
6 Court, thereby initiating the Action.

7 2.4. There has been no determination on the merits of the Action or the PAGA
8 Notice but, in order to avoid additional cost and the uncertainty of litigation, the Parties desire to
9 resolve the Action and Released PAGA Claims.

10 2.5. The Parties, PAGA Counsel, and Defense Counsel represent that they are not
11 aware of any other pending matter or action asserting claims that will be extinguished or affected
12 by the Settlement.

13 **3. MONETARY TERMS**

14 3.1. Gross Settlement Amount: Except as otherwise provided by Paragraph 9 below,
15 Defendant promises to pay One Hundred Thousand Dollars and No/100 Cents (\$100,000.00) and
16 no more as the Gross Settlement Amount. Defendant has no obligation to pay the Gross
17 Settlement Amount prior to the deadline stated in Paragraph 6.1 of this Agreement. The
18 Administrator will disburse the entire Gross Settlement Amount without asking or requiring
19 Aggrieved Employees to submit any claim as a condition of payment. None of the Gross
20 Settlement Amount will revert to Defendant.

21 3.2. Payments from the Gross Settlement Amount: The Administrator will make and
22 deduct the following payments from the Gross Settlement Amount, in the amounts specified by
23 the Court in the Approval Order:

24 3.2.1. To PAGA Counsel: To PAGA Counsel: A PAGA Counsel Fees
25 Payment of not more than 33% which is currently estimated to be \$33,000.00 and PAGA
26 Counsel Litigation Expenses Payment of not more than \$847.37. Defendant will not oppose
27 requests for Court approval of these payments provided that they do not exceed these amounts.
28 Plaintiff and/or PAGA Counsel will file an application or motion for PAGA Counsel Fees

1 Payment and PAGA Litigation Expenses Payment. If the Court approves a PAGA Counsel Fees
2 Payment and/or a PAGA Counsel Litigation Expenses Payment less than the amounts requested,
3 the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties
4 shall have no liability to PAGA Counsel or any other Plaintiff's Counsel arising from any claim
5 to any portion any PAGA Counsel Fee Payment and/or PAGA Counsel Litigation Expenses
6 Payment. The Administrator will pay the PAGA Counsel Fees Payment and PAGA Counsel
7 Expenses Payment using one or more IRS 1099 Forms. PAGA Counsel assumes full
8 responsibility and liability for taxes owed on the PAGA Counsel Fees Payment and the PAGA
9 Counsel Litigation Expenses Payment and holds Defendant harmless, and indemnifies
10 Defendant, from any dispute or controversy regarding any division or sharing of any of these
11 Payments

12 3.2.2. To the Administrator: An Administrator Expenses Payment not to
13 exceed Three Thousand Seven Hundred and Fifty Dollars and No/100 Cents (\$3,750.00) except
14 for a showing of good cause and as approved by the Court. To the extent the Administration
15 Expenses are less or the Court approves payment less than Three Thousand Seven Hundred and
16 Fifty Dollars and No/100 Cents (\$3,750.00), the Administrator will retain the remainder in the
17 Net Settlement Amount.

18 3.2.3. To Plaintiff: Service Payment to Plaintiff as the representative in
19 this Action of not more than Five Thousand Dollars and No/100 Cents (\$5,000.00) (in addition
20 to any Individual PAGA Payment the Plaintiff is entitled to). Defendant will not oppose
21 Plaintiff's request for Service Payment that does not exceed this amount. If the Court approves a
22 Service Payment less than the amount requested, the Administrator will allocate the remainder to
23 the Net Settlement Amount. The Administrator will pay the Service Payment using IRS Form
24 1099. Plaintiff assumes full responsibility and liability for employee taxes owed on the Service
25 Payment.

26 3.2.4. To the LWDA and Aggrieved Employees: Seventy-five percent
27 (75%) of the PAGA Penalties to the LWDA, and the remaining twenty-five percent (25%) of the
28 PAGA Penalties to the Individual PAGA Payments.

1 3.2.4.1. The Administrator will calculate each Individual PAGA
2 Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties
3 by the total number of PAGA Pay Periods worked by all Aggrieved Employees during the
4 PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Pay Periods.

5 3.2.4.2. The Administrator will calculate each Individual PAGA
6 Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties
7 by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the
8 PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Period Pay
9 Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on
10 their Individual PAGA Payment.

11 3.2.4.3. Administrator will allocate the remainder to the Net
12 Settlement Amount. The Administrator will report the Individual PAGA Payments on IRS 1099
13 Forms.

14 **4. SETTLEMENT FUNDING AND PAYMENTS**

15 4.1. Aggrieved Employee Pay Periods. Based on a review of its records to date,
16 Defendant estimates there are 361 employees within the PAGA period who worked a total of
17 5,724 pay periods.

18 4.2. PAGA Data: Not later than fourteen (14) business days after the Court Confirms
19 enters an Order approving of the Settlement, Defendant will deliver the PAGA Data to the
20 Administrator, in the form of a spreadsheet. To protect PAGA Members' privacy rights, the
21 Administrator must maintain the PAGA Data in confidence, use the PAGA Data only for
22 purposes of this Settlement and for no other purpose, and restrict access to the PAGA Data to
23 Administrator employees who need access to the PAGA Data to effect and perform under this
24 Agreement. PAGA Counsel and Plaintiff will not be provided identifying or contact information
25 or Social Security Numbers for any Aggrieved Employee in connection with the Settlement. The
26 PAGA Data provided to the Administrator will remain confidential and will not be disclosed to
27 anyone, except as required to applicable tax authorities, unless Defendant provides the express
28 written consent thereto, or by order of the Court, provided that the Administrator may

1 communicate total sums of Individual PAGA payments to PAGA Counsel and Defense Counsel.

2 4.3. Funding of Gross Settlement Amount: Defendant shall fully fund the Gross
3 Settlement Amount by transmitting payment to the Administrator as follows: \$40,000 shall be
4 transmitted to the Administrator no later than fourteen (14) business days after the effective date.
5 Thereafter, Defendant shall make monthly payments in the amount of at least, \$2,500
6 commencing on January 1, 2025, and continuing until the remaining \$60,000 is paid in full. If
7 the date by which payment by Defendant is due falls on a Saturday, Sunday, or legal holiday in
8 the State of California, then the due date shall be extended to the next following day which is not a
9 Saturday, Sunday, or legal holiday in the State of California.

10 4.4. Payments from the Gross Settlement Amount: Within fourteen (14) calendar
11 days after Defendant fully funds the total Gross Settlement Amount, the Administrator will mail
12 checks or disburse funds for all Individual PAGA Payments, the LWDA PAGA Payment, and
13 the Administrator's Expenses Payment. Disbursement of the PAGA Counsel Litigation Expenses
14 Payment and Service Payment shall not precede disbursement of Individual PAGA Payments.

15 4.4.1. The Administrator will issue checks for the Individual PAGA Payments
16 and send them to the Aggrieved Employees via First Class U.S. Mail, postage prepaid. The face
17 of each check shall prominently state the date (not less than 180 days after the date of mailing)
18 when the check will be voided. The Administrator will cancel all checks not cashed by the void
19 date. Before mailing any checks, the Settlement Administrator must update the recipients'
20 mailing addresses using the National Change of Address Database.

21 4.4.2. The Administrator must conduct an Aggrieved Employee Address Search
22 for all Aggrieved Employees whose checks are returned undelivered without USPS forwarding
23 address. Within [7] days of receiving a returned check the Administrator must re-mail checks to the
24 USPS forwarding address provided or to an address ascertained through the Aggrieved Employee
25 Address Search. The Administrator need not take further steps to deliver checks to Aggrieved
26 Employees whose re-mailed checks are returned as undelivered. The Administrator shall promptly
27 send a replacement check to any Aggrieved Employee whose original check was lost or misplaced,
28 requested by the Aggrieved Employee prior to the void date.

1 4.4.3. For any Aggrieved Employee whose Individual PAGA Payment check is
2 uncashed and cancelled after the void date, the Administrator shall transmit the funds represented
3 by such checks to the cy pres beneficiary, CASA of Tulare County for Court Appointed Special
4 Advocates for Children.

5 4.4.4. The payment of Individual PAGA Payments shall not obligate Defendant
6 or Released Parties to confer any additional benefits or make any additional payments to the
7 Aggrieved Employees (such as 401(k) contributions or bonuses) beyond those specified in this
8 Agreement.

9 **5. RELEASES OF CLAIMS**

10 Upon the Effective Date and Defendant fully funding the Gross Settlement Amount,
11 Plaintiff, Aggrieved Employees, LWDA, and PAGA Counsel will release claims against
12 Defendant and all Released Parties as follows:

13 5.1. Release by Plaintiff, Aggrieved Employees, and LWDA/State of California
14 Regarding PAGA Claims: All Aggrieved Employees, on behalf of themselves and their former
15 and present heirs, spouses, agents, attorneys, executors, administrators, successors, assigns, and
16 representatives, and the LWDA, knowingly and voluntarily, each release Defendant and the
17 Released Parties from all Released PAGA Claims during the PAGA Period.

18 It is the desire of the Parties, Aggrieved Employees, and LWDA to fully, finally, and
19 forever settle, compromise, and discharge the Released PAGA Claims against Defendant and the
20 Released Parties. Each Aggrieved Employee and the LWDA will be bound by the release of the
21 Released PAGA Claims as a result of this Agreement and bound by the terms of the judgment
22 and satisfaction of such judgment.

23 5.2. Release by PAGA Counsel: PAGA Counsel, on behalf of their former, present,
24 and future attorneys, employees, agents, successors, and assigns, releases Defendant and the
25 Released Parties from all claims for PAGA attorneys' fees and costs incurred in connection with
26 this Action, Operative Complaint, and the PAGA Notice.

1 **6. MOTION OR APPLICATION FOR APPROVAL OF SETTLEMENT**

2 6.1. Plaintiff's and PAGA Counsel Responsibilities: Plaintiff/PAGA Counsel shall
3 also submit to the Court a Proposed Approval Order. Each Party shall cooperate when seeking
4 approval of the PAGA Settlement. Plaintiff shall provide drafts of the Proposed Approval Order
5 documents to Defense Counsel no later than fifteen (15) calendar days prior to filing. PAGA
6 Counsel and Defense Counsel will expeditiously meet and confer in person or by telephone, and
7 in good faith, to resolve any disagreements concerning these documents. PAGA Counsel is
8 responsible for delivering the Court's Approval Order to the Administrator.

9 6.1.1 Plaintiff/PAGA Counsel will also prepare and deliver to Defense Counsel
10 and the Court all documents necessary for obtaining approval of this Settlement under the prior
11 version of California Labor Code Section 2699, subd. (l)(2) in effect at the time Plaintiff
12 submitted the requisite PAGA Notice) including, but not limited to, (i) a signed declaration from
13 the Administrator for administering the Settlement and attesting to its willingness to serve;
14 competency; operative procedures for protecting the security of Aggrieved Employee Data;
15 amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all
16 facts relevant to any actual or potential conflicts of interest with Aggrieved Employees or the
17 LWDA; and the nature and extent of any financial relationship with Plaintiff, PAGA Counsel, or
18 Defense Counsel; (ii) a signed declaration from PAGA Counsel firm attesting to its timely
19 transmission to the LWDA of all necessary PAGA documents (initial notice of violations
20 (California Labor Code section 2699.3, subd. (a)), Operative Complaint (the prior version of
21 California Labor Code section 2699, subd.(l)(1) in effect at the time Plaintiff submitted the
22 requisite PAGA Notice), this Agreement (the prior version of California Labor Code section
23 2699, subd. (l)(2) in effect at the time Plaintiff submitted the requisite PAGA Notice) and all
24 facts relevant to any actual or potential conflict of interest with Aggrieved Employees and/or the
25 Administrator.

26 6.2 Duty to Cooperate: The Parties expressly acknowledge that the Court's approval
27 of the Agreement is a condition precedent to any payments described in this Agreement. If the
28 Court does not grant approval of the PAGA Settlement, conditions approval on any material

1 change to this Settlement (including, but not limited to, the scope of release to be granted by
2 Plaintiff, the Aggrieved Employees, the LWDA, and PAGA Counsel), and/or refuses to grant
3 judgment or dismissal of the Action with prejudice, this Agreement will be null and void. The
4 Parties shall nevertheless expeditiously work together in good faith to address the Court's
5 concerns and obtain approval, if such can be done in a manner that is mutually agreed upon by
6 the Parties. The Parties will work together to make any non-material modifications of the
7 Settlement requested by the Court to obtain approval of the Parties' Settlement.

8 6.2.1 The Parties are aware that some courts have approved a PAGA settlement
9 and entered an order approving the settlement and judgment and thereafter closed the case, while
10 other courts have approved a PAGA settlement and entered only an order approving the
11 settlement with later instructions to file a request for dismissal of the action with prejudice. The
12 Parties agree to cooperate and take any and all steps required by the Court in the Action to
13 implement the settlement and terminate the Action pursuant to settlement (i.e., to terminate the
14 Action by way of judgment or dismissal with prejudice).

15 **7. SETTLEMENT ADMINISTRATION.**

16 7.1 Selection of Administrator: The Parties have jointly selected Phoenix Class
17 Action Solutions to serve as the Administrator and verified that, as a condition of appointment,
18 Phoenix Class Action Solutions agrees to be bound by this Agreement and to perform, as a
19 fiduciary, all duties specified in this Agreement and such other duties as requested by the Parties,
20 including, but not limited to, maintaining the settlement funds in an appropriate account, locating
21 Aggrieved Employees, and calculating, administering, distributing all payments under the
22 Agreement and issuing all tax forms (i.e. IRS 1099 Forms, etc.) and tax reports to state and
23 federal tax authorities as may be required by law for all amounts paid pursuant to this
24 Agreement, in exchange for payment of Administration Expenses. The Parties and their Counsel
25 represent that they have no interest or relationship, financial or otherwise, with the Administrator
26 other than a professional relationship arising out of prior experiences administering settlements.

27 7.1.1 Any tax forms issued to Aggrieved Employees in connection with the
28 proceeds from any uncashed checks will be withdrawn and voided by the Administrator. All

1 expenses and costs incurred by, or at the direction of, the Administrator in connection with the
2 operation and implementation of this Agreement (including, without limitation, expenses of tax
3 attorneys and/or accountants and mailing and distribution costs and expenses relating to filing or
4 failing to file the informational and other tax returns described in this Agreement) shall be
5 treated as, and considered to be, costs of administration of this Settlement and thus part of the
6 Administrator Expenses Payment.

7 7.2 Qualified Settlement Fund: The Administrator shall establish a settlement fund
8 that meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury
9 Regulation section 468B-1.

10 7.3 Administrator Duties: The Administrator has a duty to perform or observe all
11 tasks to be performed or observed by the Administrator contained in this Agreement or otherwise.

12 7.3.1 Email Address and Toll-Free Number: The Administrator will maintain
13 and monitor an email address and a toll-free telephone number to receive Aggrieved Employee
14 calls, faxes, and emails.

15 7.3.2 Report by Administrator: The Administrator shall notify PAGA Counsel
16 and Defense Counsel of the following: (i) when each of the payments have been issued as
17 required under this Agreement and (ii) when all payments have been issued as required under
18 this Agreement.

19 7.3.3 Final Report by Administrator: Within ten (10) calendar days after the
20 Administrator disburses all funds in the Gross Settlement Amount including the payment to the
21 cy pres beneficiary, the Administrator will provide PAGA Counsel and Defense Counsel with a
22 final report detailing all payments made under this Agreement and its disbursements by
23 employee identification number only of all payments made to the Aggrieved Employees. Within
24 fifteen (15) days after the Administrator disburses all funds in the Gross Settlement Amount also
25 including the payment to the cy pres beneficiary, the Administrator will prepare, and submit to
26 PAGA Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to
27 its disbursement of all payments required under this Agreement. PAGA Counsel is responsible
28 for filing the Administrator's declaration in Court, if required.

1 **8. CONTINUING JURISDICTION OF THE COURT**

2 The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the
3 Parties, Action, and the Settlement solely for purposes of (i) enforcing this Agreement and/or
4 Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-
5 Judgment matters as are permitted by law.

6 8.1 Waiver of Right to Appeal: Provided the Judgment is consistent with the terms
7 and conditions of this Agreement, the Parties and their respective counsel waive all rights to
8 appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the
9 right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals.
10 The waiver of appeal does not include any waiver of the right to oppose such motions, writs, or
11 appeals. If another party appeals the Judgment, the Parties' obligations to perform under this
12 Agreement will be suspended until such time as the appeal is finally resolved and the Judgment
13 becomes final.

14 8.2 Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment: If
15 the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a
16 material modification of this Agreement (including, but not limited to, the scope of release to be
17 granted by Plaintiff, the Aggrieved Employees, the LWDA, and PAGA Counsel), this
18 Agreement shall be null and void. The Parties shall nevertheless expeditiously work together in
19 good faith to address the appellate court's concerns and obtain approval, if such can be done in a
20 manner that is mutually agreed upon by the Parties.

21 8.3 Amended Judgment: If any amended judgment is required, the Parties will work
22 together in good faith to jointly submit a proposed amended judgment.

23 **9. NULLIFICATION OF THIS AGREEMENT**

24 9.1 Non-Approval of the Agreement: In the event that the Court fails to approve the
25 Settlement under the terms agreed to by the Parties, or if the appropriate appellate court fails to
26 uphold or affirm approval of the Settlement, or if the Agreement is otherwise terminated: (1) the
27 Agreement shall have no force and effect and the Parties shall be restored to their respective
28 positions prior to entering into it, and no Party shall be bound by any of the terms of the

1 Agreement; (2) Defendant and Released Parties shall have no obligation to make any payments
2 under this Agreement; (3) Defendant shall pay the Administrator's costs incurred to that point;
3 (3) any approval order or judgment shall be vacated; and (4) the Agreement and all negotiations,
4 statements, proceedings, and data relating thereto shall be deemed confidential mediation
5 settlement communications and not subject to disclosure for any purpose in any proceeding.
6 However, any such non-approval will not impact Plaintiff's individual settlement.

7 **10. ADDITIONAL PROVISIONS.**

8 10.1 Invalidity of Any Provision: Before declaring any provision or term(s) of this
9 Agreement invalid, the Court shall first attempt to construe the provision or term(s) as valid to
10 the fullest extent possible consistent with applicable precedents so as to define all provisions or
11 term(s) of this Agreement valid and enforceable. Any invalid, illegal, or unenforceable provision
12 or term(s) determined by the Court shall in no way affect any other provision or term(s) if
13 Defendant and PAGA Counsel, on behalf of the Parties and the Aggrieved Employees, mutually
14 elect in writing to proceed as if such invalid, illegal, or unenforceable provision or term(s) had
15 never been included in this Agreement.

16 10.2 Invalidation: Invalidation of any material portion of the Settlement shall
17 invalidate the Settlement in its entirety, unless the Parties shall subsequently agree in writing that
18 the remaining provisions of the Settlement are to remain in full force and effect.

19 10.3 Integrated Agreement: Upon execution by all Parties and their counsel, this
20 Agreement together with its attached exhibits shall constitute the entire agreement between the
21 Parties relating to the Settlement, superseding all prior or contemporaneous agreements,
22 representations, warranties, covenants, or inducements, whether oral or written, and whether to
23 or by a Party or such Party's legal counsel.

24 10.4 Attorney Authorization: PAGA Counsel and Defense Counsel separately warrant
25 and represent that they are authorized by Plaintiff and Defendant, respectively, to take all
26 appropriate action required or permitted to be taken by such Parties pursuant to this Agreement
27 to effectuate its terms, and to execute any other documents reasonably required to effectuate the
28 terms of this Agreement including any amendments to this Agreement.

1 10.5 Cooperation: The Parties and their counsel will cooperate with each other and use
2 their best efforts, in good faith, to implement the Settlement by, among other things, modifying
3 the Agreement, submitting supplemental evidence, and supplementing points and authorities as
4 requested by the Court. In the event the Parties are unable to agree upon the form or content of
5 any document necessary to implement the Settlement, or on any modification of the Agreement
6 that may become necessary to implement the Settlement, the Parties will seek the assistance of a
7 mediator and/or the Court for resolution.

8 10.6 Different Facts: The Parties hereto, and each of them, acknowledge that, except
9 for matters expressly represented herein, the facts in relation to the dispute and all claims
10 released by the terms of this Agreement may turn out to be other than or different from the facts
11 now known by each Party and/or its counsel, or believed by such Party or counsel to be true, and
12 each Party therefore expressly assumes the risk of the existence of different or presently
13 unknown facts, and agrees that this Agreement shall be in all respects effective and binding
14 despite such difference.

15 10.7 No Prior Assignments: The Parties separately represent and warrant that they
16 have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer,
17 or encumber to any person or entity any portion of any liability, claim, demand, action, cause of
18 action, or right released and discharged by the Party in this Settlement.

19 10.8 Settlement Amounts and Taxes: Defendant and Released Parties shall have no
20 responsibility for deciding the validity of the Individual PAGA Payment or any other payments
21 made pursuant to this Stipulation, shall have no involvement in or responsibility for the
22 determination or payment of taxes, and shall have no liability for any errors made with respect to
23 taxes. Plaintiff, PAGA Counsel, Aggrieved Employees, and the LWDA shall be solely
24 responsible for any and all tax obligation associated with their respective payments under this
25 Agreement.

26 10.9 No Tax Advice: Neither Plaintiff, PAGA Counsel, Defendant, nor Defense
27 Counsel are providing any advice regarding taxes or taxability, nor shall anything in this
28 Settlement be relied upon as such within the meaning of United States Treasury Department

1 Circular 230 (31 CFR Part 10, as amended) or otherwise.

2 10.10 Modification of Agreement: This Agreement, and all parts of it, may be amended,
3 modified, changed, or waived only by an express written instrument signed by all Parties or their
4 representatives, and approved by the Court.

5 10.11 No Waiver: If Plaintiff or Defendant fail to enforce this Agreement or to insist on
6 performance of any term, that failure does not mean a waiver of that term or of the Agreement.
7 The Agreement remains in full force and effect anyway.

8 10.12 Agreement Binding on Successors: This Agreement shall be binding upon and
9 inure to the benefit of the Parties, LWDA, and Aggrieved Employees and their respective present
10 and former heirs, trustees, executors, administrators, representatives, officers, directors,
11 shareholders, agents, employees, insurers, attorneys, accountants, auditors, advisors, consultants,
12 pension and welfare benefit plans, fiduciaries, parent companies, subsidiaries, affiliates, related
13 companies, joint ventures, predecessors, successors, and assigns.

14 10.13 Applicable Law: All terms and conditions of this Agreement and its exhibits will
15 be governed by and interpreted according to the internal laws of the state of California, without
16 regard to conflict of law principles.

17 10.14 Construction: The Parties have cooperated in the drafting and preparation of this
18 Agreement. The Parties hereto agree that the terms and conditions of this Agreement are the
19 result of lengthy, intensive, arms-length non-collusive negotiations between the Parties and that
20 this Agreement is not to be construed in favor of or against any party by reason of the extent to
21 which any party or its counsel participated in the drafting of this Agreement.

22 10.15 Confidentiality: To the extent permitted by law, all agreements made, and orders
23 entered during the Action and in this Agreement relating to the confidentiality of information
24 shall survive the execution of this Agreement.

25 10.16 Use and Return of Aggrieved Employee Data: Information provided to PAGA
26 Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the PAGA Data
27 provided to PAGA Counsel by Defendant in connection with the mediation, other settlement
28 negotiations, or in connection with the Settlement, may be used only with respect to this

1 Settlement, and no other purpose, and may not be used in any way that violates any existing
2 contractual agreement, statute, or rule of court. Not later than 90 days after the Administrator
3 discharges its obligation to all Settlement funds, Plaintiff shall destroy all paper and electronic
4 versions of Aggrieved Data received from Defendant unless, prior to the Administrator's
5 payment of all Settlement Funds, Defendant makes a written request to PAGA Counsel for the
6 return, rather than the destructions, of Aggrieved Employee Data.

7 10.17 Headings: The descriptive heading of any section or paragraph of this Agreement
8 is inserted for convenience of reference only and does not constitute a part of this Agreement.

9 10.18 Calendar Days: Unless otherwise noted, all reference to "days" in this Agreement
10 shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a
11 Saturday, Sunday, or legal holiday in the State of California, then the due date shall be extended to
12 the next following day which is not a Saturday, Sunday, or legal holiday in the State of California.

13 10.19 Notice: All notices, demands, or other communications between the Parties in
14 connection with this Agreement will be in writing and deemed to have been duly given as of the
15 third business day after mailing by United States mail, or the day sent by email or messenger,
16 addressed as follows:

17 To Plaintiff:

18 LAUREN E. GROCHOW (SBN: 293601)
19 lauren@grochowlaw.com
20 DANIEL M. KALINOWSKI (SBN: 305087)
21 daniel@grochowlaw.com
22 GROCHOW LAW, A PROFESSIONAL CORP
23 33 Brookline Aliso Viejo, CA 92656
24 Tel: (949) 506-1494

25 To Defendant:

26 FERNANDO GARCIA (SBN: 343048)
27 fgarcia@hpblaw.net
28 RACHELE BERGLUND (SBN: 248614)
rberglund@hpblaw.net
HERR PEDERSEN & BERGLUND LLP
100 Willow Plaza, Suite 300
Visalia, California 93291
Telephone: (559) 636-0200

10.20 Execution in Counterparts: This Agreement may be executed in one or more
counterparts by facsimile, electronically (i.e., DocuSign, AdobeSign), or email which for
purposes of this Agreement shall be accepted as an original. All executed counterparts and each

1 of them will be deemed to be one and the same instrument if counsel for the Parties will
2 exchange between themselves signed counterparts. Any executed counterpart will be admissible
3 in evidence to prove the existence and contents of this Agreement.

4 10.21 Action to Enforce Agreement: In any suit or court action to enforce the terms of
5 this Agreement, the prevailing party shall be entitled to recover their attorneys' fees and costs.

6 10.22 California Labor Code §§ 206 and 206.5 Do Not Apply: The Parties agree that
7 this Settlement involves the settlement of highly contested and disputed claims, such that the
8 provisions of California Labor Code §§ 206 and 206.5 are not applicable to this Settlement or the
9 Releases required by this Agreement.

10 10.23 Attorneys' Fees, Costs, and Expenses: Except as otherwise specifically provided
11 for herein, each party shall bear their own attorneys' fees, costs, and expenses, taxable or
12 otherwise, incurred by them in or arising out of the Action and shall not seek reimbursement
13 thereof from any other party to this Stipulation.

14 10.24 Stay of Litigation: The Parties agree that upon the full execution of this
15 Agreement, the litigation shall be stayed, except such proceedings necessary to implement and
16 complete the Settlement, pending approval of the Settlement.

17 **HAVING ELECTED TO EXECUTE THIS SETTLEMENT AGREEMENT TO**
18 **FULFILL THE PROMISES, AND TO RECEIVE THE CONSIDERATION SET FORTH**
19 **ABOVE, PLAINTIFF AND DEFENDANT, FREELY AND KNOWINGLY, AND AFTER**
20 **DUE CONSIDERATION, ENTER INTO THIS SETTLEMENT AGREEMENT.**

21 **IN WITNESS WHEREOF**, the Parties knowingly and voluntarily and their counsel
22 have executed this Stipulation on the date(s) below. The date of the Stipulation shall be the date
23 of the latest signature.

24 [SIGNATURES ON NEXT PAGE]

Grochow Law, a Professional Corp.

33 Brookline

Aliso Viejo, CA 92656

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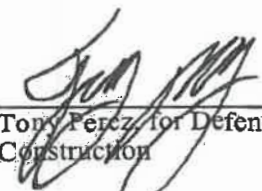
Dated: 02 / 03 / 2025

Dated: 1-10-05

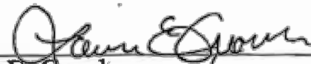
Dated: 1-10-05

JUVIER M

Javier Mireles, Plaintiff


Tony Perez, for Defendant Central Valley
Construction

**GROCHOW LAW, A PROFESSIONAL
CORP.**

By: 
Lauren E. Grochow
Daniel M. Kalinowski
Attorneys for PLAINTIFF
JAVIER MIRELES

Dated: January 15, 2025

HERR PEDERSEN & BERGLUND LLP

By: 
Fernando Garcia
Rachele Berglund
Attorneys for DEFENDANT
CENTRAL VALLEY CONSTRUCTION