

# CONCILIATION AGREEMENT

Between

THE U.S. DEPARTMENT OF LABOR  
OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS

and

BARR CONCRETE

## **PART I: PRELIMINARY STATEMENT**

The Office of Federal Contract Compliance Programs (“OFCCP”) evaluated Barr Concrete’s facility located at 8420 Terminal Road, Lorton, Virginia 22079, beginning on May 11, 2012 and found that Barr Concrete was not in compliance with Executive Order 11246, as amended (“E.O. 11246”), Section 503 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 793 (“Section 503”), and the Vietnam Era Veterans’ Readjustment Assistance Act of 1974, as amended, 38 U.S.C. § 4212 (“VEVRAA”), and their implementing regulations at 41 C.F.R. Parts 60-1, 60-2, 60-3, 60-4, 60-300, and/or 60-741. OFCCP notified Barr Concrete of the specific violations found and the corrective actions required in a Notice of Violations issued on May 30, 2014 (“NOV”) and in a Show Cause Notice (“SCN”) issued on December 1, 2014. In the interest of resolving the violations without engaging in further legal proceedings and in exchange for the good and valuable consideration described in this document, OFCCP and Barr Concrete enter into this contract (“Conciliation Agreement” or “Agreement”) and agree to all the terms stated below.

## **PART II: GENERAL TERMS AND CONDITIONS**

1. In exchange for Barr Concrete’s fulfillment of all obligations in Parts III and IV of the Agreement, OFCCP agrees not to institute administrative or judicial enforcement proceedings under E.O. 11246, Section 503, and/or VEVRAA based on the violations described in more detail in Part III below. However, OFCCP has the right to initiate legal proceedings to enforce the Agreement itself or to correct and obtain relief for the violations described in Part III if Barr Concrete violates this Agreement. Nothing in this Agreement precludes OFCCP from initiating enforcement proceedings based on future compliance evaluations or complaint investigations.
2. Barr Concrete agrees that OFCCP may review its compliance with this Agreement. As part of such review, OFCCP may require written reports, inspect the premises, interview witnesses, and examine and copy documents. Barr Concrete will permit access to its premises during normal business hours for these purposes and will provide OFCCP with all reports and documents requested.

3. Barr Concrete understands that nothing in this Agreement relieves Barr Concrete of its obligation to fully comply with the requirements of E.O. 11246, Section 503, VEVRAA, their implementing regulations, and other applicable equal employment laws.
4. Barr Concrete promises not to harass, intimidate, threaten, discriminate, or otherwise retaliate against any individual because the individual: benefits from this Agreement, files a complaint or participates in any investigation or proceeding under E.O. 11246, Section 503, and/or VEVRAA, or engages in any activity listed at 41 C.F.R. § 60-1.32(a).
5. The parties understand the terms of this Agreement and enter into it voluntarily.
6. This document and its attachments contain the complete and final understanding of the parties with respect to the matters referenced herein. This Agreement contains all terms by which the parties are bound and it supersedes all prior written or oral negotiations and agreements. There will be no modifications or amendments to this Agreement unless they are in writing, signed by all parties.
7. If one or more provisions of this Agreement are rendered unlawful or unenforceable, the remaining provisions will remain in full force and effect.
8. This Agreement becomes effective on the day it is signed by the Regional Director of the Mid-Atlantic Region (the "Effective Date") unless the Director of OFCCP indicates otherwise within 45 calendar days of the date the Regional Director signs the Agreement.
9. This Agreement will expire sixty (60) days after Barr Concrete submits the final progress report required in Part IV(D), below, unless OFCCP notifies Barr Concrete in writing prior to the expiration date that Barr Concrete has not fulfilled all of its obligations under the Agreement, in which case the Agreement is automatically extended until the date that OFCCP determines Barr Concrete has met all of its obligations under the Agreement.
10. If Barr Concrete violates this Conciliation Agreement,
  - A. The procedures set forth at 41 C.F.R. § 60-1.34 will govern:
    - 1) If OFCCP believes that Barr Concrete violated any term of the Agreement while it was in effect, OFCCP will send Barr Concrete a written notice stating the alleged violations and summarizing any supporting evidence.
    - 2) Barr Concrete will have 15 days from receipt of such notice to demonstrate in writing that it has not violated the Conciliation Agreement, unless such a delay would result in irreparable injury to the employment rights of affected employees or applicants.

- 3) If Barr Concrete is unable to demonstrate that it has not violated the Agreement, or if OFCCP alleges irreparable injury, enforcement proceedings may be initiated immediately without issuing a show cause notice or proceeding through any other requirement.
  - 4) OFCCP may seek enforcement of this Agreement itself and is not required to present proof of any underlying violations resolved by this Agreement.
- B.** Barr Concrete may be subject to the sanctions set forth in Section 209 of E.O. 11246, 41 C.F.R. § 60-741.66, or 41 C.F.R. § 60-300.66 and/or other appropriate relief for violation of this Agreement.
11. This Agreement does not constitute an admission by Barr Concrete of any violation of E.O. 11246, Section 503, VEVRAA, or other laws, nor has there been an adjudicated finding that Barr Concrete violated any laws.
  12. Nothing herein is intended to relieve Barr Concrete from the obligation to comply with the requirements of Executive Order 11246, as amended, Section 503 of the Rehabilitation Act of 1973, as amended, and/or the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (38 U.S.C. 4212), their implementing regulations, or any other equal employment statute or executive order or its implementing regulations. In addition, this Conciliation Agreement in no way limits the applicability of the revised regulations implementing Section 503 of the Rehabilitation Act of 1973, as amended, 41 C.F.R. Part 60-741 (2014) and the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, 41 C.F.R. Part 60-300 (2014), which became effective on March 24, 2014.

### **PART III: SPECIFIC PROVISIONS**

1. **VIOLATION:** OFCCP found that Barr Concrete did not afford equal employment opportunity to African-American applicants on the basis of their race, as required by Executive Order 11246, Section 202, and 41 C.F.R. § 60-1.4(a)(1). OFCCP's analysis of Barr Concrete's hiring process and selection procedures revealed that during the period of April 1, 2011 through March 31, 2012, Barr Concrete did not afford equal employment opportunity to African-American applicants for Laborer positions. OFCCP found that there was a statistically significant disparity in hiring of Laborers based on race during the application process. This resulted in a hiring shortfall of four (4) African-Americans, and disparity that was statistically significant at  $7e$  standard deviations.

**REMEDY:** Barr Concrete agrees to cease and desist all selection procedures that resulted in the statistically significant disparities in selection rates for qualified African-American applicants for Laborer positions identified in this Violation, as required by 41 C.F.R. § 60-1.4(a)(1).

In addition, Barr Concrete shall implement the following remedial make-whole actions for the African-American applicants who were rejected for the Laborer positions during the period of April 1, 2011 through March 31, 2012 ("African-American Laborer Class Members"):

- A. **Notification:** Within forty-five (45) calendar days of the effective date of this Agreement, Barr Concrete will send to the last known address of each of the African-American Laborer Class Members listed in Attachment A ("African-American Laborer Class Members"), by Certified Mail/Return Receipt Requested or other form indicating proof of delivery, the letter entitled "Notice to Class Members" ("Notice") (Attachment B) along with the form enclosed therewith, "Information Verification and Employment Interest Form" (Attachment C) (the Notice, Information Verification and Employment Interest Form are hereinafter referred to as the "Forms"), and a postage-paid return envelope. To be eligible for a distribution of back pay and/or employment, and subject to the provisions regarding the Second Mailing, below, African-American Laborer Class Members must complete and return the Forms to Barr Concrete so that they are postmarked within thirty (30) days of the date each African-American Laborer Class Member received the Notice from Barr Concrete, as evidenced by the return receipt.

Within thirty (30) days from the date that the time period for Class Members to respond to the Notice has expired, Barr Concrete will provide OFCCP-Baltimore District Office, via electronic mail ("e-mail"), a list of the names of African-American Laborer Class Members who did not return the Forms within the 30-day period and a copy of the proof of mailing receipt for each of them. OFCCP will have thirty (30) days from its receipt of such list to verify the current addresses for such African-American Laborer Class Members who did not return the Forms. At or before the end of such 30-day period, OFCCP will send to Barr Concrete, via e-mail, a list of the names and current addresses of such African-American Laborer Class Members whose current addresses OFCCP was able to verify. For purposes of this Paragraph, the Barr Concrete contact will be Mike Scroggs, Chief Financial Officer (msscroggs@mcspllc.com) and the OFCCP contact will be Maurice Richard, OFCCP Baltimore Assistant District Director (richard.maurice@dol.gov). Within fifteen (15) days of its receipt of OFCCP's list, Barr Concrete will send to each African-American Laborer Class Member whose address OFCCP verified, by Certified Mail/Return Receipt Requested or other form indicating proof of delivery, a second Notice and a second set of Forms ("Second Mailing"). Each such African-American Laborer Class Member will complete and return the Forms to Barr Concrete so that they are postmarked within thirty (30) days of the date each African-American Laborer Class Member received the Forms from Barr Concrete, as evidenced by the return receipt from the Second Mailing. Any African-American Laborer Class Member who has not returned signed Forms within thirty (30) days of the African-American Laborer Class Member's receipt of the first Notice, or, as applicable, receipt of the second Notice from the Second Mailing, will no longer be entitled to any share of the monetary settlement or an offer of employment under the terms of this Agreement.

**B. Offers of Employment:** As vacancies occur in the Laborer position, Barr Concrete will make job offers to all qualified African-American Laborer Class Members who have completed and timely returned the Forms, have expressed interest in employment and are not then employed by Barr Concrete, until four (4) Laborers are hired or the list of such African-American Laborer Class Members is exhausted, whichever comes first. Until such time, such African-American Laborer Class Members will have priority over all other candidates for hire into the Laborer position. As vacancies occur in the Laborer positions, such African-American Laborer Class Members will be contacted by Barr Concrete via certified mail, text message and/or email with a written job offer that will be retained in written format, in the order in which Barr Concrete received their completed Forms or, if the Forms were received on the same day, in the order of their original application date. The written job offer shall include the job title and starting hourly wage.

The report-to-work date for African-American Laborer Class Members shall be at least three (3) days after the date of the written job offer. If the African-American Laborer Class Member does not report to work on the day designated by Barr Concrete without providing Barr Concrete on or before that day notice of good cause for their absence (e.g., personal illness or care for an immediate family member), or if good cause is provided and the Class Member does not report to work within five (5) days of the original designated start date, Barr Concrete may withdraw the job offer and shall be under no obligation to hire such Class Member under this Agreement. Barr Concrete will provide retroactive seniority and all other fringe benefits associated with employment, subject to eligibility limitations contained in the respective benefit plan documents, to all African-American Laborer Class Members who are hired pursuant to this Agreement, dating back to the date each hired African-American Laborer Class Member originally applied for employment. Documentation of all hiring decisions, including job offers made and reasons for rejection, will be made available for review by OFCCP.

**C. Monetary Settlement:** The monetary settlement of \$64,030.48 (\$58,780.84 in back pay and \$5,249.64 in interest) ("African-American Laborer Settlement Amount") is a negotiated figure that represents back pay and interest for African-American Laborer Class Members (see Attachment A). Barr Concrete agrees to disburse the African-American Laborer Settlement Amount to all African-American Laborer Class Members who complete and timely return the Forms to Barr Concrete. Within fifteen (15) days of its receipt of the last executed Forms, including in response to the Second Mailing to African-American Laborer Class Members, Barr Concrete will mail a check constituting a pro-rata share of the African-American Laborer Settlement Amount, less any taxes and withholding required by law, to each African-American Laborer Class Member who completed and timely returned the Forms to Barr Concrete. Such African-American Laborer Class Members will receive a pro-rata share of the African-American Laborer Settlement Amount whether or not he or she expresses interest in employment or accepts a job offer under this Agreement. African-American Laborer Class Members who receive a payment from Barr Concrete will receive the appropriate IRS documents reflecting such payment.

D. **Hiring Selection Procedures and Training**: Barr Concrete agrees to cease and desist in the use of all selection procedures which resulted in the lower rate of hiring of African-American applicants for Laborer positions. Barr Concrete will also develop and implement a new applicant tracking system for all trades, which will include the tracking of the Laborer selection process. Barr Concrete will examine, monitor and modify its selection procedures as necessary to ensure that the selection criteria are applied uniformly and the hiring decisions for Laborer positions are made in a non-discriminatory manner, and to ensure that all stages of its revised selection procedures are in compliance with 41 C.F.R. § 60-1.4(a) and 41 C.F.R. Part 60-3, the Uniform Guidelines on Employee Selection Procedures (“UGESP”). In addition, within seventy-five (75) days from the effective date of this Agreement, Barr Concrete shall conduct mandatory training for all human resources personnel, managers, and supervisors employed by Barr Concrete for the life of this Agreement who are involved in the selection process for all positions including Laborers. Such training will cover recruitment and applicant tracking procedures; the neutral application of the specified qualifications and criteria that will be used at each step in the selection process; procedures to be used to document the decisions made at each step in the selection process; and procedures to be used to ensure that documents are retained in accordance with 41 C.F.R. § 60-1.4(a)(1), § 60-1.12(a) and Part 60-3. Such training will also cover subjects of equal employment opportunity rights and responsibilities, legal prohibitions against discrimination on the basis of sex, race, national origin, color, religion, disability and veteran status, and Barr Concrete’s commitment to diversity and non-discriminatory hiring.

2. **VIOLATION**: Barr Concrete failed to collect and maintain personnel and employment records and conduct adverse impact analyses in accordance with the requirements of 41 C.F.R. § 60-1.12 and Part 60-3. Specifically, during the review period of April 1, 2011 through March 31, 2012, Barr Concrete failed to maintain copies of all applications and expressions of interest submitted for employment, as required by 41 C.F.R. § 60-1.12(a). Additionally, Barr Concrete failed to identify, where possible, the gender, race, and ethnicity of each applicant or Internet Applicant, as required by 41 C.F.R. § 60-1.12(c)(1)(ii). Furthermore, Barr Concrete failed to conduct the adverse impact analyses required by 41 C.F.R. § 60-3.15(A) and § 60-3.4.

**REMEDY**: Effective immediately, Barr Concrete will ensure that its records are collected and maintained in accordance with the requirements of 41 C.F.R. § 60-1.12(a) and Part 60-3. Moreover, Barr Concrete will ensure that it collects and maintains demographic information on each of its applicants in accordance with 41 C.F.R. § 60-1.12(c). Barr Concrete will conduct adverse impact analyses on at least an annual basis for the purpose of determining whether adverse impact exists against applicants based on race, sex, or ethnicity in hiring, promotion, termination, and other personnel activities. These analyses must be conducted by trade for each group constituting more than 2% of the labor force in the relevant labor area or 2% of the applicable workforce.

If adverse impact is identified in the total selection process, Barr Concrete will evaluate each individual component of the selection process for adverse impact. If adverse impact is found to exist in any of the individual components of the selection process, Barr Concrete must validate each such component in accordance with the Uniform Guidelines on Employee Selection Procedures or utilize selection procedures that do not result in adverse impact.

3. **VIOLATION:** During the review period of April 1, 2011 through March 31, 2012, Barr Concrete failed to demonstrate good faith efforts to achieve the 6.9% goal for females in each of its construction trades, in violation of 41 C.F.R. § 60-4.6. Specifically, when the female goal was measured against the total work hours performed, there were 7e work hours 7e performed by females in the Carpenter, Equipment Operator, and Laborer trades. Barr Concrete’s goal and the actual work hour utilization percentages for females for this period were:

| Construction Trade  | Female Goal | Actual Utilization |
|---------------------|-------------|--------------------|
| Carpenters          | 6.9%        | 7e                 |
| Equipment Operators | 6.9%        | 7e                 |
| Laborers            | 6.9%        | 7e                 |

**REMEDY:** The goal is currently 6.9% for females. Barr Concrete will seek to expand its recruitment resources in order to attract female applicants for all of its construction trades. Additionally, Barr Concrete will maintain documentation of its implementation of all 16 affirmative action steps (41 C.F.R. § 60-4.3(a)7(a)-(p)) and will make it available to the Office of Federal Contract Compliance Programs (OFCCP) upon request.

4. **VIOLATION:** During the period of April 1, 2011 through March 31, 2012, Barr Concrete failed to establish and maintain a current list of minority and female recruitment sources, to provide written notification to minority and female recruitment sources and to community organizations when it had employment opportunities available, and to maintain a record of the organizations’ responses, as required by 41 C.F.R. § 60-4.3(a)7.b.

**REMEDY:** Within thirty (30) days of the effective date of this agreement, Barr Concrete will develop and maintain a current list of minority and female recruitment sources and notify, in writing, minority and female recruitment sources and community organizations when Barr Concrete has employment opportunities available, and maintain a record of the organizations’ responses. This list must include at least the recruitment sources identified in Violation 6 below.

5. **VIOLATION:** During the period of April 1, 2011 through March 31, 2012, Barr Concrete did not provide written notification to, and discuss its EEO policy with, other contractors and subcontractors with whom it did or anticipated doing business, as required by 41 C.F.R. § 60-4.3(a)7.(h).

**REMEDY:** Effective immediately, Barr Concrete will disseminate its EEO policy externally by including it in any advertising in the news media, specifically minority and female new media, and will provide written notification to, and discuss its EEO policy with, other contractors and subcontractors with whom Barr Concrete anticipates doing business.

6. **VIOLATION:** During the period of April 1, 2011 through March 31, 2012, Barr Concrete failed to direct its recruitment efforts, both oral and written, to minority and female community organizations, to schools with minority and female students, and to minority and female recruitment and training organizations serving Barr Concrete's recruitment area and employment needs, as required by 41 C.F.R. § 60-4.3(a)7.(i).

**REMEDY:** Effective immediately, Barr Concrete agrees to direct its recruitment efforts, both oral and written, to minority, female, and community organizations, to schools with minority and female students, and to minority and female recruitment and training organizations serving Barr Concrete's recruitment area and employment needs no later than one month prior to the date for the acceptance of applications. Barr Concrete will send written notification to minority, female, and community organizations, such as below, describing the openings, screening procedures, and tests to be used in the selection process, if applicable.

D.C. Department of Employment Services  
4058 Minnesota Avenue, NE  
Washington, DC 20019  
Phone: (202) 698-3571  
Contact: Ms. Michelle Reynolds, Job Bank Coordinator  
Email: does@dc.gov

Alexandria JobLink  
1900 N. Beauregard Street, Suite 300  
Alexandria, Virginia 22311  
Phone: (703) 746-5940  
Contact: Mr. Maurice Tomdio  
E-mail: maurice.tomdio@alexandriava.gov

National Association of Women in Construction (NAWIC)  
300 East Joppa Road  
Baltimore, Maryland 21286  
Phone: (443) 250-1307  
Contact: Ms. Suzanne Boisseau  
E-Mail: [http://nawic-jobs.jobtarget.com/home/index.cfm?site\\_id=270](http://nawic-jobs.jobtarget.com/home/index.cfm?site_id=270)

7. **VIOLATION:** During the period of April 1, 2011 through March 31, 2012, Barr Concrete failed to prepare and maintain an affirmative action program (AAP) for protected veterans at each establishment, and accordingly failed to comply with any of its AAP obligations set forth in Subpart C of the regulations, 41 C.F.R. § 60-300.40-45.

**REMEDY:** Whenever it has 50 or more employees and a direct federal contract or subcontract of \$100,000, Barr Concrete will prepare and maintain an affirmative action program (AAP) for protected veterans at each establishment. The AAP shall set forth Barr Concrete's policies and procedures in accordance with 41 C.F.R. § 60-300.40-45 (2014). This AAP may be integrated into or kept separate from other AAPs. Barr Concrete shall review and update annually its AAP pursuant to 41 C.F.R. § 60-300.40(c), and must comply with all obligations set forth in Subpart C of the regulations, 41 C.F.R. § 60-300.40-45.

8. **VIOLATION:** During the period of April 1, 2011 through March 31, 2012, Barr Concrete failed to prepare and maintain an affirmative action program (AAP) for qualified individuals with disabilities at each establishment and accordingly failed to comply with any of its AAP obligations set forth in Subpart C of the regulations, 41 C.F.R. § 60-741.40-45.

**REMEDY:** Whenever it has 50 or more employees and a direct federal contract or subcontract of \$50,000, Barr Concrete will prepare and maintain an affirmative action program (AAP) for qualified individuals with disabilities at each establishment. The AAP shall set forth Barr Concrete's policies and procedures in accordance with 41 CFR 741.40-45 (2014). This AAP may be integrated into or kept separate from other AAPs. Barr Concrete shall review and update annually its AAP pursuant to 41 C.F.R. § 60-741.40(c), and must comply with all obligations set forth in Subpart C of the regulations, 41 C.F.R. § 60-741.40-45.

9. **VIOLATION:** During the period of April 1, 2011 through March 31, 2012, Barr Concrete failed to undertake appropriate outreach and positive recruitment activities that were reasonably designed to effectively recruit qualified protected veterans, in violation of 41 C.F.R. § 60-300.44(f).

**REMEDY:** Whenever it has 50 or more employees and a contract or subcontract of \$100,000, Barr Concrete will undertake appropriate external outreach and positive recruitment activities, such as those described at 41 CFR 60-300.44(f)(1)-(8), that are reasonably designed to effectively recruit qualified protected veterans and shall document all activities it undertakes to meet this requirement.

With the effective date of its next affirmative action program (AAP), whenever it has 50 or more employees and a direct federal contract or subcontract of \$100,000, Barr Concrete will undertake appropriate external outreach and positive recruitment activities that are reasonably designed to effectively recruit qualified protected veterans, such as those described at 41 C.F.R. § 60-300.44(f)(2) (2014). Barr Concrete will annually review its outreach and recruitment activities, assess their effectiveness, and document this review, in accordance with 41 C.F.R. § 60-300.44(f)(3). Barr Concrete will document all activities it undertakes to comply with this section, in accordance with 41 C.F.R. § 60-300.44(f)(4).

Barr Concrete will also, whenever it has 50 or more employees and a direct federal contract or subcontract of \$100,000, send written notification of company policy related to its affirmative action efforts to all subcontractors, including subcontracting vendors and suppliers, requesting appropriate action on their part, as required by 41 C.F.R. § 60-300.44(f)(1)(ii). In particular, Barr Concrete will solicit the assistance and support of the following organizations by sending their job vacancy announcements to:

Andrews Air Force Base  
316 FSS/FSFR  
1191 Menoher Drive  
Andrews Air Force Base, Maryland 20762  
Phone: (301) 981-7087/(301) 981-9213  
Contact: Ms. Dottie Mazeross, Transition Assistance Program Manager

Joint Base Anacostia-Bolling  
20 McDill Boulevard  
Joint Base Anacostia-Bolling, DC 20032  
Phone: (202) 767-0450/(202) 433-6151  
Contact: Ms. Margarita Mason, Transition Assistance Program Manager

10. **VIOLATION:** During the period of April 1, 2011 through March 31, 2012, Barr Concrete failed to undertake appropriate outreach and positive recruitment activities that were reasonably designed to effectively recruit qualified individuals with disabilities, in violation of 41 C.F.R. § 60-741.44(f) and failed to send written notification of company policy.

**REMEDY:** Whenever it has 50 or more employees and a contract or subcontract of \$50,000, Barr Concrete will undertake appropriate external outreach and positive recruitment activities, such as those described at 41 CFR 60-741.44(f)(1)-(7), that are reasonably designed to effectively recruit qualified individuals with disabilities and shall document all activities it undertakes to meet this requirement.

With the effective date of its next affirmative action program (AAP), whenever it has 50 or more employees and a direct federal contract or subcontract of \$50,000, Barr Concrete will undertake appropriate external outreach and positive recruitment activities that are reasonably designed to effectively recruit qualified individuals with disabilities, such as those described at 41 C.F.R. § 60-741.44(f)(2), (2014). Barr Concrete will annually review its outreach and recruitment activities, assess their effectiveness, and document this review, in accordance with 41 C.F.R. § 60-741.44(f)(3). Barr Concrete will document all activities it undertakes to comply with this section, in accordance with 41 C.F.R. § 60-741.44(f)(4).

Barr Concrete will also, whenever it has 50 or more employees and a direct federal contract or subcontract of \$50,000, send written notification of company policy related to its affirmative action efforts to all subcontractors, including subcontracting vendors and suppliers, requesting appropriate action on their part, as required by 41 C.F.R. § 60-

741.44(f)(1)(ii). In particular, Barr Concrete will solicit the assistance and support of the following organizations by sending their job vacancy announcements to:

D.C. Department of Disability Services  
1125 15<sup>th</sup> Street, N.W.  
Washington, DC 20005  
Phone: (202) 730-1700  
Contact: Ms. Cathy Anderson, Director of DDA

JobLink, City of Alexandria  
1900 N. Beauregard Street, Suite 300  
Alexandria, Virginia 22311  
Phone: (703) 746-5940  
Contact: Mr. Maurice Tomdio  
E-mail: maurice.tomdio@alexandriava.gov

The SkillSource Group, Inc.  
8300 Boone Boulevard, Suite 450  
Vienna, Virginia 22182  
Phone: (703) 361-4195  
Contact: Ms. Lauren Parker  
Email: lauren.parker@myskillsource.org

National Council on Disability  
1331 F Street, N.W., Suite 850  
Washington, DC 20004  
Phone: (202) 272-3113  
Contact: Ms. Sylvia Menifee, Director of Administration

11. **VIOLATION:** During the period of April 1, 2011 through March 31, 2012, Barr Concrete failed to immediately list all employment openings with either the state workforce agency job bank or a local employment service delivery system serving the location where the openings occurred, in violation of 41 C.F.R. § 60-300.5(a)2-6. Specifically, Barr Concrete failed to list any of its employment openings, as defined at 41 C.F.R. § 60-300.5(a)6, with the appropriate employment service delivery system where the openings occurred, including the state workforce agency job bank or local employment service delivery system.

**REMEDY:** Whenever Barr Concrete has a direct federal contract or subcontract of \$100,000 or more, in accordance with 41 C.F.R. § 60-300.4 (2014), Barr Concrete will list all employment openings with the appropriate employment service delivery system (ESDS) (either the state workforce agency job bank or a local ESDS) where the openings occur, in a manner and format that will allow the ESDS to provide priority referrals of protected veterans to Barr Concrete, as required by 41 C.F.R. § 60-300.5(a)2-6, (2014). With its initial listing, and as subsequently needed to update the information, Barr Concrete must also advise the employment service delivery system that it is a federal

contractor that desires priority referrals of protected veterans for job openings at all locations within the state, and provide the employment service delivery system with the name and address of each of its hiring locations within the state and the contact information for the contractor official responsible for hiring at each location, in accordance with 41 C.F.R. § 60-300.5(a)4. Should any of the information in the disclosures change since it was last reported to the ESDS, the contractor shall provide updated information simultaneously with its next job listing.

District of Columbia Department of Employment Services  
4058 Minnesota Ave, NE, Suite 3000  
Washington, D.C. 20019  
Phone: (202) 698-3571  
Contact: Ms. Michelle Reynolds, Job Bank Coordinator

Virginia Employment Commission  
Alexandria Workforce Center  
5520 Cherokee Avenue  
Alexandria, Virginia 22312  
Phone: (703) 813-1300  
Contact: Mr. Jimmy Price, Manager

Prince George's One-Stop Career Center  
1100 Mercantile Lane, Suite 120  
Largo, Maryland 20774  
Phone: (301) 618-8435  
Contact: Mr. Harry Brooks, Local Veterans' Employment Representative  
Email: hbrooks@dllr.state.md.us

Barr Concrete commits that the above violations will not recur.

#### **PART IV: REPORTING REQUIREMENTS**

Barr Concrete agrees to retain records pertinent to the alleged violations cited in Part II above, and to the reports submitted in compliance with Paragraph 2, below. These records shall include data and/or information underlying the required reports, specifically, but not limited to all applications, personnel records and analyses required to remedy the violations. These records will be retained until the expiration of the Agreement or consistent with regulatory requirements, whichever is later.

Barr Concrete agrees to submit three (3) progress reports. The first report shall be due 240 days after the effective date of the Agreement and will cover the period from the effective date through the 225<sup>th</sup> day after the effective date. The second report shall be due August 31, 2016, and will cover the time period of August 1, 2015 through July 31, 2016. The third report shall be due August 31, 2017, and will cover the time period of August 1, 2016 through July 31, 2017.

Barr Concrete will send each report to the following address:

U.S. Department of Labor  
Office of Federal Contract Compliance Programs  
Attention: Tom G. Wells, District Director  
Two Hopkins Plaza, Suite 600  
Baltimore, Maryland 21201

**The first report** will be due within 240 days of the effective date of the conciliation agreement and will include:

1. Documentation of monetary relief provided to all African-American Laborer Class Members (collectively, "Class Members") as specified in the Remedies to Violation Number 1. The documentation shall include copies of all signed "Information Verification and Employment Interest Forms" and canceled checks disbursed by Barr Concrete to Class Members, or other equivalent documentation verifying that all eligible Class Members were paid.
2. Documentation of all Class Members who were offered and/or hired into Laborer positions. The documentation will include copies of all written job offers extended to Class Members; a list of the names of hired Class Members; a list of the names of Class Members who were offered positions but declined the offer or did not appear for work in accordance with the provisions of this Agreement; and for each Class Member offered a position, identify race, ethnicity, gender, job title, the date of hire or decline of position, the wage rate, and the date of termination if applicable, the reason for termination, and the terminated employee's contact information.

**The second report** will be due August 31, 2016, will cover the time period of August 1, 2015 through July 31, 2016, and will include:

1. A copy of Barr Concrete's applicant flow log, by construction trade, that captures each applicant's name, race, ethnicity (Hispanic or non-Hispanic), gender, referral source, job applied for, application date, and if applicable, interview status, interview date, hire date, job title hired into and final disposition. For all applicants not selected, identify the reason for non-selection.
2. A copy of Barr Concrete's new hire log by construction trade identifying name, race, ethnicity (Hispanic or non-Hispanic), gender, job title hired into, starting pay rate, and date of hire.
3. A construction employee roster for the second reporting period in Microsoft Excel broken down by name, race, ethnicity (Hispanic or non-Hispanic), gender, job title, hire date, and hourly pay rate.
4. Copies of voluntary self-identification sheets that demonstrate race, ethnicity, and gender data are being collected and maintained for all applicants and hires.
5. Copies of the impact ratio analyses conducted for each construction trade for the reporting period specified above. If adverse impact exists, as that term is defined and described in 41 C.F.R. 60-3.4(D), Barr Concrete will include a detailed description of any actions taken by Barr Concrete to address the adverse impact found in its review.
6. Documentation that Barr Concrete developed and maintained a current list of minority and female recruitment sources, notified in writing those minority and female recruitment sources and community organizations when Barr Concrete had employment opportunities available (including at least those organizations identified above under Part III/Violation 6), and maintained a record of the organizations' responses. The job vacancy announcements sent by Barr Concrete to the recruitment sources will clearly state:
  - a. Barr Concrete's contact information, including the contact person's name and his/her telephone number and/or e-mail address, etc.;
  - b. That minority and female referrals are sought for construction trade careers;
  - c. The type of trade and number of job vacancies available; and
  - d. The deadline for submission of applications/referrals.
7. Documentation showing Barr Concrete disseminated its EEO policy externally by including it in advertising in the news media, and by providing written notification of the policy to contractors and subcontractors with whom Barr Concrete did business during the reporting period.
8. Documentation on all of Barr Concrete's federal contracts and subcontracts during the reporting period, including the name of the project, the name of the federal contracting agency, the contract number, the name of the prime contractor (if Barr Concrete is a

subcontractor on a project), the start and end dates of the contract, and the dollar amount of the contract or subcontract.

9. Barr Concrete will provide the following when it has at least 50 employees and a direct federal contract or subcontract of \$100,000 or more, in accordance with 41 C.F.R. § 60-300.40 (2014).
  - a. Evidence that Barr Concrete has prepared and maintained an affirmative action program under VEVRAA.
  - b. Documentation that Barr Concrete has undertaken appropriate outreach and positive recruitment activities, such as those listed in 41 C.F.R. § 60-300.44(f)(2) (2014), that are reasonably designed to effectively recruit veterans covered by VEVRAA. This will include documentation showing Barr Concrete solicited the assistance and support of at least the organizations identified above in Part III/Violation 9 when it had opportunities to hire.
  - c. A roster of applicants referred by recruitment sources and their veteran status; the disposition of each applicant in Barr Concrete's selection process, including the stage of the selection process where the disposition occurred; and, if hired, the job title, hire date, and wage rate.
  
10. Barr Concrete will provide the following when it has a direct federal contract or subcontract of \$100,000 or more, in accordance with 41 C.F.R. § 60-300.4 (2014):
  - a. Documentation that Barr Concrete listed all employment openings with the appropriate employment service delivery system where the opening occurred when it had an obligation according to contracts held. Documentation should include a copy of the job vacancy listing, information about the job vacancy that demonstrates Barr Concrete advised the employment service that it was a Federal contractor and provided the name and location of each hiring location within the state; the contact information for the contractor official responsible for hiring at each location; and documentation that Barr Concrete requested priority referral of veterans protected by VEVRAA.
  - b. A roster of applicants referred by the appropriate employment service delivery system and their veteran status; the disposition of each applicant in Barr Concrete's selection process, including the stage of the selection process where the disposition occurred; and, if hired, the job title, hire date, and wage rate.
  
11. Barr Concrete will provide the following when it has at least 50 employees and a direct federal contract or subcontract of \$50,000 or more, in accordance with 41 C.F.R. § 60-741.40 (2014).
  - a. Evidence that Barr Concrete has prepared and maintained an affirmative action program under Section 503.

- b. Documentation that Barr Concrete has undertaken appropriate outreach and positive recruitment activities, such as those listed in 41 C.F.R. § 60-741.44(f)(2) (2014), that are reasonably designed to effectively recruit qualified individuals with a disability. This will include documentation showing Barr Concrete solicited the assistance and support of at least the organizations identified above in Part III/Violation 10 when it had opportunities to hire.
- c. A roster of applicants referred by recruitment sources and their disability status (if disclosed); the disposition of each applicant in Barr Concrete's selection process, including the stage of the selection process where the disposition occurred; and, if hired, the job title, hire date, and wage rate.

**The third report** will be due August 31, 2017, will cover the time period of August 1, 2016 through July 31, 2017, and will include the same items as the second report, except that the roster referred to in paragraph (3) will be for the third reporting period.

**TERMINATION DATE:** This Conciliation Agreement shall remain in effect until sixty (60) days following Barr Concrete's submission of the final report, or until such time as OFCCP has deemed that Barr Concrete has met all conditions of this Agreement. The date of signature by the OFCCP Regional Director will constitute the effective date of this Agreement.

**INTEGRATION CLAUSE:** This Agreement represents the full Agreement between Barr Concrete and OFCCP and this Agreement supersedes any other agreements, oral or written. In signing this Agreement, neither Bar Concrete, nor OFCCP relies upon any promise, representation of fact or law, or other inducement that is not expressed in this Agreement. This Agreement may be modified only by written agreement of the Parties affected and may not be modified by any oral agreement.

**PART V: SIGNATURES**

This Conciliation Agreement is hereby executed by and between the U.S. Department of Labor/Office of Federal Contract Compliance Programs and Barr Concrete, 8420 Terminal Road, Lorton, Virginia 22079.

**7c**

**KEITH MARTIN**  
President  
Barr Concrete  
Lorton, Virginia 22079

Date: 8-7-15

**7c**

**MICHELE HODGE**  
Regional Director  
U.S. Department of Labor/OFCCP  
Mid-Atlantic Regional Office  
Philadelphia, PA 19106

Date: 8/10/15

**ATTACHMENT A**

**AFRICAN-AMERICAN LABORER CLASS MEMBERS**

| <b>No.</b> | <b>Name</b> | <b>Date of Application</b> |
|------------|-------------|----------------------------|
| 1          | 7c          | 03/26/2012                 |
| 2          |             | 07/21/2011                 |
| 3          |             | 07/05/2011                 |
| 4          |             | 01/03/2012                 |
| 5          |             | 01/06/2012                 |
| 6          |             | 01/03/2012                 |
| 7          |             | 12/09/2011                 |
| 8          |             | 06/30/2011                 |
| 9          |             | 08/17/2011                 |
| 10         |             | 01/03/2012                 |
| 11         |             | 01/04/2012                 |

**ATTACHMENT B  
NOTICE TO AFFECTED CLASS**

Dear Mr./Ms. :

Barr Concrete (“Contractor”) and the U.S. Department of Labor's Office of Federal Contract Compliance Programs (“OFCCP”) have entered into a Conciliation Agreement (“Agreement”) to remedy the violations of Executive Order 11246 (“E.O. 11246”), Section 503 of the Rehabilitation Act (“Section 503”), and the Vietnam Era Veterans’ Readjustment Assistance Act (“VEVRAA”) that OFCCP found during a compliance review of Barr Concrete’s construction projects in the Washington, D.C. MSA. OFCCP’s analysis of Barr Concrete’s hiring process and selection procedures revealed that during the period of April 1, 2012 through March 31, 2013 (“review period”) Barr Concrete hired African-American applicants for laborer positions at a lower rate than non-African-American applicants. OFCCP found that there was a disparity in the hiring of laborers based on race. Barr Concrete has not admitted to any violation of E.O. 11246, Section 503, and/or VEVRAA, and there has not been any adjudicated finding that Barr Concrete violated any laws. OFCCP and Barr Concrete entered into the Agreement to resolve the matter without resorting to further legal proceedings. You have been identified as an individual who applied for a laborer position during that time period, but were not hired.

As part of this Agreement, you are eligible to receive a distribution of at least \$5,820.95, less lawful payroll deductions. Under the terms of this Agreement it may take up to five months from the date of this letter before you receive your distribution. In order to be eligible for a payment, you must complete, sign, and return the enclosed Information Verification and Employment Interest Form. You should complete and mail back the form as soon as possible; it *must* be postmarked to the address below no later than thirty (30) days after the date this Notice was delivered, as evidenced by the return receipt, to be entitled to participate in this settlement:

*Mr. Mike Scroggs  
Chief Financial Officer  
Barr Concrete  
8420 Terminal Road  
Lorton, Virginia 22079*

You may use the enclosed postage-paid return envelope to return the completed and signed Information Verification and Employment Interest Form.

In addition to the monetary distribution, Barr Concrete will be making job offers for laborer positions to a limited number of individuals receiving this notification. It is not certain that you will receive a job offer. If you are still interested in employment with Barr Concrete, please check the appropriate box on the enclosed Information Verification and Employment Interest Form. Those receiving this notice will be considered for laborer positions in the order that Barr Concrete receives the Information Verification and Employment Interest Form expressing an interest in employment. If you have any questions, you may call Mike Scroggs at Barr Concrete at (703) 912-4912, or OFCCP Compliance Officer **7c & 7e**. Your call will be returned as soon as possible.

**IF YOU FAIL TO COMPLETE AND RETURN THE ENCLOSED DOCUMENTS TO BARR CONCRETE WITHIN 30 DAYS OF THE DATE THE ENVELOPE CONTAINING THIS NOTICE WAS DELIVERED, AS EVIDENCED BY THE RETURN RECEIPT, YOU WILL NOT BE ELIGIBLE TO RECEIVE A PAYMENT OR TO BE CONSIDERED FOR A JOB OFFER.**

Sincerely,

Mike Scroggs  
Chief Financial Officer

Enclosures: Information Verification and Employment Interest Form  
Release of Claims Under Executive Order 11246

**ATTACHMENT C**

**INFORMATION VERIFICATION & EMPLOYMENT INTEREST FORM**

**You must complete this form in order to be eligible for the monetary payment and/or employment opportunities under the terms of the Conciliation Agreement ("Agreement") between Barr Concrete ("Contractor") and the U.S. Department of Labor's Office of Federal Contract Compliance Programs. Please print legibly, except for the signature.**

Name: \_\_\_\_\_

Street Address: \_\_\_\_\_

City, State, Zip Code: \_\_\_\_\_

Telephone Nos.: Home \_\_\_\_\_ Cell \_\_\_\_\_ Work \_\_\_\_\_

Notify Barr Concrete at the address below if your address or phone number changes within the next twelve months.

Your Social Security Number (to be used for tax purposes only): \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_

For purposes of this settlement, it is necessary to verify your race:

Caucasian [  ] African-American [  ] Hispanic [  ] Asian [  ] Native American [  ]

Please indicate below whether you are currently interested in employment in a laborer position with Barr Concrete. If you complete, sign, and return this Information Verification and Employment Interest Form, you remain eligible for the monetary payment whether or not you are interested in employment at this time.

[  ] Yes, I am still interested in employment with Barr Concrete as a laborer.

[  ] No, I am not currently interested in employment with Barr Concrete as a laborer.

**IF YOU FAIL TO COMPLETE AND RETURN THE ENCLOSED DOCUMENTS TO THE ADDRESS BELOW WITHIN THIRTY (30) DAYS OF THE DATE THE ENVELOPE CONTAINING THIS NOTICE WAS DELIVERED, AS EVIDENCED BY THE RETURN RECEIPT, YOU WILL NOT BE ELIGIBLE TO RECEIVE A PAYMENT OR TO BE CONSIDERED FOR A JOB OFFER.**

*Mr. Mike Scroggs  
Chief Financial Officer  
Barr Concrete  
8420 Terminal Road  
Lorton, Virginia 22079*

I, \_\_\_\_\_, certify the above is true and correct.  
(print name)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**ATTACHMENT D**

**RELEASE OF CLAIMS UNDER EXECUTIVE ORDER 11246**

This Release of Claims under Executive Order 11246 ("Release") is a legal document. This document states that in return for Barr Concrete ("Contractor") paying you money, you agree that you will not file any lawsuit against Barr Concrete for allegedly violating Executive Order 11246 in connection with its selection procedures for applicants for laborer positions. It also says that Barr Concrete does not admit it violated any laws. This Release says you had sufficient time to look at the document, to talk with others about the document, including an attorney if you choose, and that no one pressured you into signing the document. Finally, it says that if you do not sign and return the document by a certain date, you will not receive any money.

In consideration of the payment of at least \$5,820.95 (less deductions required by law) by Barr Concrete to me, which I agree is acceptable, I \_\_\_\_\_ agree to the following: print name

**I.**

I hereby waive, release and forever discharge Barr Concrete, its predecessors, successors, related entities, parents, subsidiaries, affiliates and organizations, and its and their shareholders, directors, officers, employees, agents, successors, and assigns, of and from any and all actions, causes of action, damages, liabilities, and claims arising out of or actionable under Executive Order 11246, as amended, which I or my representatives (heirs, executors, administrators, or assigns) have or may have which relate in any way to my non-selection for employment as a laborer on the basis of my race at any time through the effective date of this Release.

**II.**

I understand that Barr Concrete denies that it treated me unlawfully or unfairly in any way and that Barr Concrete entered into a Conciliation Agreement with the U.S. Department of Labor, Office of Federal Contract Compliance Programs ("OFCCP") and agreed to make the payment described above to resolve alleged disparities in hiring and to resolve the matter without further legal proceedings in the compliance review initiated by OFCCP on May 11, 2012. I further agree that the payment of the aforesaid sum by Barr Concrete to me is not to be construed as an admission of any liability by Barr Concrete.

**III.**

I declare that I have read this Release and that I have had a full opportunity to consider and understand its terms and to consult with my advisors and seek legal advice. I further declare that I have decided of my own free will to sign this Release.

**IV.**

I understand that if I do not sign this Release and return it to Barr Concrete WITHIN THIRTY (30) DAYS OF THE DATE THE ENVELOPE CONTAINING THIS RELEASE WAS DELIVERED, as evidenced by the return receipt, I will not be entitled to receive any payments (less deductions required by law) from Barr Concrete.

IN WITNESS WHEREOF, I have signed this document on this \_\_\_\_\_ day of

\_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Signature