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Attorneys for Defendant

HANFORD SAND & GRAVEL, INC.

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**FOR THE COUNTY OF SACRAMENTO**

CARLOS HERNANDEZ JR., individually and on  
behalf of all others similarly situated,

Plaintiff,

vs.

HANFORD SAND & GRAVEL, INC.;  
HANFORD READY-MIX, INC.; and DOES 1  
through 20, inclusive,

Defendants.

Case No. 34-2022-00314657

*Assigned for All Purposes to:*

*Judge Jill Talley*

*Dept. 25*

**JOINT STIPULATION OF SETTLEMENT**

1 It is stipulated and agreed by and among the undersigned Parties, subject to the approval of  
2 the Court pursuant to the California Rules of Court, that the Settlement of this Action shall be  
3 effectuated upon and subject to the following terms and conditions. Capitalized terms used herein  
4 shall have the meanings set forth in Article I or as defined elsewhere in this Joint Stipulation of  
5 Settlement (“Agreement” or “Settlement”).

6 This Agreement is made by and between Plaintiff Carlos Hernandez Jr. (“Plaintiff”) and the  
7 Class Members, on the one hand, and Defendant Hanford Sand & Gravel, Inc. (“Defendant”), on the  
8 other hand. Plaintiff and Defendant collectively are referred to in this Agreement as “the Parties.”

9 The Parties agree that the Action shall be, and hereby is, ended, settled, resolved, and  
10 concluded by agreement of Defendant to pay the settlement amount of One Million Dollars  
11 (\$1,000,000) as provided in Section 3.06(a) below (“Gross Settlement Amount” or “GSA”) pursuant  
12 to the terms and conditions of this Agreement and for the consideration set forth herein, including  
13 but not limited to, a release of all claims by Plaintiff and the Class Members as set forth herein.

## 14 **ARTICLE I**

### 15 **DEFINITIONS**

16 Unless otherwise defined herein, the following terms used in this Agreement shall have the  
17 meanings ascribed to them as set forth below:

18 a. “Action” means the action described as follows: “*Carlos Hernandez Jr. v. Hanford*  
19 *Sand & Gravel, Inc., et al.*” Case No. 34-2022-00314657, commenced on January 27, 2022, in the  
20 Superior Court of the State of California for the County of Sacramento.

21 b. “Agreement” means this Joint Stipulation of Settlement, including the attached  
22 Exhibit(s).

23 c. “Class” means all current and former non-exempt employees who are or were  
24 employed by Defendant in California at any time during the Class Period.

25 d. “Class Counsel” means the attorneys for the Class and the Class Members, who are:

26 AEGIS LAW FIRM, PC  
27 Samuel A. Wong  
28 Kashif Haque  
Jessica L. Campbell

Namrata Kaur  
9811 Irvine Center Drive, Suite 100  
Irvine, California 92618  
Telephone: (949) 379-6250  
Facsimile: (949) 379-6251

e. “Class List” means a list based on Defendant’s business records that identifies each Class Member’s name, last known home or mailing address, Social Security number or, as applicable, other taxpayer identification number, dates of employment, and the number of Qualifying Workweeks worked during the Class Period.

f. “Class Member(s)” means all members of the Class.

g. “Class Period” means January 28, 2018 through February 28, 2023 or the date the court grants Preliminary Approval of the Settlement, whichever is later.

h. “Court” means the California Superior Court for the County of Sacramento, where the Action is currently pending.

i. “Date of Finality” means the later of the following: (1) the date the Final Order is signed if no objections are filed to the Settlement; (2) if objections are filed and overruled, and no appeal is taken of the Final Order, sixty-five (65) days after the Final Order; or (3) if an appeal or other judicial review is taken from the Court’s overruling of objections to the settlement, ten (10) days after the appeal is withdrawn or after an appellate decision affirming the Final Order becomes final.

j. “Defendant” means Defendant Hanford Sand & Gravel, Inc.

k. “Defense Counsel” means counsel for Defendant:

GORDON REES SCULLY MANSUKHANI, LLP  
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3 Parkcenter Drive, Ste 200  
Sacramento, Ca 95825  
T: (916)830-6531

l. “Disposition” means the method by which the Court approves the terms of the Settlement and retains jurisdiction over its enforcement, implementation, construction, administration, and interpretation.

1 m. "Final Order Approving Settlement of Class Action" or "Final Order" means the final  
2 formal court order signed by the Court following the Final Fairness and Approval Hearing in  
3 accordance with the terms herein, approving this Agreement.

4 n. "Gross Settlement Amount" means One Million Dollars and Zero Cents  
5 (\$1,000,000.00) to be paid by Defendant as provided by this Agreement to settle this Action.  
6 Pursuant to Section 3.06(a) below, all payments to the Class, administration costs, attorney's fees  
7 and costs, and Incentive Award, shall be paid out of the Gross Settlement Amount. The employer's  
8 share of payroll taxes arising from the payments made under this settlement shall be paid by  
9 Defendant separate from and in addition to the Gross Settlement Amount. The Gross Settlement  
10 Amount is subject to a pro rata increase pursuant to Section 3.04(e) below. No part of the Gross  
11 Settlement Amount shall revert to Defendant.

12 o. "Incentive Award" means a monetary amount of up to Ten Thousand Dollars  
13 (\$10,000) for Plaintiff, subject to Court approval, for his services as representative of the Class  
14 Members, and for his general release of claims.

15 p. "Individual Settlement Payment(s)" means each Participating Class Member's  
16 respective share of the Net Settlement Amount. Individual Settlement Payments will be determined  
17 by the calculations provided in this Agreement.

18 q. "LWDA" means The State of California Labor and Workforce Development Agency.

19 r. "LWDA Payment" means 75% of the \$40,000 allocated to the settlement of PAGA  
20 claims which, subject to Court approval, will be paid to the LWDA pursuant to Section 3.06(e) of  
21 this Agreement, as provided for below.

22 s. "Motion for Final Approval" means Plaintiff's submission of a written motion,  
23 including any evidence as may be required for the Court to conduct an inquiry into the fairness of  
24 the Settlement as set forth in this Agreement, to conduct a Final Fairness and Approval Hearing, and  
25 to enter a Final Order in this Action.

26 t. "Motion for Preliminary Approval" means Plaintiff's submission of a written motion,  
27 including any evidence as may be required for the Court to grant preliminary approval of the  
28 Settlement as required by Rule 3.769 of the California Rules of Court.



1 u. "Plaintiff" means Carlos Hernandez Jr.

2 v. "Net Settlement Amount" means the Gross Settlement Amount less Court-approved  
3 administration costs, Class Counsels' attorney's fees and costs, Incentive Award, and LWDA  
4 Payment, pursuant to Section 3.06(a)-(f) below.

5 w. "Non-Participating Class Member(s)" means any Class Member(s) who submit to the  
6 Settlement Administrator a valid and timely written request to be excluded from the Class pursuant  
7 to Section 3.04(b) below.

8 x. "Notice Packet" means the Notice of Proposed Class Action Settlement in a form  
9 substantially similar to the Notice Packet attached hereto as **Exhibit A**, subject to Court approval.

10 y. "Operative Complaint" means the First Amended Complaint in the Action.

11 z. "PAGA" means the California Private Attorneys General Act of 2004, which is  
12 codified in California Labor Code §§ 2698 *et seq.*

13 aa. "PAGA Settlement Amount" means the portion of the Gross Settlement Amount  
14 allocated to the resolution of PAGA Group Members' claims arising under PAGA. The Parties have  
15 agreed that the PAGA Settlement Amount is Forty Thousand Dollars (\$40,000), subject to Court  
16 approval. Of the PAGA Settlement Amount, 75% (\$30,000) will be considered the LWDA Payment,  
17 and the remaining 25% (\$10,000) will be maintained as part of the Net Settlement Amount and  
18 distributed to PAGA Group Members.

19 bb. "PAGA Group Members" means all Class Members employed by Defendant at any  
20 time between January 28, 2021 through February 28, 2023 or the date the court grants Preliminary  
21 Approval of the Settlement, whichever is later ("PAGA Period").

22 cc. "Participating Class Member(s)" is defined as a Class Member who does not timely  
23 exclude himself or herself from the Settlement and will therefore receive his or her share of the Net  
24 Settlement Amount automatically without the need to return a claim form. Each Participating Class  
25 Member will be paid his/her Individual Settlement Payment.

26 dd. "Preliminary Approval Date" means the date the Court preliminarily approves the  
27 Settlement embodied in this Agreement.  
28

1 ee. "Qualified Settlement Fund" or "QSF" means a fund within the meaning of Treasury  
2 Regulation § 1.468B-1, 26 CFR § 1.468B-1 *et seq.*, that is established by the Settlement  
3 Administrator for the benefit of Participating Class Members.

4 ff. "Qualifying Workweeks" means the number of weeks that Class Members worked  
5 for Defendant as non-exempt employees during the Class Period.

6 gg. "Released Parties" means Defendant, Hanford Ready Mix, Inc., and past, present  
7 and/or future officers, directors, shareholders, employees, agents, payroll service providers,  
8 operators, principals, owners, heirs, representatives, accountants, auditors, consultants, insurers and  
9 reinsurers, successors and predecessors in interest, subsidiaries, affiliates, members, divisions,  
10 fiduciaries, trustees, partners, shareholders, investors, benefit plans, parents and attorneys, if any.

11 hh. "Response Deadline" means the deadline by which Class Members must postmark or  
12 fax to the Settlement Administrator requests for exclusion or written notices of objection. The  
13 Response Deadline will be sixty (60) calendar days after the initial mailing of the Notice Packet by  
14 the Settlement Administrator, unless the sixtieth (60th) calendar day falls on a Sunday or federal  
15 holiday, in which case the Response Deadline will be extended to the next day on which the U.S.  
16 Postal Service is open. The Response Deadline will be extended as set forth herein if there is a re-  
17 mailing.

18 ii. "Settlement Administration Costs" means all costs incurred by the Settlement  
19 Administrator in administration of the Settlement, including, but not limited to, mailing of notice to  
20 the class, calculation of Individual Settlement Payments, generation of Individual Settlement  
21 Payment checks and related tax reporting forms, administration of unclaimed checks, and generation  
22 of checks to Class Counsel for attorneys' fees and costs, to Plaintiff for her Incentive Award, and to  
23 the LWDA. The Settlement Administration Costs shall be paid from the Gross Settlement Amount.

24 jj. "Settlement Administrator" means Phoenix Settlement Administrators, Inc., which  
25 the Parties have agreed will be responsible for the administration of the Individual Settlement  
26 Payments to be made by Defendant from the Gross Settlement Amount and related matters under  
27 this Agreement.

## ARTICLE II

### **CONTINGENT NATURE OF THE AGREEMENT**

#### **Section 2.01: Stipulation of Class Certification for Settlement Purposes**

Because the Parties have stipulated to the certification of the Class with respect to all causes of action alleged in the Action for settlement purposes only, this Agreement requires preliminary and final approval by the Court. Accordingly, the Parties enter into this Agreement on a conditional basis. This Agreement is contingent upon the approval and certification by the Court. If the Date of Finality does not occur, the fact that the Parties were willing to stipulate for the purposes of this Agreement to a Class shall have no bearing on, nor be admissible in connection with, the issue of certification of the Class with respect to all causes of action alleged in the Action. Defendant does not consent to certification of the Class for any purpose other than to effectuate settlement of the Action. If the Date of Finality does not occur, or if Disposition of this Action is not effectuated, any certification of the Class as to Defendant will be vacated and Plaintiff, Defendant, and the Class will be returned to their positions with respect to the Action as if the Agreement had not been entered into. For purposes of this Agreement, should the Date of Finality or Disposition of this Action not be effectuated, the Parties agree that they will resume their positions as of December 20, 2022.

In the event that the Date of Finality does not occur: (a) any Court orders preliminarily or finally approving certification of any class contemplated by this Agreement shall be null, void, and vacated, and shall not be used or cited thereafter by any person or entity; and (b) the fact of the settlement reflected in this Agreement, the fact that Defendant did not oppose the certification of a Class under this Agreement, or that the Court preliminarily approved the certification of the Class, shall not be used or cited thereafter by any person or entity, including in any manner whatsoever, including without limitation any contested proceeding relating to the certification of any class. If the Date of Finality does not occur, this Agreement shall be deemed null and void, shall be of no force or effect whatsoever, and shall not be referred to or used for any purpose whatsoever. Defendant expressly reserves the right to challenge the propriety of class certification in the Action for any purpose, if the Date of Finality does not occur.

1 The Parties and their respective counsel shall take all steps that may be requested by the Court  
2 relating to the approval and implementation of this Agreement and shall otherwise use their  
3 respective best efforts to obtain Court approval and implement this Agreement. If the Court does not  
4 grant the Motion for Preliminary Approval and/or the Motion for Final Approval, the Parties agree  
5 to meet and confer to address the Court's concerns. If the Parties are unable to agree upon a  
6 resolution, the Parties agree to seek the assistance of mediator Jill Sperber to resolve the dispute.

7 As set forth fully in Section 3.04, if ten percent (10%) or more of the Class Members' validly  
8 opt out of the Agreement pursuant to the terms and procedures as set forth herein, then Defendant  
9 shall retain the right to cancel, void, or otherwise rescind this Agreement.

### 10 ARTICLE III

#### 11 **PROCEDURE FOR APPROVAL AND IMPLEMENTATION OF THE SETTLEMENT**

12 The procedure for obtaining Court approval of and implementing this Agreement shall be as  
13 follows:

##### 14 **Section 3.01: Motion for Conditional Class Certification and Preliminary Approval**

15 Plaintiff will bring a motion before the Court for an order conditionally certifying the Class  
16 to include all claims pled in the Action based on the preliminary approval of this Agreement. The  
17 date that the Court grants preliminary approval of this Agreement will be the "Preliminary Approval  
18 Date."

##### 19 **Section 3.02: The Settlement Administrator**

20 The Parties have chosen Phoenix Settlement Administrators, Inc., to administer this  
21 Settlement and to act as the Settlement Administrator, including but not limited to distributing and  
22 responding to inquiries about the Notice Packet, determining the validity of exclusions/opt-outs,  
23 calculating the Net Settlement Amount and the Individual Settlement Payments, issuing the  
24 Individual Settlement Payment checks and distributing them to Participating Class Members,  
25 establishing and maintaining the QSF, and issuing the payment to Class Counsel for attorneys' fees  
26 and costs, the Incentive Award check to Plaintiff, and the employer payroll taxes to the appropriate  
27 taxing authorities. The Settlement Administrator shall expressly agree to all of the terms and  
28 conditions of this Agreement.

1 All costs of administering the Settlement, including but not limited to all costs and fees  
2 associated with preparing, issuing and mailing any and all notices to Class Members and/or  
3 Participating Class Members, all costs and fees associated with computing, processing, reviewing,  
4 and mailing the Individual Settlement Payments, all costs and fees associated with preparing any tax  
5 returns and any other filings required by any governmental taxing authority or agency, all costs and  
6 fees associated with preparing any other checks, notices, reports, or filings to be prepared in the  
7 course of administering disbursements from the Net Settlement Amount, and any other costs and fees  
8 incurred and/or charged by the Settlement Administrator in connection with the execution of its  
9 duties under this Agreement (“Settlement Administration Costs”), shall be paid to the Settlement  
10 Administrator from the Gross Settlement Amount.

11 **Section 3.03: Notice to Class Members**

12 No later than ten (10) business days after the Preliminary Approval Date, Defendant will  
13 provide the Settlement Administrator with a “Class List” in electronic format based on its business  
14 records, identifying the names of the Class Members, their last known home addresses, Social  
15 Security numbers or, as applicable, other taxpayer identification number, their dates of employment  
16 and weeks worked during the Class Period.

17 Within ten (10) business days of receiving a Class List from Defendant, the Settlement  
18 Administrator will send Class Members, by first-class mail, at their last known address, the Court  
19 approved Notice Packet, including notice of this Settlement and of the opportunity to opt out of the  
20 Settlement Class. The Notice Packet will include a calculation of the Class Member’s approximate  
21 share of the Net Settlement Amount. Class Members will have sixty (60) days from the date of  
22 mailing in which to postmark objections or requests for exclusion. Prior to the initial mailing, the  
23 Settlement Administrator will check all Class Member addresses against the National Change of  
24 Address database and shall update any addresses before mailing. The Settlement Administrator will  
25 skip trace and re-mail all returned, undelivered mail within five (5) days of receiving notice that a  
26 Notice Packet was undeliverable. If a Class Member’s notice is re-mailed, the Class Member shall  
27 have fifteen (15) calendar days from the re-mailing, or sixty (60) calendar days from the date of the  
28 initial mailing, whichever is later, in which to postmark objections or requests for exclusion. Class

Members shall not be required to submit claim forms in order to receive a proportional share of the Net Settlement Amount.

If the Notice Packet is returned with a forwarding address, the Settlement Administrator shall re-mail the Notice Packet to the forwarding address. With respect to those Class Members whose Notice Packet is returned to the Settlement Administrator as undeliverable, the Settlement Administrator shall promptly attempt to obtain a valid mailing address by performing a skip trace or mass search on LexisNexis or comparable databases based on set criteria and, if another address is identified, shall mail the Notice Packet to the newly identified address. It is the intent of the parties that reasonable means be used to locate Class Members and that the Settlement Administrator be given discretion to take steps in order to facilitate notice of the Settlement and delivery of the Individual Settlement Payments to all Participating Class Members.

If the Notice Packet is re-mailed, the Settlement Administrator will note for its own records and notify Class Counsel and Defense Counsel of the date of each such re-mailing as part of a weekly status report provided to the Parties.

In the event a Class Member's Notice Packet remains undeliverable sixty (60) calendar days after the Notice Packet was initially mailed, the Settlement Administrator will not mail the Class Member's Individual Settlement Payment. The Settlement Administrator will hold the Class Member's Individual Settlement Payment during the check cashing period on behalf of the Class Member. If at the conclusion of the check cashing period the Class Member's Notice Packet and Individual Settlement Payment remain undeliverable and/or unclaimed and uncashed, the Settlement Administrator will distribute the funds from unclaimed/uncashed checks in accordance with the procedures set forth in Section 3.06(g) below.

No later than twenty (20) court days prior to the Final Fairness and Approval Hearing, the Settlement Administrator shall provide Defense Counsel and Class Counsel with a declaration attesting to completion of the notice process, including any attempts to obtain valid mailing addresses for and re-sending of any returned Notice Packets, as well as the number of valid requests for exclusion and objections that the Settlement Administrator received.

**Section 3.04: Responses to Notice**

**a. Class Member Disputes**

If any Class Member disagrees with Defendant's records as to his or her Qualifying Workweeks during the Class Period as reflected in the Notice Packet, the Class Member shall set forth in writing the Qualifying Workweeks he/she claims to have worked during the Class Period and submit such writing to the Settlement Administrator by the Response Deadline, along with any supporting documentation. The Notice will also provide a method for the Class Member to challenge the employment data on which his or her Individual Settlement Payment is based. The Settlement Administrator shall contact the Parties regarding the dispute and the Parties will work in good faith to resolve it. If the Parties are unable to resolve the dispute, the Settlement Administrator will be the final arbiter of the Qualifying Workweeks for each Class Member during the Class Period based on the information provided to it.

**b. Requests for Exclusion from Class**

In order for any Class Member to validly exclude himself or herself from the Class and this Settlement (*i.e.*, to validly opt out), a written request for exclusion must be signed by the Class Member or his or her authorized representative, and must be sent to the Settlement Administrator, postmarked no later than the Response Deadline (or fifteen (15) days after the Settlement Administrator re-mails the Notice to the Class Member, whichever is later). The Notice Packet shall contain instructions on how to validly exclude himself or herself from the Class and this Settlement (*i.e.*, opt out), including the language to be used in a request for exclusion. The date of the initial mailing of the Notice Packet, and the date the signed request for exclusion was postmarked, shall be conclusively determined according to the records of the Settlement Administrator. Any Class Member who timely and validly requests exclusion from the Class and this Settlement will not be entitled to any Individual Settlement Payment, will not be bound by the terms and conditions of this Agreement, and will not have any right to object, appeal, or comment thereon.

Any Class Member who fails to timely submit a request for exclusion shall automatically be deemed a Class Member whose rights and claims with respect to the issues raised in the Action are determined by the Court's Final Order Approving Settlement of Class Action, and by the other

1 rulings in the Action. Thus, said Class Member's rights to pursue any claims covered by the Action  
2 and/or released in this Agreement will be extinguished.

3 If ten percent (10%) or more of the Class Members' validly opt out of the Agreement pursuant  
4 to the terms and procedures as set forth herein, then Defendant shall retain the right to cancel, void,  
5 or otherwise rescind this Agreement pursuant to Section 3.04(f).

6 **c. Objections to Settlement**

7 For any Class Member to object to this Agreement, or any term of it, the person making the  
8 objection must not submit a request for exclusion (*i.e.*, must not opt out), and should send to the  
9 Settlement Administrator, postmarked or faxed no later than the Response Deadline (or fifteen (15)  
10 days after the Settlement Administrator re-mails the Notice to the Class Member, whichever is later),  
11 a written statement of the grounds of objection, signed by the objecting Class Member or his or her  
12 attorney, along with all supporting papers. The date of the initial mailing of the Notice Packet, and  
13 the date the signed objection was postmarked, shall be conclusively determined according to the  
14 records of the Settlement Administrator. The Settlement Administrator shall send any objections it  
15 receives to Defense Counsel and Class Counsel within three (3) business days of receipt. Class  
16 Members may also appear at the final approval hearing to object. The Court retains final authority  
17 with respect to the consideration and admissibility of any Class Member objections.

18 **d. Encouragement of Class Members**

19 The Parties to this Agreement and the counsel representing such Parties shall not, directly or  
20 indirectly, through any person, encourage or solicit any Class Member to exclude him or herself from  
21 this Settlement (opt out), or to object to it. However, Class Counsel may respond to inquiries from  
22 Class Members. In the event Defendant receives inquiries from Class Members, Defendant shall refer  
23 Class Members to the Notice Packet and to the Settlement Administrator.

24 **e. Right of Plaintiff to Adjust Gross Settlement Amount**

25 Defendant has estimated the number of workweeks to be 11,362 as of December 20, 2022,  
26 when the Parties participated in a full-day mediation with Mediator Jill Sperber. If the number of  
27 workweeks increases by more than 8% (which is more than 12,271 workweeks) as of the end of the  
28



1 Class Period, there will be a pro rata adjustment to the Gross Settlement Amount equal to \$88.01 per  
2 additional workweek.

3 **f. Right of Defendant to Void Settlement**

4 Defendant maintains the right, in its sole discretion, to terminate the settlement and its  
5 stipulation to class certification prior to the final fairness hearing in the event that ten percent (10%)  
6 or more of Class Members opt-out of the Settlement. If Defendant exercises the option to terminate  
7 this Settlement, Defendant shall: (a) provide written notice to Plaintiff's counsel within fourteen (14)  
8 calendar days after the Response Deadline and (b) pay all Settlement Administration Costs incurred  
9 up to the date or as a result of the termination. The Parties shall proceed in all respects as if this  
10 Agreement had not been executed and resume the status quo as of December 20, 2022.

11 **Section 3.05: Final Fairness and Approval Hearing**

12 On the date set forth in the Order for Preliminary Approval and Notice Packet, a Final  
13 Fairness and Approval Hearing shall be held before the Court in order to (1) review this Agreement  
14 and determine whether the Court should give it final approval, and (2) consider any objections made  
15 and all responses by the Parties to such objections. At the Final Fairness and Approval Hearing, the  
16 Parties shall ask the Court to grant final approval to this Agreement and shall submit to the Court a  
17 Proposed Final Order Approving Settlement of Class Action.

18 **Section 3.06: Settlement Payment Procedures**

19 **a. Settlement Amount**

20 In exchange for the Released Claims set forth in this Agreement, Defendant agrees to pay the  
21 Gross Settlement Amount in the amount of One Million Dollars (\$1,000,000), subject to a pro rata  
22 increase under the condition set forth in Section 3.04(e).

23 Within sixty (60) days of the Date of Finality, Defendant shall transfer the Gross Settlement  
24 Amount plus Defendant's share of employer-side payroll taxes, as set forth herein, into a QSF  
25 established by the Settlement Administrator either directly or by sending the funds to the Settlement  
26 Administrator to be deposited and distributed. The Settlement Administrator will use these funds to  
27 make payment of the Individual Settlement Payments to Participating Class Members, Class  
28

Counsel's attorneys' fees and costs, the Incentive Award, the LWDA Payment, and the Settlement Administration Costs.

Within ten (10) court days after receiving the Gross Settlement Amount in full, the Settlement Administrator will pay the Individual Settlement Payments to Participating Class Members, Class Counsel's attorneys' fees and costs, LWDA Payment, the Incentive Award, and employer and employee tax withholdings applicable to the Net Settlement Amount allocated to wages. Prior to this distribution, the Settlement Administrator will perform a search based on the National Change of Address Database to update and correct for any known or identifiable address changes.

**b. Payment of Attorneys' Fees and Costs**

Class Counsel shall submit an application for an award of attorneys' fees of up to one-third of the Gross Settlement Amount, which, based on the current Gross Settlement Amount, is Three Hundred Thirty - Three Thousand Three Hundred and Thirty-Three Dollars and Thirty-Three Cents (\$333,333.33). Class Counsel shall submit an application for an award of costs not to exceed Twenty-Five Thousand Dollars (\$25,000.00). Such application for attorneys' fees and costs shall be heard by the Court at the Final Fairness and Approval Hearing. Defendant shall not object to or oppose any such application in these amounts. Class Counsel shall serve Defendant with copies of all documents submitted in support of their application for an award of attorneys' fees and costs.

Any attorneys' fees and costs awarded to Class Counsel by the Court shall be paid from the Gross Settlement Amount and shall not constitute payment to any Class Member(s). The attorneys' fees and costs for Class Counsel approved by the Court shall encompass all work performed, costs, and expenses related to the investigation, prosecution, and settlement of the Action incurred through the Date of Finality. To the extent that the Court approves less than the amount of attorney's fees and/or costs that Class Counsel requests, the difference between the requested and awarded amounts will be reallocated to the Net Settlement Amount.

**c. Payment of Settlement Administration Costs**

The Settlement Administration Costs shall be paid out of the Gross Settlement Amount and shall not constitute payment to any Participating Class Member(s). The amount shall not exceed Seven Thousand Dollars (\$7,000.00).

**d. Payment of Incentive Award to Plaintiff**

Subject to Court approval, the Plaintiff shall receive an Incentive Award of up to Ten Thousand Dollars (\$10,000.00), the request for which Defendant will not object to or oppose. The Incentive Award shall be paid out of the Gross Settlement Amount and shall not constitute payment to any Participating Class Member(s) other than Plaintiff. To the extent that the Court approves less than the amount of incentive award that Class Counsel request, the difference between the requested and awarded amounts will be reallocated to the Net Settlement Amount.

Because it is the intent of the Parties that the Incentive Award represent payment to Plaintiff for his service to the Class Members, and not wages, the Settlement Administrator will not withhold any taxes from the Incentive Award. The Incentive Award will be reported on a Form 1099, which the Settlement Administrator will provide to Plaintiff and to the pertinent taxing authorities as required by law.

**e. Payment to the Labor and Workforce Development Agency**

In consideration of claims made under PAGA, Class Counsel will request that the Court approve allocation of Forty Thousand Dollars (\$40,000) of the Gross Settlement Amount to these claims. Seventy-five percent (75%) of this payment will be paid to the California Labor and Workforce Development Agency ("LWDA Payment"), and twenty-five percent (25%) will be paid to the Net Settlement Amount for distribution to PAGA Group Members. Defendant will not oppose this request. The entire PAGA Settlement Amount will be paid out of the Gross Settlement Amount. The Court's adjustment, if any, of the amount allocated to Plaintiff's PAGA claim in the Action, will not invalidate this Agreement.

**f. Payment of Individual Settlement Payments to Participating Class Members**

The Parties agree that the Net Settlement Amount shall be used to fund Individual Settlement Payments. The Parties agree that the Net Settlement Amount shall be divided between all Participating Class Members in proportion to the number of individual Qualifying Workweeks for each Class Member. To calculate the minimum amount each Class Member will receive based on their individual Qualifying Workweeks, the Net Settlement Amount will be divided by the total number of Qualifying Workweeks by all Class Members during the Class Period and then allocated

on a pro rata basis. Qualifying Workweeks will be rounded up to the next whole integer. Each Class Member's approximate Individual Settlement Payment amount will be included in his or her Notice Packet. After final approval by the Court, the Net Settlement Amount will be dispersed to Participating Class Members (those who did not validly opt out) on a pro rata basis based on the individual Qualifying Workweeks worked during the Class Period by each Participating Class Member.

Each Individual Settlement Payment will represent wages and penalties allocated using the following formula: 15% allocated to wages; and 85% allocated to interest and penalties. The amounts paid as wages shall be subject to all tax withholdings customarily made from an employee's wages and all other authorized and required withholdings and shall be reported by W-2 forms. The employer-side taxes will be paid separate from and in addition to the Gross Settlement Amount. The amounts paid as penalties and interest shall be subject to all authorized and required withholdings other than the tax withholdings customarily made from employees' wages and shall be reported by IRS 1099 forms.

No later than ten (10) business days after receiving the Gross Settlement Amount from Defendant, the Settlement Administrator shall prepare and mail the checks for the Individual Settlement Payments to Participating Class Members. Individual Settlement Payments paid from the Net Settlement Amount allocated to wages will be reduced by applicable employer and employee tax withholdings, and the Settlement Administrator will issue a Form W-2 for the wage portion of the Individual Settlement Payments. The Settlement Administrator will issue a Form 1099 to the extent required by law for the interest and penalty portions of the Individual Settlement Payments. Participating Class Members shall have 180 days from the date their Individual Settlement Payment checks are dated to cash their Settlement checks. Any checks that are not cashed upon the expiration of that 180-day time period will be void, and the uncashed funds shall be paid to the State Controller Unclaimed Property Fund in the name of the Class Member for whom the funds are designated.

If a check is returned to the Settlement Administrator as undeliverable, the Settlement Administrator shall promptly attempt to obtain a valid mailing address by performing a skip trace or a mass search on LexisNexis or a comparable database based on set criteria and, if another address

1 is identified, the Settlement Administrator shall mail the check to the newly identified address. If the  
2 Settlement Administrator is unable to obtain a valid mailing address through this process, the  
3 Settlement Administrator will tender the funds from the undeliverable checks to the State Controller  
4 Unclaimed Property Fund in the name of the Class Member for whom the funds are designated.

5 Plaintiff and Class Members acknowledge and agree that Defendant and Defense Counsel  
6 makes no representations as to the tax consequences of payment of the Individual Settlement  
7 Payment, Incentive Award or any payment made to Plaintiff and Class Members pursuant to this  
8 Agreement. Plaintiff and Class Members further agree that Plaintiff and Class Members shall be  
9 exclusively liable for the payment of all federal and state taxes that may be due as the result of the  
10 consideration received from the settlement of disputed claims as set forth herein, except to the extent  
11 that Defendant has withheld taxes as part of the Individual Settlement Payments as set forth in this  
12 Section.

13 **g. No Credit Toward Benefit Plans.**

14 The Individual Settlement Payments made to Participating Class Members under this  
15 Agreement, as well as any other payments made pursuant to this Agreement, will not be utilized to  
16 calculate any additional benefits under any benefit plans to which any Class Members may be  
17 eligible, including, but not limited to: profit-sharing plans, bonus plans, 401(k) plans, stock purchase  
18 plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the Parties'  
19 intention that this Agreement will not affect any rights, contributions, or amounts to which any Class  
20 Members may be entitled under any benefit plans.

21 **ARTICLE IV**

22 **LIMITATIONS ON USE OF THIS SETTLEMENT**

23 **Section 4.01: No Admission**

24 Defendant disputes the allegations in the Action and disputes that, but for this Settlement, a  
25 Class should not have been certified in the Action. Defendant denies that there is any factual or legal  
26 basis for Plaintiff's claims or Class' claims, and each deny that they subjected Plaintiff or any of the  
27 Class Members to any unlawful conduct during their employment with Defendant. This Agreement  
28

1 is entered into solely for the purpose of settling highly disputed claims. Nothing in this Agreement  
2 is intended nor will be construed as an admission of liability or wrongdoing by Defendant.

3 **Section 4.02: Non-Evidentiary Use**

4 Whether or not the Date of Finality occurs, neither this Agreement, nor any of its terms, nor  
5 the Settlement itself, will be: (a) construed as, offered, or admitted in evidence as, received as, or  
6 deemed to be evidence for any purpose adverse to Defendant or any other of the Released Parties,  
7 including but not limited to, evidence of a presumption, concession, indication, or admission by any  
8 of the Released Parties of any liability, fault, wrongdoing, omission, concession, or damage, or  
9 (b) disclosed, referred to, or offered in evidence against any of the Released Parties in any further  
10 proceeding in the Action, except for the purposes of effectuating the Settlement pursuant to this  
11 Agreement or for Defendant to establish that a Class Member has resolved any of his or her claims  
12 released through this Agreement.

13 **Section 4.03: Nullification**

14 The Parties have agreed to the certification of the Class encompassing all claims alleged in  
15 the Action for the sole purpose of effectuating this Agreement. If (a) the Court should for any reason  
16 fail to certify this Class for settlement, or (b) the Court should for any reason fail to approve this  
17 Settlement, or (c) the Court should for any reason fail to enter the Final Order, or (d) the Final Order  
18 is reversed, or declared or rendered void, or (e) the Court should for any reason fail to dispose of the  
19 Action in its entirety, or (f) if Defendant rescinds this Agreement as set forth in Section 3.04(f), then  
20 (i) this Agreement shall be considered null and void; (ii) neither this Agreement nor any of the related  
21 negotiations or proceedings shall be of any force or effect; (iii) all Parties to this Agreement shall  
22 stand in the same position, without prejudice, as if the Agreement had been neither entered into nor  
23 filed with the Court; and resume the status quo as of December 20, 2022; and (iv) the fact that the  
24 Parties were willing to stipulate to class certification of all causes of action pled in the Action as part  
25 of the Settlement will have no bearing on, and will not be admissible in connection with, the issue of  
26 whether the Class should be certified by the Court in a non-settlement context in this Action or any  
27 other action, and in any of those events, Defendant expressly reserve the right to oppose certification  
28 of the Class.

1 In the event of a timely appeal from the Final Order, the Final Order shall be stayed and the  
2 Gross Settlement Amount shall not be distributed pending the completion of the appeal.

3 **ARTICLE V**

4 **RELEASES**

5 **Section 5.01: Released Claims by Class Members**

6 Upon the date Defendant transfers the Gross Settlement Amount, Plaintiff and Participating  
7 Class Members who do not opt out of the Settlement, fully discharge and release Defendant and the  
8 Released Parties from any and all claims, actions, demands, causes of action, suits, debts, obligations,  
9 guarantees, costs, expenses, attorneys' fees, damages, restitution, injunctive relief, penalties, rights  
10 or liabilities, of any nature and description whatsoever, arising during the Class Period or the PAGA  
11 Period alleged in Plaintiff's Operative Complaint, or Complaint, or which could have been alleged  
12 based on the facts alleged in the Operative Complaint or Complaint, including but not limited to  
13 violation of Labor Code Sections 201, 202, 203, 204, 210, 226, 226.3, 226.7, 510, 512, 558, 1174,  
14 1174.5, 1182.12, 1194, 1194.2, 1197, 1198, 2800, 2802, 2698 for (1) failure to pay wages (2) failure  
15 to provide meal periods (3) failure to provide rest breaks (4) failure to provide accurate itemized  
16 wage statements (5) failure to pay all wages upon separation of employment (6) failure to reimburse  
17 necessary business expenses (7) failure to pay overtime (8) violation of California Business and  
18 Professions Code §§17200, *et seq.*, based on the preceding claims ("Released Claims").

19 **Section 5.02: Released Claims by PAGA Group Members**

20 Upon the date of funding the Gross Settlement Amount, the State of California and PAGA  
21 Group Members release the Released Parties from all claims exhausted in Plaintiff's notice(s) sent  
22 to the LWDA and alleged in the operative complaint, which arose during the PAGA Period,  
23 regardless of whether PAGA Group Members opt out of the Class Settlement.

24 **Section 5.03: Plaintiff's Release of Unknown Claims**

25 a. Upon the date of funding the Gross Settlement Amount, Plaintiff, in  
26 consideration of the Incentive Award, payments, promises and covenants set forth above, and to the  
27 fully extent permitted by law, individually and on behalf of his successors, assigns, heirs, estates,  
28 executors, administrators, agents, representatives, and attorneys, and each of them, voluntarily,

1 irrevocably, and unconditionally waives, releases, acquits, and forever discharges Defendant and the  
2 Released Parties from any and all charges, complaints, claims, promises, agreements, controversies,  
3 suits, demands, costs, losses, debts, actions, causes of action, damages, judgments, obligations,  
4 liabilities, and expenses of whatever kind and character, known or unknown, suspected or  
5 unsuspected, including any claims for attorneys' fees and costs, which Plaintiff now has, owns, holds,  
6 or claims to have, own, or hold, or may have had, owned, or held, or may in the future claim to have,  
7 own, or hold against the Released Parties, or any of them, regarding events that have occurred in  
8 connection with or related to Plaintiff's employment and separation of employment with Defendant  
9 (or otherwise), including but not limited to claims for discrimination, retaliation, harassment, claims  
10 under the Labor Code, or any acts of the Released Parties, including, without limitation, any and all  
11 claims that have or could have been asserted against them, or any claims under the Americans with  
12 Disabilities Act of 1990, the Family and Medical Leave Act of 1993, the Employee Retirement  
13 Income Security Act of 1974, Civil Rights Act of 1991, the Fair Labor Standards Act, Title VII of  
14 the Civil Rights Act of 1964, Sections 503 and 504 of the Rehabilitation Act of 1973, the California  
15 Government Code, the California Fair Employment and Housing Act, California Pregnancy  
16 Disability Law, the California Family Rights Act, the California Labor Code, any amendments to  
17 any of these statutes, and any other federal, state, or local statute, ordinance, regulation, or common  
18 law, including any claims, demands, and causes of action in the Action or which could have been  
19 asserted by Plaintiff in the Action. Plaintiff understands and acknowledges that Title VII of the Civil  
20 Rights Act of 1964, the Employee Retirement Income Security Act of 1974, the Americans with  
21 Disabilities Act of 1990, the Civil Rights Act of 1991, the Family and Medical Leave Act of 1993,  
22 the Fair Labor Standards Act, Sections 503 and 504 of the Rehabilitation Act of 1973, as amended,  
23 the California Fair Employment and Housing Act, the California Family Rights Act, and the  
24 California Labor Code, as well as any amendments to any of these statutes, and common law, provide  
25 the right to an individual to bring charges, claims, or complaints against their employer or their  
26 former employer if the individual believes they have been discriminated against, or harassed,  
27 including, but not limited to, discrimination, or harassment on the basis of race, ancestry, color,  
28 religion, sex, marital status, national origin, age, physical or mental disability, or medical condition.



1 Plaintiff, with full understanding of the rights afforded to him under these laws and explained by  
2 Class Counsel, and to the fullest extent permitted by law, hereby waives any right to assert a claim  
3 for any relief available under these acts or statutes (including, but not limited to, back pay, attorneys'  
4 fees, damages, lost benefits, reinstatement, injunctive relief, and/or other relief) he may otherwise  
5 recover based upon any alleged violation(s) of these acts or statutes for causes of action that arose  
6 up to the date this Agreement is executed by Plaintiff. This Release does not extend to those rights  
7 which as a matter of law cannot be waived.\

8           **b.**       Plaintiff expressly acknowledges and agrees that the releases contained in this  
9 Agreement include a waiver of all rights under Section 1542 of the California Civil Code, which  
10 provides as follows:

11                   *“A general release does not extend to claims that the creditor or releasing*  
12                   *party does not know or suspect to exist in his or her favor at the time of*  
13                   *executing the release and that, if known by him or her, would have*  
14                   *materially affected his or her settlement with the debtor or released party.”*

15       Plaintiff acknowledges that he has read all of this Agreement, including the above Civil Code  
16 section, and that he fully understands both the Agreement and the Civil Code section. Plaintiff  
17 expressly waives any benefits and rights granted pursuant to Civil Code section 1542.

## 18                   **ARTICLE VI**

### 19                   **MISCELLANEOUS PROVISIONS**

#### 20           **Section 6.01: Amendments or Modification**

21       The terms and provisions of this Agreement may be amended or modified only by an express  
22 written agreement that is signed by all the Parties (or their successors-in-interest) and their counsel,  
23 and approved by the Court.

#### 24           **Section 6.02: Assignment**

25       None of the rights, commitments, or obligations recognized under this Agreement may be  
26 assigned by any Party, Class Member, Class Counsel, or Defense Counsel without the express written  
27 consent of each other Party and their respective counsel. The representations, warranties, covenants,  
28

1 and agreements contained in this Agreement are for the sole benefit of the Parties under this  
2 Agreement and shall not be construed to confer any right or to avail any remedy to any other person.

3 **Section 6.03: Governing Law**

4 This Agreement and any disputes arising out of enforcement of this Agreement, shall be  
5 governed, construed, and interpreted, and the rights of the Parties shall be determined, in accordance  
6 with the laws of the State of California, without regard to conflicts of laws.

7 **Section 6.04: Entire Agreement**

8 This Agreement, including the Exhibits referred to herein, which form an integral part hereof,  
9 contains the entire understanding of the Parties with respect to the subject matter contained herein.  
10 In case of any conflict between text contained in Articles I through VI of this Agreement and text  
11 contained in the Exhibits to this Agreement, the former (*i.e.*, Articles I through VI) shall be  
12 controlling, unless the Exhibits are changed by or in response to a Court order. There are no  
13 restrictions, promises, representations, warranties, covenants, or undertakings governing the subject  
14 matter of this Agreement other than those expressly set forth or referred to herein. This Agreement  
15 supersedes all prior agreements and understandings among the Parties with respect to the settlement  
16 of the Action, including correspondence between Class Counsel and Defense Counsel and drafts of  
17 prior agreements or proposals.

18 **Section 6.05: Waiver of Compliance**

19 Any failure of any Party, Defense Counsel, or Class Counsel hereto to comply with any  
20 obligation, covenant, agreement, or condition set forth in this Agreement may be expressly waived  
21 in writing, to the extent permitted under applicable law, by the Party or Parties and their respective  
22 counsel entitled to the benefit of such obligation, covenant, agreement, or condition. A waiver or  
23 failure to insist upon strict compliance with any representation, warranty, covenant, agreement, or  
24 condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure.

25 **Section 6.06: Counterparts and Fax/PDF Signatures**

26 This Agreement, and any amendments hereto, may be executed in any number of counterparts  
27 and any Party and/or their respective counsel may execute any such counterpart, each of which when  
28 executed and delivered shall be deemed to be an original. All counterparts taken together shall

1 constitute one instrument. A fax or PDF signature on this Agreement shall be as valid as an original  
2 signature. The Parties agree that they may, at their discretion, execute this Agreement with electronic  
3 signatures. In the event a Party or their counsel elects to execute this Agreement with an electronic  
4 signature, the electronic signature shall be as valid as an original signature.

5 **Section 6.07: Meet and Confer Regarding Disputes**

6 Should any dispute arise among the Parties or their respective counsel regarding the  
7 implementation or interpretation of this Agreement, a representative of Class Counsel and a  
8 representative of Defense Counsel shall meet and confer in an attempt to resolve such disputes prior  
9 to submitting such disputes to the Court.

10 **Section 6.08: Agreement Binding on Successors**

11 This Agreement will be binding upon, and inure to the benefit of, the successors in interest  
12 of each of the Parties.

13 **Section 6.09: Cooperation in Drafting**

14 The Parties have cooperated in the negotiation and preparation of this Agreement. This  
15 Agreement will not be construed against any Party on the basis that the Party, or the Party's counsel,  
16 was the drafter or participated in the drafting of this Agreement.

17 **Section 6.10: Fair and Reasonable Settlement**

18 The Parties believe that this Agreement reflects a fair, reasonable, and adequate settlement of  
19 the Action and have arrived at this Agreement through arm's-length negotiation and in the context  
20 of adversarial litigation, taking into account all relevant factors, past, current, and potential. The  
21 Parties further believe that the Settlement is and is consistent with public policy, and fully complies  
22 with applicable law.

23 **Section 6.11: Headings**

24 The descriptive heading of any section or paragraph of this Agreement is inserted for  
25 convenience of reference only and does not constitute a part of this Agreement and shall not be  
26 considered in interpreting this Agreement.

1           **Section 6.12: Notice**

2           Except as otherwise expressly provided in the Agreement, all notices, demands, and other  
3 communications under this Agreement must be in writing and addressed as follows:

4                           *To Plaintiff and the Class:*

5                           Samuel A. Wong  
6                           Kashif Haque  
7                           Jessica L. Campbell  
8                           Namrata Kaur  
9                           AEGIS LAW FIRM, PC  
10                          9811 Irvine Center Drive, Suite 100  
11                          Irvine, California 92618  
12                          Telephone: (949) 379-6250  
13                          Facsimile: (949) 379-6251

14                          And

15                          *To Defendant:*

16                          GORDON REES SCULLY MANSUKHANI, LLP  
17                          Talia Delanoy  
18                          3 Parkcenter Drive, Ste 200  
19                          Sacramento, CA 95825  
20                          Telephone: 916.830.6531  
21                          Email: tdelanoy@grsm.com

22           **Section 6.13: Enforcement of Settlement and Continuing Court Jurisdiction**

23           To the extent consistent with class action procedure, this Agreement shall be enforceable by  
24 the Court pursuant to California Code of Civil Procedure section 664.6 and California Rule of Court  
25 3.769(h). The Final Order entered by the Court will not adjudicate the merits of the Action or the  
26 liability of the Parties resulting from the allegations of the Action. Its sole purpose is to adopt the  
27 terms of the Settlement and to retain jurisdiction over its enforcement. To that end, the Court shall  
28 retain continuing jurisdiction over this Action and over all Parties and Class Members, to the fullest  
extent to enforce and effectuate the terms and intent of this Agreement. In the event that one or more  
of the Parties institutes any legal action or other proceeding against any other Party or Parties to  
enforce the provisions of this Settlement, the successful Party or Parties will be entitled to recover  
from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including expert witness  
fees incurred in connection with any enforcement actions.

1           **Section 6.14: Mutual Full Cooperation**

2           The Parties agree fully to cooperate with each other to accomplish the terms of this  
3 Agreement, including but not limited to the execution of such documents, and the taking of such  
4 other action, as may reasonably be necessary to implement the terms of this Agreement. The Parties  
5 to this Agreement shall use their best efforts, to effectuate and implement this Agreement and its  
6 terms. In the event the Parties are unable to reach agreement on the form or content of any document  
7 needed to implement the Settlement, or on any supplemental provisions that may become necessary  
8 to effectuate the terms of the Settlement, the Parties agree to seek the assistance of the Court.

9           **Section 6.15: Authorization to Act**

10          Class Counsel warrants and represents that they are authorized by Plaintiff, and Defense  
11 Counsel warrants that they are authorized by Defendant, to take all appropriate action required to  
12 effectuate the terms of this Agreement, except for signing documents, including but not limited to  
13 this Agreement, that are required to be signed by the Parties themselves. Defendant represent and  
14 warrant that the individual executing this Agreement on its behalf has the full right, power, and  
15 authority to enter into this Agreement and to carry out the transactions contemplated herein.

16          **Section 6.16: No Reliance on Representations**

17          The Parties have made such investigation of the facts and the law pertaining to the matters  
18 described herein and to this Agreement as they deem necessary, and have not relied, and do not rely,  
19 on any statement, promise, or representation of fact or law, made by any of the other parties, or any  
20 of their agents, employees, attorneys, or representatives, with regard to any of their rights or asserted  
21 rights, or with regard to the advisability of entering into and executing this Agreement, or with respect  
22 to any other matters. No representations, warranties, or inducements, except as expressly set forth  
23 herein, have been made to any party concerning this Agreement.

**EXECUTION BY PARTIES AND COUNSEL**

The Parties and their counsel hereby execute this Agreement.

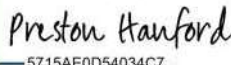
Dated: \_\_\_\_\_

CARLOS HERNANDEZ JR.

By: \_\_\_\_\_  
Plaintiff

Dated: January 20, 2023 | 2:48 PM PST  
\_\_\_\_\_

HANFORD SAND & GRAVEL, INC.;

DocuSigned by:  
  
By: 5715AE0D54034C7...  
(Signature)


\_\_\_\_\_  
Preston Hanford, III

\_\_\_\_\_  
President

**APPROVED AS TO FORM:**

Dated: 1/18/2023


**AEGIS LAW FIRM, PC**

By:   
Jessica L. Campbell  
Namrata Kaur

Attorneys for Plaintiff Carlos Hernandez Jr.

Dated: January 20, 2023

**HANFORD SAND & GRAVEL, INC.**

By:   
Talia Delanoy

Attorneys for Defendant Hanford Sand &  
Gravel, Inc.

**EXECUTION BY PARTIES AND COUNSEL**

The Parties and their counsel hereby execute this Agreement.

Dated: 1/20/2023 | 11:16 AM PST CARLOS HERNANDEZ JR.

By:   
Plaintiff

Dated: \_\_\_\_\_ HANFORD SAND & GRAVEL, INC.;


By: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
Preston Hanford, III

\_\_\_\_\_  
President

**APPROVED AS TO FORM:**

Dated: 1/18/2023 AEGIS LAW FIRM, PC

By:   
Jessica L. Campbell  
Namrata Kaur

Attorneys for Plaintiff Carlos Hernandez Jr.

Dated: \_\_\_\_\_ HANFORD SAND & GRAVEL, INC.

By: \_\_\_\_\_  
Talía Delanoy

Attorneys for Defendant Hanford Sand &  
Gravel, Inc.

# **EXHIBIT A**



THIS IS AN IMPORTANT COURT APPROVED NOTICE. READ CAREFULLY.

*Carlos Hernandez Jr. v. Hanford Sand & Gravel, Inc., et al.*

Sacramento Superior Court

Case No. 34-2022-00314657

**If you worked for Hanford Sand & Gravel, Inc.;  
Hanford Ready-Mix, Inc., at any time from January 28, 2018 through February 28, 2023, or the  
date the Court grants the Preliminary Approval of settlement, whichever is later,  
a settlement of a class action lawsuit may affect your rights.**

*This is a court-authorized notice. It is not a solicitation from a lawyer.*

- A proposed settlement (the “Settlement”) has been reached in a class action lawsuit entitled *Carlos Hernandez Jr. v. Hanford Sand & Gravel, Inc., et al.*, Case No. 34-2022-00314657 (Sacramento Court) (the “Lawsuit”). The purpose of this Notice of Class Action Settlement (“Notice”) is to briefly describe the Lawsuit, and to inform you of your rights and options in connection with the Lawsuit and the proposed settlement.
- The Court has preliminarily approved a class action settlement with Defendant Hanford Sand & Gravel, Inc. (“Defendant”), which will affect all current and former hourly non-exempt employees who performed work for Defendant in California at any time from January 28, 2018 through February 28, 2023, or the date the Court grants the Preliminary Approval of settlement, whichever is later. (the “Class”).
- If the Court grants final approval of the Settlement, there may be money available to you.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT	
<b>PARTICIPATE IN THE SETTLEMENT – <u>NO ACTION REQUIRED</u></b>	<b>Stay in this Lawsuit. Receive a payment. Cannot pursue your own lawsuit.</b> By doing nothing, you become part of the Class and will collect a settlement award as detailed below. But you will not be able to bring your own lawsuit against Defendant for wage-and-hour violations that relate to the claims brought in this Lawsuit.
<b>OBJECT TO THE SETTLEMENT</b>	<b>Stay in this Lawsuit. Receive a payment. Object. Cannot pursue your own lawsuit.</b> To object to the Settlement, you must write to the Settlement Administrator about why you do not like the settlement. You will remain a member of the Class, and if the Court approves the Settlement, you will be bound by the terms of the settlement in the same way as Class Members who do not object.
<b>ASK TO BE EXCLUDED</b>	<b>Get out of this Lawsuit. Receive a smaller or no payment from it. Keep your right to pursue your own lawsuit for damages.</b> If you ask to be excluded from the Settlement, you keep your right to sue Defendant separately about the legal claims in this Lawsuit, except as to the claim under the California Private Attorneys General Act (“PAGA”). If you choose this option, you must exclude yourself, in writing, from the Settlement. As a result, you may receive no payment at all.

	At most, you will receive a very small payment for resolution of the PAGA claim if you are a member of the PAGA Group, which is a subset of the Class.
--	--

- **Regardless of the option you choose, you will not be retaliated against for exercising your rights.** To object to the Settlement or to ask to be excluded, you must act before **[DATE]**.
- **Any questions?** Read on or contact the Settlement Administrator listed below at 1-(800) 523-5773.

## BASIC INFORMATION

### 1. Why did I get this notice?

Defendant's records show that you worked for Defendant in California as a non-exempt employee at some point between January 28, 2018 through February 28, 2023, or the date the Court grants the Preliminary Approval of settlement, whichever is later.

The Court has determined only that there is sufficient evidence to suggest that the proposed settlement might be fair, adequate, and reasonable. Any final determination of those issues will be made at the final hearing. You have legal rights and options that you may exercise as part of this settlement.

The Court has not made any decision on the claims or defenses. The settlement represents a compromise and settlement of highly disputed claims. Nothing in the settlement is intended or will be construed as an admission by Defendant that Plaintiff's claims have merit or that Defendant has any liability to Plaintiff or the Class on those claims.

### 2. What is this lawsuit about?

In this Lawsuit, Plaintiff Carlos Hernandez Jr. ("Plaintiff") claims that Defendant: (1) failed to pay all wages; (2) failed to provide meal periods; (3) failed to permit rest breaks; (4) failed to provide accurate itemized wage statements (5) failed to pay all wages due upon separation of employment; (6) failed to reimburse necessary business expenses; (7) violated Business and Professions Code § 17200, *et seq.* and (8) enforcement of Labor Code § 2698 *et seq.* ("PAGA"). Civil penalties to be split 75% to the State of California and 25% to certain employees pursuant to PAGA. Plaintiff also claimed entitlement to restitution, interest, attorneys' fees, and costs. You can read Plaintiff's allegations as stated in the First Amended Complaint, which is available at **[settlement administrator website]**.

Throughout the litigation, Defendant has denied—and continues to deny—the factual and legal allegations in the case. Defendant does not believe that it violated any law or regulation relating to how it paid employees, when it paid employees, how much it paid employees, or how wage statements displayed information. Defendant denies any wrongdoing and asserts that their conduct at all times complied with the law. Defendant further denies that they owe the monies claimed in the Lawsuit. Both Plaintiff and Defendant have voluntarily agreed to the terms of a negotiated settlement in order to avoid the risks, burdens, and expense of continued litigation.

### 3. What is a class action and who is involved?

In a class action lawsuit such as this, a person called the "Class Representative" sues on behalf of other people who may have similar claims. The people together are a "Class" or "Class Members." The person

who is the Class Representative is also called the plaintiff. The companies sued are called the defendant. In class action litigation, one court resolves the issues for everyone in the Class in one lawsuit, except for those people who choose to exclude themselves from the Class.

This lawsuit also includes a “Private Attorney General” (PAGA) claim where Plaintiff is attempting to recover penalties for the State of California. In a PAGA action, the State receives 75% of the civil penalties, while employees receive 25%. This settlement will resolve all claims by the State for civil penalties arising from claims made by Plaintiff in the Lawsuit during the period of January 28, 2021 through February 28, 2023, or the date the court grants the Preliminary Approval of settlement, whichever is later and non-exempt employees covered by the Lawsuit will be barred from bringing another lawsuit on behalf of the State for such penalties.

#### 4. Why is this Lawsuit a class action?

For settlement purposes only, Plaintiff and Defendant agreed that this case can proceed as a class action and to ask the Court to approve the settlement for the Class. The Court has not ruled on the merits of the case, and the decision to certify Class for settlement purposes should not be viewed as a prediction or agreement that Plaintiff or the Class would ultimately prevail on the merits of the action.

#### 5. What are the terms of the proposed Settlement?

Subject to final Court approval, the major terms of the Settlement are as follows:

1. Defendant has agreed to pay \$1,000,000.00 to settle the claims made in this lawsuit. This amount is also known as the “Gross Settlement Amount”.
2. Plaintiff has agreed to release all of his claims in this lawsuit against Defendant.
3. **Class Settlement Payments:** Plaintiff seeks the following deductions from the \$1,000,000 Gross Settlement Amount:
  - a. Up to one-third (1/3) of the Gross Settlement Amount (currently equal to \$333,333.33) for Class Counsel’s attorneys’ fees.
  - b. Up to \$25,000.00 for reimbursement of Class Counsel’s litigation costs.
  - c. An incentive award of up to \$10,000.00 to Plaintiff Carlos Hernandez Jr. for filing the Lawsuit, performing work in connection with the Lawsuit, and undertaking the risks of filing the Lawsuit.
  - d. Up to \$7,000.00 to cover the costs of the Settlement Administrator.
  - e. Allocation of \$40,000.00 of the Gross Settlement Amount in consideration of the claims made under PAGA.

If the Court approves the requested deductions, there will be approximately \$594,666.67 remaining to be distributed. These remaining funds will be referred to as the “Net Settlement Amount.” Any amounts

not requested or awarded by the Court will be included in the Net Settlement Amount. The Net Settlement Amount will be distributed to Class Members who do not request exclusion (the “Settlement Class Members”) on a pro rata basis according to the number of weeks they worked during the Class Period, and whether they signed individual settlements.

**PAGA Settlement Payments.** A portion of the Gross Settlement Amount in the amount of \$10,000 will be set aside for Class Members who worked for Defendant in California at some point between January 28, 2021 through February 28, 2023, or the date the Court grants the Preliminary Approval of settlement, whichever is later. (“PAGA Group”). If you are a member of the PAGA Group, you will receive a pro rata share of the PAGA Group Payment, regardless of whether you opt-out of the settlement. You will not be able to pursue any claim on behalf of the State for such penalties.

**Settlement Payments Generally.** If a settlement check remains uncashed after 180 days from issuance, the check will become void and the uncashed funds shall be paid to the State Controller Unclaimed Property Fund in the name of the Class Member for whom the funds are designated.

Your estimated settlement payment is listed in Section 8 of this Notice. Applicable taxes will be withheld from your payment.

## WHO IS IN THE CLASS?

### 6. Am I part of this Class?

The “Class” includes: All current and former non-exempt employees who worked for Defendant in California at any time between January 28, 2018 through February 28, 2023, or the date the Court grants the Preliminary Approval of settlement, whichever is later. (the “Class Period”).

### 7. I’m still not sure if I am included.

If you still are not sure whether you are included in the Class, you can get free help by contacting Phoenix Class Action Settlement Administrators, the “Settlement Administrator,” at the designated phone number for this matter at [REDACTED] or by calling or writing the lawyers representing the Class in this case (“Class Counsel”), at the phone number or address listed in Section 19.

### 8. What is my approximate Individual Settlement Payment?

According to payroll records maintained by Defendant, the total number of weeks you worked in California for Defendant as a non-exempt employee during the Class Period is [REDACTED].

Based on information provided above and anticipated court-approved deductions, your share of the settlement is estimated to be \$ [REDACTED], less applicable taxes and withholdings.

You do not need to do anything further to receive your Individual Settlement Payment, other than to ensure that the Settlement Administrator has an accurate mailing address for you. It is important that you contact and inform the Settlement Administrator listed in Section 16, below, of any changes to your mailing address for timely payment.

## **Disputing Your Payment Amount**

If you believe your total weeks worked during the Class Period shown above are not correct, you may send a letter to the Settlement Administrator indicating what you believe is correct by no later than [DATE]. You should also send any documents or other information that supports your belief. The Settlement Administrator will attempt to resolve any dispute based on Defendant's records and any information you provide. Any disputes not resolved by the Settlement Administrator will be resolved by the Court.

#### **9. What rights am I releasing if I participate in the Settlement?**

If the Court grants final approval of the Settlement and you do not opt out of the Settlement, you will be deemed to have released Defendant Hanford Sand & Gravel, Inc., Hanford Ready Mix, Inc., and past, present and/or future officers, directors, shareholders, employees, agents, payroll service providers, operators, principals, owners, heirs, representatives, accountants, auditors, consultants, insurers and reinsurers, successors and predecessors in interest, subsidiaries, affiliates, members, divisions, fiduciaries, trustees, partners, shareholders, investors, benefit plans, parents and attorneys, if any ("Released Parties"). Under the proposed release, Class Members who do not exclude themselves from the Settlement will be deemed to have released or waived the following "Released Claims" against the Released Parties during the period of January 28, 2018 through February 28, 2023, or the date the court grants Preliminary Approval of the Settlement, whichever is later from all claims, actions, demands, causes of action, suits, debts, obligations, guarantees, costs, expenses, attorneys' fees, damages, restitution, injunctive relief, penalties, rights or liabilities, of any nature and description whatsoever, arising during the Class Period or the PAGA Period alleged in Plaintiff's Operative Complaint, or Complaint, or which could have been alleged based on the facts alleged in the Operative Complaint or Complaint, including but not limited to violation of Labor Code Sections 201, 202, 203, 204, 210, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1198, 2800, 2802, 2698 for (1) failure to pay wages (2) failure to provide meal periods (3) failure to provide rest breaks (4) failure to provide accurate itemized wage statements (5) failure to pay all wages upon separation of employment (6) failure to reimburse necessary business expenses (7) failure to pay overtime (8) violation of California Business and Professions Code §§17200, et seq., based on the preceding claims ("Released Claims").

Additionally, if you worked during the period of January 28, 2021 through February 28, 2023, or the date the court grants Preliminary Approval of the Settlement, whichever is later, you are a PAGA Group Member and you will also release the right to bring a claim for civil penalties on behalf of the State (and other employees) based on the same facts or theories as the Settlement Class Released Claims, which arose during the PAGA Period, even if you have formally opted-out of being a Settlement Class Member.

#### **10. How do I object to the Settlement?**

If you are a Class Member and would like to object to the Settlement, you must not submit a request for exclusion (*i.e.*, must not opt out). In order to object, you may mail a written objection to the Settlement Administrator at the address in Section 16 below. To be valid, your objection must: (1) state your full name, address, and telephone number and the last four digits of your Social Security Number; (2) state the grounds for the objection; (3) be signed by you; and (4) indicate whether you intend to appear at the Final Approval Hearing. You can also hire an attorney at your own expense to represent you in your objection. Your written objection to the Settlement Administrator must be postmarked on or before

[DATE]. You may appear in person at the Final Fairness and Approval Hearing to present any oral objections even if you do not submit a timely written objection.

### **11. Why would I ask to be excluded?**

You have the right to exclude yourself from the Class (and the class settlement). If you exclude yourself from the Class—sometimes called "opting-out" of the Class – you won't get any money or benefits from the class settlement. However, you may then be able to sue or continue to sue Defendant for your own claims if permitted by law. If you exclude yourself, you will not be legally bound by the Court's ruling in this Lawsuit, except for the release by PAGA Group Members, as explained above. Whether or not you submit a Request for Exclusion, you will still receive a small PAGA Group Payment if you are determined to be a part of the PAGA Group.

### **12. How do I ask to be excluded from the Class?**

If you are a Class Member and would like to exclude yourself from the Class ("opt-out"), you, or your authorized representative, need to submit a written statement requesting exclusion from the Class to the Settlement Administrator at the address in Section 16 below. The statement must be signed and dated by you or your authorized representative and must be postmarked on or before [DATE]. To be valid, your request for exclusion must: (1) state your full name, address, and telephone number and the last four digits of your Social Security Number; (2) contain a clear statement that you are requesting to opt out of, or be excluded from, the Settlement in the *Carlos Hernandez Jr. v. Hanford Sand & Gravel, Inc., et al.* action; and (3) be signed by you.

Any Class Member who requests to be excluded from the Class will not be entitled to any recovery under the Settlement and will not be bound by the Settlement or have any right to object, appeal, or comment on the Settlement. Class Members who fail to submit a valid and timely request for exclusion will be bound by all terms of the Settlement and any ruling from the Court to give final approval of the Settlement. But Class Members cannot opt out of releasing PAGA claims, as those claims belong to the State of California and Plaintiff has agreed to release those claims by acting as a proxy for the State.

## **THE LAWYERS REPRESENTING YOU**

### **13. Who are the attorneys representing the Parties?**

#### **Lawyers for the Class**

Samuel A. Wong (swong@aegislawfirm.com)  
Kashif Haque (khaque@aegislawfirm.com)  
Jessica L. Campbell (jcampbell@aegislawfirm.com)  
Namrata Kaur (nkaur@aegislawfirm.com)  
AEGIS LAW FIRM, PC  
9811 Irvine Center Drive, Suite 100  
Irvine, CA 92618  
Tel: 949-379-6250

#### **Defendant's Lawyers**

Talia Delanoy (tdelanoy@grsm.com)  
GORDON REES SCULLY MANSUKHANI, LLP 3  
Parkcenter Drive, Ste 200  
Sacramento, CA 95825  
Tel: 916-830-6531

The Court has preliminarily decided that Aegis Law Firm, PC is qualified to represent you and all Class Members. The law firm's attorneys are experienced in handling similar cases against other employers. More information about this law firm, their practice, and their lawyers' experience is available at [www.aegislawfirm.com](http://www.aegislawfirm.com).

#### **14. How will the lawyers be paid?**

As part of the Settlement with Defendant, Class Counsel has requested one-third of the Gross Settlement Amount (currently equal to \$333,333.33) in attorneys' fees, plus costs not to exceed \$25,000, to be paid from the Gross Settlement Amount to compensate Class Counsel for their work on this matter. You will not have to pay Class Counsel's fees and costs from your Individual Settlement Payment.

#### **15. How will Plaintiff be paid?**

As part of the Settlement with Defendant, Plaintiff's attorneys have requested a payment of up to \$10,000.00 to be paid to Plaintiff for his efforts in this matter during initial investigation, discovery, mediation and the like, while serving as Class Representatives and taking on the burden and risks of litigation. This amount would be in addition to whatever they would receive as part of their pro rata share of the settlement sum.

### **THE SETTLEMENT, APPROVAL, AND PAYMENT PROCESS**

#### **16. Who is handling the Settlement Administration process?**

Phoenix Class Action Settlement Administrators

[ADDRESS]

[XXX-XXX-XXXX]

#### **17. When is the Final Fairness and Approval Hearing and do I have to attend?**

The Final Fairness and Approval Hearing has been set for [DATE], at [TIME] in Department 25 of the Sacramento Superior Court for the State of California, located at 720 9th Street, Sacramento, California 95814. You do not need to attend the hearing to be a part of the Settlement. However, if you wish to object to the Settlement, you may appear at the hearing. Please note that the hearing may be continued without further notice to the Class. Make sure you check the Court's website before attempting to come to Court in person. You may be required to appear only by phone or video, depending on the current safety requirements due to the pandemic.

#### **18. When will I get money after the hearing?**

The Court will hold a hearing on [DATE], to decide whether to approve the settlement. If the Court approves the settlement, then there may be appeals if anyone objects. It is always uncertain when these objections and appeals can be resolved, and resolving them can take time. If the Court approves the settlement and if you do not opt out, your individual payment set forth in Section 8 above is expected to be distributed after Defendant makes payment to the Settlement Administrator. If there are no objections or appeals, Defendant will transfer the settlement funds and the Administrator will then distribute the funds. If there are objections or appeals, the payment can be delayed by at least 60 days, or even over a year. To check on the progress of the settlement, contact the Settlement Administrator or Class Counsel at the phone number or address listed in Section 19.

### **GETTING MORE INFORMATION**

### 19. Are more details available?

For more information, the pleadings and other records in this litigation may be examined at any time during regular business hours at the records department office for the Superior Court of the State of California for Sacramento, located at 720 9th Street, Sacramento, California 95814. You can also view the schedule of events and register of actions for the Lawsuit at the court's website: [www.saccourt.ca.gov](http://www.saccourt.ca.gov). Click "Online Services," then select "Public Case Access Site", then select "Civil" then click on the "search by case". Then Select (i) "2022" for the case year, and (ii) enter the Case Number as "00314657". After filling this information select "I'm not a robot" and then click on "Search".

Any questions regarding this Class Notice or the Lawsuit may be directed to the Claims Administrator at the below address and telephone number. Alternatively, you may contact your own attorney, at your own expense, to advise you, or you may contact the Lawyers for the Class at the address, telephone number or email address set forth above. If your address changes, or is different from the address on the envelope enclosing this Notice, please promptly notify the Settlement Administrator.

Settlement Administrator:

Phoenix Class Action Settlement Administrators

[ADDRESS]

[XXX-XXX-XXXX]

**PLEASE DO NOT CALL OR WRITE TO THE COURT, OR TO ANY OF DEFENDANT'S MANAGERS, SUPERVISORS, OR DEFENDANT'S ATTORNEYS WITH QUESTIONS. ABOUT THIS NOTICE**



# EXHIBIT 2

**jenciso@aegislawfirm.com**

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**From:** DIR PAGA Unit <lwdadonotreply@dir.ca.gov>  
**Sent:** Friday, January 20, 2023 4:31 PM  
**To:** jenciso@aegislawfirm.com  
**Subject:** Thank you for your Proposed Settlement Submission

01/20/2023 04:31:03 PM

Thank you for your submission to the Labor and Workforce Development Agency.

Item submitted: Proposed Settlement

If you have questions or concerns regarding this submission or your case, please send an email to [pagainfo@dir.ca.gov](mailto:pagainfo@dir.ca.gov).

DIR PAGA Unit on behalf of  
Labor and Workforce Development Agency

Website: [http://labor.ca.gov/Private\\_Attorneys\\_General\\_Act.htm](http://labor.ca.gov/Private_Attorneys_General_Act.htm)