

## CONCILIATION AGREEMENT

Between

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

and

BARCO ENTERPRISES, INC.

### **PART I: PRELIMINARY STATEMENT**

The Office of Federal Contract Compliance Programs ("OFCCP") commenced a compliance evaluation of Barco Enterprises, Inc.'s, ("Barco") establishment located at 11200 Pulaski Highway, White Marsh, Maryland, 21162, on October 18, 2011 and found that Barco 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. Section(s) 60-1, 60-2, 60-3, 60-4, 60-300, and 60-741. OFCCP notified Barco of the initial violations found and the corrective actions required in a Notice of Violations issued on November 21, 2012 ("NOV"). 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 Barco 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 Barco'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 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 Barco violates this Agreement. Nothing in this Agreement precludes OFCCP from initiating enforcement proceedings based on future compliance evaluations or complaint investigations.
2. This Agreement does not constitute an admission by Barco of any violation of E.O. 11246, Section 503, VEVRAA, or other laws, nor has there been an adjudicated finding that Barco violated any laws.
3. Barco 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. Barco will permit access to its premises during normal business hours for these purposes and will provide OFCCP with all reports and documents requested.

4. Barco understands that nothing in this Agreement relieves Barco 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.
5. Barco 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 VEVRAA, or engages in any activity listed at 41 C.F.R. § 60-1.32(a).
6. The parties understand the terms of this Agreement and enter into it voluntarily.
7. 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.
8. If one or more provisions of this Agreement are rendered unlawful or unenforceable, the remaining provisions will remain in full force and effect.
9. 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.
10. This Agreement will expire sixty (60) days after Barco submits the final progress report required in Part IV (D), below, unless OFCCP notifies Barco in writing prior to the expiration date that Barco has not fulfilled all of its obligations under the Agreement, in which case the Agreement is automatically extended until the date that OFCCP determines Barco has met all of its obligations under the Agreement.
11. If Barco violates this Conciliation Agreement,
  - A. The procedures set forth at 41 C.F.R. § 60-1.34 will govern:
    - 1) If OFCCP believes that Barco violated any term of the Agreement while it was in effect, OFCCP will send Barco a written notice stating the alleged violations and summarizing any supporting evidence.
    - 2) Barco 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 Barco 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.



Laborer positions during the covered review period yields a shortfall in hiring of EX 7E Blacks from the pool, with a statistical significance of EX 7E standard deviations. The resulting difference in hiring rates between Whites and Hispanics for Laborer positions during the same period yields a shortfall in hiring of EX 7E Whites from the pool, with a statistical significance of EX 7E standard deviations.

### C. REMEDY FOR AFFECTED INDIVIDUALS

- 1) Notice: Attached hereto as Attachment A is a list of 437 Black individuals and 546 White individuals who were registered as laborers at One-Stop Career Centers in the Washington SMSA during the period of October 1, 2010 through September 30, 2011. OFCCP has provided to Barco all the home addresses presently known to OFCCP of the individuals identified on Attachment A; the individuals whose last known addresses OFCCP has provided to Barco are marked with an asterisk (\*). Within forty-six (46) days of the Effective Date, Barco will send to at least six (6) Blacks and four (4) Whites identified on Attachment A and marked with an asterisk, by certified mail/return receipt requested or other form indicating proof of delivery, the "Notice of Potential Employment Opportunity" (Attachment B, "Notice"), the "Information Verification and Employment Interest Form" (Attachment C, "Employment Interest Form") (collectively, "Forms"), and a self-addressed, postage prepaid envelope. As necessary, Barco will send the Forms, by certified mail/return receipt Requested or other form indicating proof of delivery, to additional individuals identified on Attachment A whose addresses OFCCP has provided to Barco until at least six (6) Blacks and four (4) Whites identified on Attachment A have timely completed and returned the Employment Interest Form, and indicated thereon that they are interested in employment. The list order has been randomized, and Barco will begin sending notices to the names at the top of each of the two lists on Attachment A and proceed to subsequent names in order as needed.
- 2) Eligibility. To be eligible for employment and a distribution of a pro-rata share of the monetary settlement amount under this Agreement, the individual receiving the forms must complete the Employment Interest Form, indicate thereon that he or she is interested in employment, and return it to Barco so that it is postmarked within thirty (30) days of the date the individual received the Forms from Barco, as evidenced by the return receipt. Any individual identified on Attachment A who has been sent the Forms but has not returned a completed Employment Interest Form within thirty (30) days of his or her receipt of the Forms will no longer be entitled to an offer of employment or a share of the monetary settlement under the terms of this Agreement.
- 3) Employment: As Laborer positions become available, Barco will make job offers to all individuals who completed and timely returned the Employment Interest Form and expressed interest in employment until EX 7E Blacks and EX 7E Whites identified on Attachment A are hired as Laborers, or the list of individuals identified on Attachment A is exhausted, whichever comes first. Barco shall make such offers in the order in which it received the completed Employment Interest Forms from such individuals or, if the forms were received on the same day, in order they appear on Attachment A. As vacancies occur in Laborer positions, Barco will contact such

individuals via certified mail with a written job offer until [REDACTED] Black and [REDACTED] White individuals identified on Attachment A are hired. The individuals identified on Attachment A shall have priority over all other candidates for hire into Laborer positions until Barco has satisfied its hiring obligations under this paragraph. Individuals hired into Laborer position pursuant to this Agreement shall be paid at the current wage rate for the Laborer position and shall be provided with the same benefits and opportunity to earn overtime and shift differentials as other Laborer employees.

Individuals who receive a written job offer will be allowed at least two weeks to report for work after receiving such offer. If the individual does not report to work on the day designated by Barco without providing Barco on or before that day notice of good cause for their absence, or if good cause is provided and the individual does not report to work within five (5) days of the original designated start date, Barco may withdraw the job offer and shall be under no obligation to hire such individual under this Agreement and shall have no liability for withdrawing such offer. If the individual accepts employment and reports to work but is unable to satisfy the work authorization (I-9) requirements for the position, Barco may withdraw the job offer and shall be under no obligation to hire such individual under this Agreement. For any such individual who is unable to satisfy the work authorization (I-9) requirements, Barco shall not be credited with a hire towards the ten (10) priority hires mandated by this agreement. Documentation of all hiring decisions, including job offers made and reasons for rejection, will be retained and made available for review by OFCCP.

- 4) Monetary Settlement: The monetary settlement amount of \$32,859.00 is a negotiated figure that represents back pay in the amount of \$29,697.00, the FICA withholdings associated with such back pay in the amount of \$2,271.82, and interest in the amount of \$890.18. The back pay and interest shall be distributed equally among the [REDACTED] individuals identified on Attachment A who are hired as Laborers pursuant to this Agreement, and the FICA withholdings shall be submitted to the Internal Revenue Service ("IRS")

D. NON-MONETARY REMEDIES. Barco will ensure that all applicants are afforded equal employment opportunities. Barco agrees not to use selection procedures, practices, and/or policies which negatively affected the hiring of Black and White applicants for Laborers positions. Barco agrees to continue and/or to implement the corrective actions detailed below.

- 1) Revised Hiring Process

- (a) Eliminate Discriminatory Selection Procedures: Barco agrees to immediately cease use of and revise its hiring procedures that prevented the company from providing equal employment opportunity to Black and White construction trades workers who qualified for Laborer positions. Barco will not use any selection procedure that has an adverse impact, as defined in 41 C.F.R. § 60-3.4D, on

applicants of a particular race or national origin unless it properly validates the procedure pursuant to these regulations.

- (b) **Review and Revisions Required:** Barco will revise, in writing, the practices, policies and procedures it uses to select applicants for Laborer positions (hereinafter "Revised Hiring Process"). Specifically, Barco will:
- (i) create a job description and selection process for Laborers' which describes the essential functions; the minimum qualifications including required skills and certifications; and the criteria used in each step of the hiring process, including any application screens, interviews, tests, credit checks, review of criminal history, reference checks, testing, or other selection procedure;
  - (ii) develop specific, job-related qualification standards for Laborers that reflect the duties, functions, and competencies of the position to minimize the potential for gender, race/nationality and veteran status stereotyping or other unlawful discrimination;
  - (iii) ensure all policies and qualification standards are uniformly applied to all applicants; and
  - (iv) list clearly on its recruiting materials and job postings the minimum qualifications, including required skills and certifications.
- (c) **Recordkeeping and Retention:** Barco will write and implement procedures to ensure that applicants are tracked and decisions are documented at each step in the hiring process. Barco will write and implement procedures to ensure that documents are retained in accordance with 41 C.F.R. § 60-1.12(a) and § 60-3.
- (d) **Training:** Within three months of the Effective Date of this Agreement, Barco must train all individuals involved in any way in recruiting, selecting, or tracking applicants for Laborer positions on the Revised Hiring Process. The training will include instruction in: the proper implementation of the recruitment, tracking and selection procedures; neutral application of the specified qualifications and criteria that will be used at each step in the hiring process; procedures to be used to document the decisions made at each step in the hiring process; and the procedures to be used to ensure that documents are retained in accordance with 41 C.F.R. § 60-1.12(a) and § 60-3. Barco will meet with management and all individuals responsible for the selection process and review its equal employment obligations and nondiscrimination policies related to hiring. Specific attention will be directed to ensure that Black and White applicants who benefit from the provisions of this Agreement, are not retaliated against.
- (e) **Monitoring:** Barco agrees to monitor selection rates at each step of its selection process for Laborers. Where it is determined that a selection procedure has an adverse impact, as defined in 41 C.F.R. § 60-3.4D, on the hiring of applicants of a particular race/national origin or gender, Barco will eliminate the procedure,

choose an alternative procedure, or validate the procedure in accordance with the Uniform Guidelines for Employee Selection Procedures codified at 41 C.F.R. § 60-3. Barco agrees to maintain at its 11200 Pulaski Highway, White Marsh, MD 21162 facility and make available to OFCCP records concerning the impact of the selection process for Laborers. This includes the number of persons hired by race; the number of applicants who applied by race and the selection procedures utilized. This information will be maintained until the expiration of this Agreement or as long as required by the regulations, whichever is later.

## **2. ALLEGED COMPENSATION DISCRIMINATION**

- A. **STATEMENT OF VIOLATION** OFCCP determined that since at least October 1, 2010, Barco discriminated against Hispanic Laborers on the basis of their race/national origin with respect to their compensation, in violation of 41 CFR § 60-1.4(a).
- B. **OFCCP'S SPECIFIC FINDINGS**. OFCCP performed a T-test analysis which shows that since October 1, 2010, Barco has paid its sixty-two (62) Hispanic Laborers an average annual hourly wage that was less than that of its ten (10) Non-Hispanic Laborers. The results of the analyses were statistically significant even after legitimate factors affecting pay were taken into account.
- C. **REMEDY FOR AFFECTED CLASS**.

- 1) **Notice**. Within forty-six (46) days of the Effective Date of this Agreement, Barco will notify the sixty-two (62) Hispanic Laborer Class Members listed in Attachment D ("Class Members") of the terms of this Agreement by mailing to each Class Member by certified mail/return receipt requested or other form indicating proof of delivery the Notice to Class Members (Attachment E) ("Notice") and the Information Verification Form (Attachment F) ("Information Form"), (collectively, "Compensation Forms"), and a postage paid return envelope. Copies of the Compensation Forms will be provided to Class Members in both English and Spanish. To be eligible for a distribution of back pay, and subject to the provisions regarding the Second Mailing, below, the Class Member must complete the Information Form and the Release and return them to Barco so that they are postmarked within thirty (30) days of the date the Class Member received the Notice from Barco, as evidenced by the return receipt.

Within fifteen (15) days from the date that the time period for Class Members to respond to the Notice has expired, Barco will provide OFCCP's Arlington Area Office, via electronic mail ("e-mail"), a list of the names of Class Members who did not return the Compensation Forms within the 30-day period and a copy of the proof of mailing receipt for each of them. OFCCP will have twenty (20) days from its receipt of such list to verify the current addresses for such Class Members who did not return the Compensation Forms. At or before the end of such 20-day period, OFCCP will send to Barco, via e-mail, a list of the names and current addresses of such Class Members whose current addresses OFCCP was able to verify. For

purposes of this paragraph A, the Barco contact will be the contacts that are listed on Attachment B, and the OFCCP contact will be Tom Wells, Baltimore District Director, [wells.tom@dol.gov](mailto:wells.tom@dol.gov). Within ten (10) days of its receipt of OFCCP's list, Barco will send to each Class Member whose address OFCCP verified, by certified mail/return receipt requested or other form indicating proof of delivery, a second set of Compensation Forms ("Second Mailing"). Each such Class Member must complete and return the Information Form to Barco so that it is postmarked within thirty (30) days of the date the Class Member received the Compensation Forms from Barco, as evidenced by the return receipt from the Second Mailing.

- 2) **Eligibility.** Any Class Member who has not returned a completed Information Verification Form within thirty (30) days of the Class Member's receipt of the First Mailing or Second Mailing will no longer be entitled to any share of the monetary settlement amount for this Violation (Violation #3 of the November 21, 2012 NOV) under the terms of this Agreement.

Within fifteen (15) days after receiving timely responses to the Second Mailing, Barco will provide OFCCP with a list of all Class Members who returned completed Information Verification Forms within thirty (30) days of the Class Member's receipt of the First Mailing or Second Mailing. Within thirty (30) days after receiving such list, OFCCP will approve the final list of such Class Members or discuss with Barco any issues necessary to finalize the list, such as the inclusion or exclusion of certain Class Members. The Class Members on the finalized list are referred to hereinafter as "Eligible Class Members."

- 3) **Monetary Settlement:** The monetary settlement amount of \$47,141.00 is a negotiated figure that represents back pay in the amount of \$42,603.00, the FICA withholdings associated with such back pay in the amount of \$3,259.13, and interest in the amount of \$1,278.87. The back pay and interest shall be distributed among all Eligible Class Members and the FICA withholdings shall be submitted to the IRS. Should all the Class Members identified in Attachment D timely return completed Information Verification Forms to Barco, each such Eligible Class Member will receive the corresponding share of the monetary settlement amount shown in Attachment D. Should fewer than all Class Members be Eligible Class Members, OFCCP will determine the amounts of back pay, less taxes and withholdings required by law, and interest to be distributed to each such Eligible Class Member, and provide those determinations to Barco at the time it approves the finalized list of Eligible Class Members.

Barco will disburse the monetary settlement amount to Eligible Class Members as follows: One-half (½) of each Eligible Class Member's share of the monetary settlement amount shall be distributed to him or her within nine (9) months of the Effective Date ("First Disbursement"). The remaining one-half (½) of each Eligible Class Member's share shall be distributed to him or her within eighteen (18) months of the Effective Date ("Second Disbursement"). Barco will pay the Internal Revenue Service ("IRS") the employer's share of social security withholdings and will mail each Eligible Class Member within the time required by law an IRS W-2 Form

reporting the portion of the payment representing back pay and an IRS Form 1099 for the portion of the payment representing interest.

Within fifteen (15) days of Barco's receipt of any check to an Eligible Class Member that is returned as undeliverable, Barco will notify OFCCP of this fact via e-mail sent to Tom Wells at wells.tom@dol.gov. OFCCP will attempt to locate the Eligible Class Member and if OFCCP obtains an alternate address, it will notify OFCCP of such, and Barco will re-mail the check within fifteen (15) days of receiving an alternate or corrected address. Any check that remains uncashed or not deposited 120 days after the date the check was mailed to the Eligible Class Member will be void and will become unclaimed funds. Any unclaimed funds from the First Disbursement will be apportioned equally among the Eligible Class Members who cashed or deposited their distributions of the monetary settlement amount, and added to the amounts distributed to them in the Second Disbursement. Any unclaimed funds from the Second Disbursement will be apportioned equally among the remaining Eligible Class Members and distributed to them within thirty (30) days of becoming unclaimed funds. If any funds remain unclaimed after the Second Disbursement, Barco shall notify the OFCCP to seek guidance regarding further disbursement.

**D. NON-MONETARY REMEDIES:** Barco will implement the corrective actions detailed below:

- 1) Evaluation, creation and monitoring of compensation policies and practices:

Barco is now a party to an Agreement with Baltimore/Washington Construction & Public Employees Laborers' District Council LIUNA, effective September 30, 2013 ("Union Agreement") that sets forth the wage rates and fringe benefits that covers the following positions: Demolition Laborer I, Demolition Laborer II, Torch/Cut & Burn Laborer, Abatement Laborer I, Abatement Laborer II, and Small Equipment Operator. (Addendum A to the Union Agreement setting forth those wage rates and fringe benefit rates, is attached hereto as Attachment G.) Accordingly, certain of Barco's compensation practices are governed by the terms of the Union Agreement and it has already taken steps to address the remedies outlined herein. Barco will nonetheless continue to evaluate its current compensation practices and identify and eliminate any non-legitimate factors or practices that contribute to any disparities found in annual wages that disfavor Hispanic Laborers. Barco will create a written compensation policy that ensures that decisions affecting compensation are based solely on legitimate, non-discriminatory factors. Barco will monitor on a regular basis its compensation practices, including wage rates, job assignments, promotions and fringe benefits, and ensure that its Laborers' compensation is based solely on legitimate, non-discriminatory factors. Barco shall investigate any complaint or information it receives regarding race- or national origin-based differences in compensation among its Laborers, and rectify any such differences when warranted.

  - a. Specifically, Barco will develop and implement policies and procedures to make sure that Laborer assignments to projects of higher value (in terms of

potential hours of work and/or rates of pay) are fair and nondiscriminatory and that Hispanic Laborers have an equal opportunity to be obtain hours of work and rates of pay compared with similarly qualified Laborers of other races/ethnicities.

- b. In applying the Wage Rate table (Attachment G), Barco will use objective, nondiscriminatory criteria to hire or assign Laborers to jobs with higher hourly rates of pay and will regularly monitor the rates of pay and hours Hispanic Laborers receive under the Wage Rate table to ensure they have an equal opportunity to obtain rates of pay and hours of work compared with similarly qualified Laborers of other races/ethnicities.
  - c. If prior experience performing specific types of work is one of the objective qualifications Barco applies to determine the appropriate wage rate for Laborers, Barco will develop and implement training opportunities for Laborers to gain experience with higher paying jobs as needed to expand the diversity of the pool of qualified individuals available for higher paying Laborer positions.
- 2) Providing pay data to OFCCP for review. Every six months for the term of this agreement, Barco will provide OFCCP with the following information (or an extract of the payroll records in electronic form that would permit OFCCP to calculate the information):
- a. The total number of Laborer hours on projects within the Washington D.C. SMSA by race and ethnicity and by classification during the prior six month period;
  - b. The total amount of wages paid to Laborers by race and ethnicity on projects within the Washington D.C. SMSA and by classification during the prior six month period;
  - c. For any projects not subject to the Laborer wages set in the Wage Rate Table, the total number of Laborer hours by race and ethnicity and by classification during the prior six month period, and the total amount of wages paid to Laborers by race and ethnicity (and by classification if relevant) during the prior six month period, broken out separately for each project.
  - d. Copies of any written objective qualifications or criteria used to make wage determinations or project assignments for Laborers.  
OFCCP will review and analyze the data provided by Barco under this Agreement, and will promptly notify Barco if the data shows a statistically significant disparity in average hourly wage using the t-test methodology described in Violation 2, above. If Barco is unable to provide a legitimate, non-discriminatory explanation for this disparity within 30 days, Barco will provide make-whole relief to rectify the pay disparity.
- Barco will also provide OFCCP upon request, the underlying data used to generate this report.
3. Training: Within one hundred and eighty (180) days of the Effective Date of this Agreement (the Effective Date being the date of the Regional Director's

signature), Barco will train all individuals involved in any way in determining compensation for Laborer positions on any new compensation policies, procedures, and programs developed by Barco and will provide OFCCP copies of the training materials.

### **3. RECORDKEEPING AND RETENTION VIOLATION**

- A. **STATEMENT OF VIOLATION:** During the period of October 1, 2010 through September 30, 2011, Barco, which has fewer than 150 employees, failed to preserve and maintain all personnel or employment records for a period of not less than one year from the date of the making of the record or the personnel action involved, whichever occurs later, in violation of 41 CFR § 60-1.12(a) and 41 CFR § 60-1.12(e).
- B. **OFCCP'S SPECIFIC FINDINGS.** Barco failed to preserve copies of records pertaining to hiring, promotion, demotion, complaints, transfer, lay off or termination, rates of pay or other terms of compensation, applications, resumes, and any and all expressions of interest through the Internet or related electronic data technologies, and records identifying job seekers contacted regarding their interest in a particular position, as required.
- C. **REMEDY.** Barco will preserve and maintain all personnel and employment records for a period of not less than one year from the date of the making of the record or the personnel action involved, whichever occurs later, in accordance with the requirements of 41 C.F.R. § 60-1.12(a) and 41 CFR § 60-1.12(e).

### **4. EEO AND AFFIRMATIVE ACTION VIOLATIONS**

#### **A. STATEMENT OF VIOLATIONS AND REMEDIES**

- 1) **NOV Violation #4:** During the period of October 1, 2010 through September 30, 2011, Barco failed to take specific steps to ensure and maintain a working environment free of harassment, intimidation, and coercion at all worksites, and in all facilities at which Barco's employees were assigned to work, in violation of 41 CFR § 60-4.3(a)7.a.

**Remedy:** Barco will ensure the following at its facilities and worksites. :

- a. Continually monitor its facilities and worksites and remove from there any racially or sexually demeaning drawings, photographs, artifacts and objects.
- b. Notify all employees of Barco's non-tolerance for harassment, intimidation, coercion and discrimination in any form based on gender, race, ethnicity, religion and/or national origin or engagement in any of the activities described in 41 CFR § 60-1.32. This non-tolerance must extend to all public displays, oral and visual, that foster a hostile environment by individual employees while they are working for Barco;

- c. Create and implement a written policy designed to prevent harassment, intimidation, coercion and discrimination at its facilities and worksites; as part of such policy, identify a Barco manager for employees to report and/or secure relief from any harassment, intimidation, coercion or discrimination; distribute such policy to all employees of Barco.
- d. Provide to all Barco's managers and supervisors, and separately, to all Barco's other employees, training on equal employment opportunity and on the identification and prevention of harassment based on race, color, religion, sex and national origin, including the anti-harassment policy created pursuant to paragraph 4.D hereof. Such training must be provided within sixty (60) days of the Effective Date and annually thereafter.
- e. Monitor its work sites for the presence of any forms of harassment, intimidation, or coercion based on race, color, religion, sex or national origin, including but not limited to verbal, physical and visual forms, take corrective action to eliminate any such harassment, intimidation or coercion found, and document monitoring and any corrective action taken.

- 2) NOV Violation #6: During the period October 1, 2010 through September 30, 2011, Barco failed to make good-faith efforts to establish and maintain a current list of minority and women's recruitment sources, provide written notification to minority and female recruitment sources and community organizations when it had employment opportunities available and maintain a record of the organizations' responses as required by 41 CFR§ 60-4.3(a)7b.

Remedy: Barco 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 Barco has employment opportunities available and maintain a record of the organizations' responses.

- 3) NOV Violation #7: During the period October 1, 2010 through September 30, 2011, Barco failed to maintain a current file of the names, addresses, and telephone numbers of each minority and female off-the-street applicant and referral from a recruitment source or community organization, indicating what action had been taken with respect to each such individual as required by 41 CFR § 60-4.3(a)7c.

Remedy: Barco will develop a system to maintain a current list of the names, addresses and telephone numbers of each minority and female off-the-street applicant and referrals from recruitment sources; to indicate what action has been taken with respect to each such individual and implement this system and maintain the above information as required.

- 4) NOV Violation #8: During the period October 1, 2010 through September 30, 2011, Barco failed to disseminate its EEO policy by providing notice of the policy to unions

and training programs and requesting their cooperation in assisting Barco in meeting its EEO obligations as required by 41 CFR § 60-4.3(a) 7f.

Remedy: Barco will include its EEO policy in any policy manual or agreement; publicize it in the company documents and newsletters; review the policy with all management personnel and with all minority and female employees at least once a year; and post the company's EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.

- 5) NOV Violation #9: During the period of October 1, 2010 through September 30, 2011, Barco failed to review, at least annually, its EEO policy and affirmative action obligations with all employees having any responsibility for hiring, assignment, layoffs, terminations and other employment decisions in violation of 41 CFR § 60-4.3(a)7g.

Remedy: Barco will review, at current work sites and prior to the initiation of construction work at future job sites, its EEO policy and affirmative action obligations with all employees having responsibilities to recommend and implement personnel actions, advising them of their obligations to support and carry out the policy. Barco will maintain written records, which identify time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter. The EEO/AA reviews must be conducted at least annually.

- 6) NOV Violation #10: During the period October 1, 2010 through September 30, 2011, Barco failed to disseminate the company's EEO policy externally by including it in all advertising, and providing written notification to and discussing the EEO policy with all other Contractors and Subcontractors with whom Barco has, is, or anticipates doing business with as required by 41 CFR § 60-4.3(a)7h.

Remedy: Barco will disseminate its EEO policy externally by including it in all advertising, specifically including it in minority and female media, and providing written and verbal communication in regard to its EEO policy to all contractors and subcontractors it is or anticipates doing business with.

- 7) NOV Violation #11: During the period October 1, 2010 through September 30, 2011, Barco failed to direct recruitment efforts, 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 the contractor's recruitment area and employment needs as required by 41 CFR § 60-4.3(a)7i.

Remedy: Barco will direct its recruitment efforts, both oral and in writing, to at least the following organizations when it has employment opportunities, describing available openings, screening procedures and tests to be used in the selection process in accordance with the requirements of 41 CFR § 60-4.3(a)7i. These and similar minorities' and women's recruitment and training organizations will be used concurrently with any other recruitment sources:

DC Students Construction Trades Foundation - D.C. Apprenticeship Academy  
Shelly Karriem  
1200 Clifton Street, NW  
Washington, D.C.  
(202) 673-7346  
[academy@dcstudentsctf.org](mailto:academy@dcstudentsctf.org) or [shelly.karriem@dc.gov](mailto:shelly.karriem@dc.gov)

National Association of Women in Construction  
Lauri McCullough  
327 S. Adams Street  
Fort Worth, Texas, 76104  
(800) 552-3506, ext. 14  
[aurim@nawic.org](mailto:aurim@nawic.org)

- 8) **NOV Violation #12:** During the period October 1, 2010 through September 30, 2011, Barco failed to conduct an inventory and evaluation of all minority personnel for promotional opportunities and failed to encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities as required by 41 CFR § 60-4.3(a)7l.

**Remedy:** Barco will conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities. Barco will ensure this is done at least on an annual basis and maintain documentation.

- 9) **NOV Violation #13:** During the period October 1, 2010 through September 30, 2011, Barco failed to monitor, on a systematic and ongoing basis, seniority practices, job classifications, work assignment and other employment practices to ensure that they did not have a discriminatory effect as required by 41 CFR § 60-4.3(a)7m.

**Remedy:** Barco will develop a system to ensure that seniority practices, job classifications, work assignments and other employment practices do not have a discriminatory effect by continually recording and monitoring the same. Barco will implement this system and must take corrective actions for problems found during this monitoring process in the future.

- 10) **NOV Violation #14:** During the period October 1, 2010 through September 30, 2011, Barco failed to adequately develop a system to review, at least annually, its supervisors' adherence to and performance under the company's EEO policies and obligations as required by 41 CFR § 60-4.3(a)7p.

**Remedy:** Barco will develop and implement a system where it must review its supervisors' adherence to the company's equal employment opportunity and affirmative action obligations and must address any problems identified. These reviews and corrective procedures must be repeated at least annually and written documentation maintained.

- 11) NOV Violation #15: During the period October 1, 2010 through September 30, 2011, Barco failed to make a good-faith effort to meet the utilization goal for females in the Washington SMSA, in accordance with 41 CFR § 60-4.2(d)(1). The female utilization goal and Barco's actual utilization were:

Construction Trade	Goal	Actual Utilization
Laborers	6.9%	EX 7E

Remedy: Barco will make a good faith effort, as described in this Agreement, to meet the utilization of work hour goals (6.9% overall workforce for females) for the crafts performed by Barco. Barco will maintain complete documentation of all good faith efforts and make such documentation available to OFCCP upon request. For clarity, failure to achieve the goal shall not, by itself, indicate noncompliance; only a failure to make good faith efforts shall result in a finding of noncompliance.

- 12) Violation #16: During the period October 1, 2010 through September 30, 2011, Barco failed to prepare and maintain an affirmative action program at each establishment for qualified special disabled veterans, veterans of the Vietnam Era and qualified individuals with disabilities as required by 41 CFR § 60-300.40 and 41 CFR § 60-741.40.

Remedy: Barco will prepare, maintain an affirmative action program at each establishment. The affirmative action program shall set forth the Barco's policies and procedures in accordance with 41 CFR § 60-300.40 and 41 CFR § 60-741.40. This program may be integrated into or kept separate from other affirmative action programs. The affirmative action program shall be reviewed and updated annually by the official designed by the contractor pursuant to 41 CFR § 60-300.44(i) and 41 CFR § 60-741.44(i).

- 13) Violation #17: Barco failed to undertake any outreach or positive recruitment activities that were reasonably designed to effectively recruit qualified covered veterans, or qualified individuals with disabilities, in violation of 41 CFR § 60-300.44(f) and 41 CFR § 60-741.44(f). Specifically, Barco did not provide documentation that it sent job vacancy announcements to recruitment sources for special disabled veterans, covered veterans or qualified individuals with disabilities. In addition, Barco did not provide documentation that it sent written notification of its affirmative action policy to all subcontractors, vendors and suppliers, requesting appropriate action on their part.

Remedy: Barco will undertake appropriate outreach and positive recruitment activities such as those listed in 41 CFR § 60-300.44(f)(2) and 41 CFR § 60-741.44(f)(2) that are reasonably designed to effectively recruit protected veterans and qualified individuals with disabilities. It is not contemplated that the contractor will necessarily undertake all the activities listed in paragraphs (f)(2) or that its activities will be limited to those listed. The scope of Barco's efforts shall depend upon all the circumstances, including Barco's size and resources and the extent to which existing

employment practices are adequate. Barco must 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. Barco must document its outreach and recruitment activities, and retain the records for 3 years pursuant to 41 CFR§ 60-300.44(f)(4) and 41 CFR§ 60-741.44(f)(4). Barco will solicit the assistance and support of the at least following organizations by sending their job vacancy announcements to:

DC Works! One-Stop Career Center  
Paulette Francois  
Deputy Director Workforce Services  
4058 Minnesota Avenue, NE  
Washington, D.C. 20019  
(202) 724-2337

DC Works! One-Stop Career Center  
Stanley K. Williams  
Veterans Representative  
4058 Minnesota Avenue, NE  
Washington, D.C. 20019  
(202) 671-1503

DC Department on Disability Services  
Cathy Anderson, Director  
1125 15th Street, NW  
Washington, D.C. 20005  
(202) 730-1700

#### **PART IV: REPORTS REQUIRED**

Barco must submit the documents and reports described below to:

U.S. Department of Labor  
Office of Federal Contract Compliance Programs  
Attention: Mr. Tom Wells, District Director  
Courthouse Plaza II, Suite 1330,  
2300 Clarendon Boulevard,  
Arlington, VA 22201-3382

Barco must submit four semi-annual progress reports covering each six month period this Agreement is in effect. The first progress report will be due on March 31, 2015 covering the period beginning September 1, 2014 to February 28, 2015. The second progress report will be due on September 30, 2015 covering the period beginning on March 1, 2015 to August 31, 2015. The third progress report will be due on March 31, 2016 covering the period September 1, 2015 to February 29, 2016. The fourth (final) progress report is due on September 30, 2016 covering the period March 1, 2016 to August 31, 2016. Barco will submit the following in each progress report (unless indicated otherwise):

1. Documentation of monetary payments made to all individuals and Eligible Class Members as specified in Attachments A and D and in the remedies for the Hiring and Compensation discrimination violations, described above, and Hostile Work Environment Discrimination Violations respectively. The documentation shall include copies of all forms (Attachments B, C, E and F) completed by individuals and Class Members and returned to Barco. The documentation shall also include all canceled checks or other equivalent documentation reflecting payment of monetary settlement amounts to individuals hired pursuant to the remedy for NOV Violation #1 and to Eligible Class Members pursuant to the remedy for NOV Violation #3.
2. Documentation of the training provided to Barco managers and non-managerial employees, pursuant to the remedies for Hiring, Compensation, and Hostile Work Environment above (NOV Violations #1, 3 and 4). This documentation must identify the following:
  - Time and place of the training;
  - Name and job title of the person(s) who conducted the training;
  - Name, job title, and signature of all Barco managers and non-managerial employees who attend the training;
  - Subject matter of the training, including any handouts, visual presentations or other materials; and
  - The location and duration of the training.
3. Documentation of Barco's new compensation and hiring policies and procedures for all job groups, including but not limited to steps in the hiring process, determinations of

hourly rates, job assignments, promotions, bonuses, and other related processes and procedures. (First report only)

4. Documentation of pay data to OFCCP for review. Barco will provide OFCCP with the following information (or an extract of the payroll records in electronic form that would permit OFCCP to calculate the information):
  - a. The total number of Laborer hours on projects within the Washington D.C. SMSA by race and ethnicity and by classification during the prior six month period;
  - b. The total amount of wages paid to Laborers by race and ethnicity on projects within the Washington D.C. SMSA and by classification during the prior six month period;
  - c. For any projects not subject to the Laborer wages set in the Wage Rate Table, the total number of Laborer hours by race and ethnicity and by classification during the prior six month period, and the total amount of wages paid to Laborers by race and ethnicity (and by classification if relevant) during the prior six month period, broken out separately for each project.
  - d. Copies of any written objective qualifications or criteria used to make wage determinations or project assignments for Laborers.
5. Barco's written policy designed to prevent harassment, intimidation, coercion and discrimination, pursuant to the remedy for Violation #4. (First report only)
6. Documentation demonstrating compliance with each of the remedies described above for the EEO and Affirmative Action Violations (NOV Violation #6 through #17), including:
  - a. A current list of minority and women's recruitment sources and any written notification regarding employment opportunities sent to minority and female recruitment sources and community organizations;
  - b. A current list of the names, addresses and telephone numbers of each minority and female off-the-street applicant and referrals from recruitment sources;
  - c. Confirmation that Barco's EEO policy has been (i) provided to all employees and (ii) posted on bulletin boards accessible to all employees at each location where construction work is performed to the extent Barco is provided with a designated location at such construction site;
  - d. All written communication in regard to its EEO policy to all contractors and subcontractors Barco is or anticipates doing business with;
  - e. Documentation of recruitment efforts to minority and female community organizations, to schools with minority and female students, and to minority and female recruitment and training organizations serving Barco's recruitment area and employment needs, made no later than one month prior to the date for the acceptance of applications of laborer positions;
  - f. Barco's annual inventory and evaluation of all minority and female personnel for promotional opportunities;
  - g. Documentation of good-faith efforts to meet the utilization goal for females in the Washington SMSA; and
  - h. Barco's affirmative action program for protected veterans and qualified

individuals with disabilities, and documentation of Barco's external dissemination of policy, outreach, and positive recruitment, including documentation that Barco sent job vacancy announcements to recruitment sources for protected veterans, and/or qualified individuals with disabilities.

7. An electronic spreadsheet showing, for all Barco employees engaged in construction trades: name, race, gender, job title, hire date, termination date, and hourly rate.
8. Electronic copies of payroll records (by project) applicable to all projects (Federal, Federally-assisted, and Non-Federal) in the Washington SMSA for the covered period.

Barco will retain all records and data pertinent to the violations resolved by this Agreement and/or used to prepare required reports until this Agreement expires or as long as required by OFCCP's regulations, whichever date occurs later.

**PART V: Signatures**

This Conciliation Agreement is hereby executed by and between the Office of Federal Contract Compliance Programs and Barco Enterprises, Inc. located at 11200 Pulaski Highway, White Marsh, MD 21162.

EX 7C  


BART HARRISON  
President  
Barco Enterprises, Inc.  
11200 Pulaski Highway  
White Marsh, MD 21162

EX 7C  


MICHELE HODGE  
Regional Director  
Office of Federal Contract  
Compliance Programs  
Mid-Atlantic Regional Office

DATE: July 25, 2014

DATE 08.01.14

**ATTACHMENT A  
BARCO - BLACK CLASS MEMBERS**

FIRST NAME	LAST NAME	
<b>EX 7C</b>		

FIRST NAME	LAST NAME	
<b>EX 7C</b>		

Pages 22 – 34 of Attachment A were all redacted under Exemption 7C and are being withheld to reduce the size of this document. Please notify OFCCP if you would like to see these redacted pages.

ATTACHMENT B

**NOTICE OF POTENTIAL EMPLOYMENT  
OPPORTUNITY AND MONETARY SETTLEMENT**

Dear:

Barco Enterprises, Inc., an environmental remediation company ("Barco"), and the U.S. Department of Labor's Office of Federal Contract Compliance Programs ("OFCCP") have entered into a Conciliation Agreement ("Agreement") to resolve alleged disparities in selecting applicants for laborer positions that OFCCP found during a compliance review of Barco's construction worksites in the Washington, DC, metropolitan area. As you were registered at a One-Stop Career Center in the Washington, DC, metropolitan area during the period of October 1, 2010 through September 30, 2011, and were not hired by Barco, you may be eligible for employment as a laborer with Barco in the future.

In accordance with the Agreement, Barco will be hiring laborers as vacancies occur. If, and only if, you are hired as a laborer by Barco as part of the Agreement, in addition to your normal compensation, you will receive a monetary settlement amount of \$ \_\_\_\_\_, less lawful payroll deductions. **In order to be eligible for employment with Barco and to receive a monetary settlement amount under the terms of the Agreement, you must complete, sign, and return the enclosed Information Verification and Employment Interest Form and return them within 30 days of this letter's postmark to:**

NAME  
POSITION  
Barco Enterprises, Inc.  
11200 Pulaski Highway  
White Marsh, Maryland, 21162

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

By entering into the Agreement, Barco has not admitted, nor has there been any adjudicated finding, that Barco violated any laws when it did not hire you for a laborer position during the period from October 1, 2010 through September 30, 2011. Barco has entered into this Agreement for its convenience and to resolve the matter without further legal proceedings.

It is not certain that you will receive a job offer. However, if you are still interested in employment with Barco, please indicate so on the enclosed Information Verification and Employment Interest Form. If you are hired pursuant to this Agreement, you will be provided with retroactive seniority for purposes of benefits. If you have any questions, you may call [NAME] at Barco at [PHONE NUMBER], or OFCCP District Director Tom Wells toll free at (844) 438-0272. Your call will be returned as soon as possible.

**IF YOU FAIL TO COMPLETE AND RETURN THE ENCLOSED DOCUMENTS TO BARCO  
WITHIN 30 DAYS OF THE DATE THE ENVELOPE CONTAINING THIS NOTICE WAS**

POSTMARKED, YOU WILL NOT BE ELIGIBLE FOR EMPLOYMENT WITH BARCO OR TO RECEIVE A MONETARY SETTLEMENT PAYMENT.

YOU ARE ONLY ELIGIBLE TO RECEIVE A MONETARY SETTLEMENT PAYMENT IF YOU ARE HIRED BY BARCO PURSUANT TO THE AGREEMENT BETWEEN BARCO AND OFCCP.

Sincerely,

(NAME)  
Enclosures

ATTACHMENT C

**INFORMATION VERIFICATION & EMPLOYMENT INTEREST FORM**

**You must complete this form in order to be eligible for employment opportunities and a monetary settlement under the terms of the Conciliation Agreement ("Agreement") between Barco Enterprises, Inc. ("Barco") and the Department of Labor's Office of Federal Contract Compliance Programs ("OFCCP"). Please print legibly, except for the signature.**

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

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

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

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

Please indicate below whether you are currently interested in employment in a Laborer position with Barco.

- Yes, I am still interested in employment with Barco as a Laborer.
- No, I am not currently interested in employment with Barco as a Laborer.

**IF YOU FAIL TO COMPLETE AND RETURN THE ENCLOSED DOCUMENTS TO THE ADDRESS BELOW WITHIN 30 DAYS OF THE DATE THE ENVELOPE CONTAINING THIS NOTICE WAS POSTMARKED, YOU WILL NOT BE ELIGIBLE TO BE CONSIDERED FOR A JOB OFFER OR TO RECEIVE A MONETARY SETTLEMENT PAYMENT.**

NAME  
POSITION  
Barco Enterprises, Inc.  
11200 Pulaski Highway  
White Marsh, Maryland, 21162

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

\_\_\_\_\_  
Signature

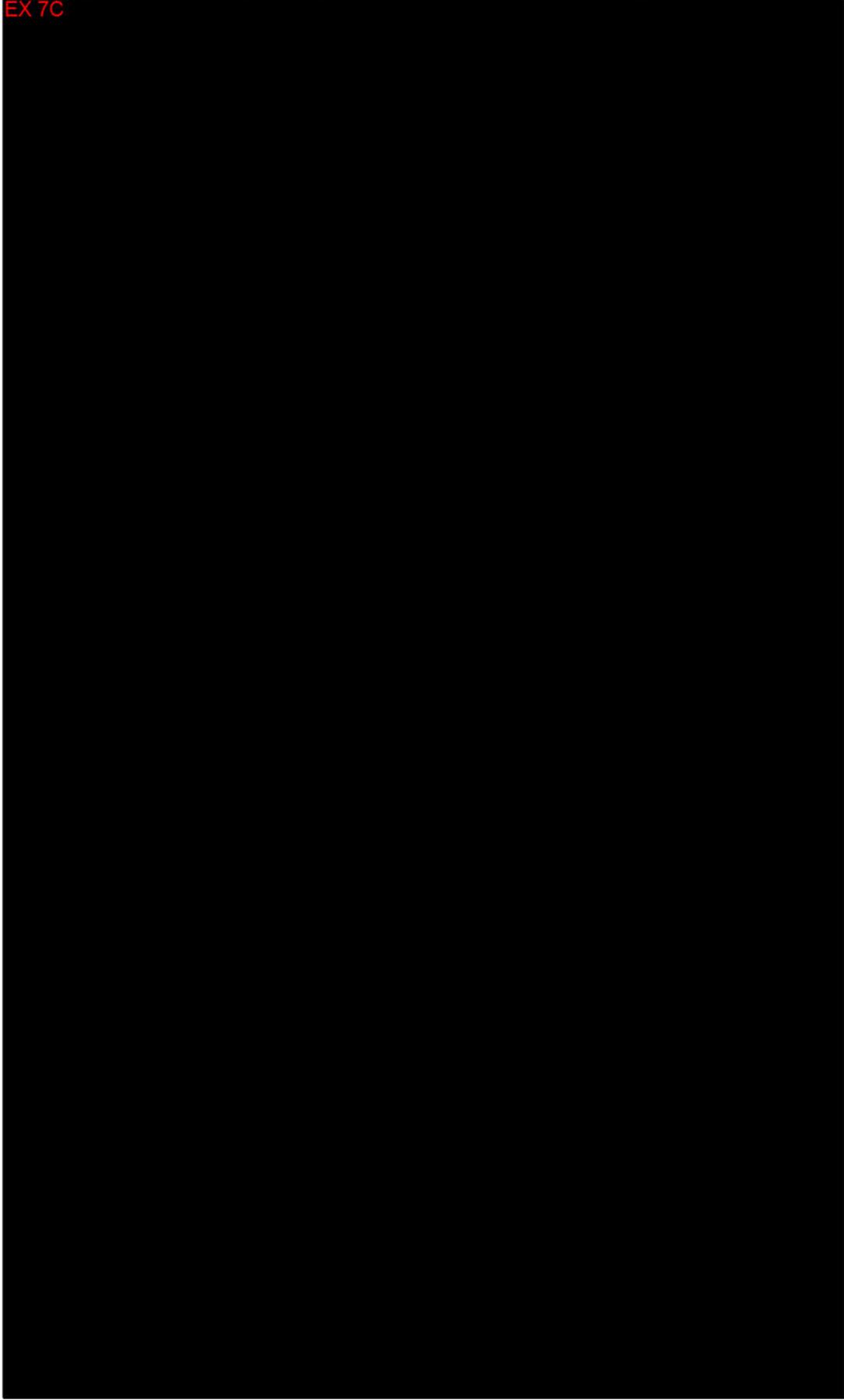
\_\_\_\_\_  
Date

BARCO  
ATTACHMENT D

EmployeeName

Back wages

EX 7C



ATTACHMENT E

**NOTICE TO AFFECTED CLASS MEMBERS**

Dear :

Barco Enterprises, Inc. ("Barco") and the Department of Labor's Office of Federal Contract Compliance Programs ("OFCCP") have entered into a Conciliation Agreement ("Agreement") to remedy violations of 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") that OFCCP found during a compliance review of Barco's worksites in the Washington, DC, metropolitan area. Barco has not admitted to any violation of law and there has not been any adjudicated finding that Barco violated any laws. OFCCP and Barco entered into the Agreement to resolve the matter without resorting to further legal proceedings.

You have been identified as one of the individuals who worked as a laborer for Barco during the period from October 1, 2010 through September 30, 2011. Under the Agreement, you may be eligible to receive a share of a monetary settlement amount representing back pay (less deductions required by law) and interest. Under the terms of the Agreement, you will receive two payments, one in approximately nine (9) months and a second in approximately eighteen (18) months. **In order to be eligible for a payment, you must complete, sign, and return the enclosed Information Verification Form and return them within 30 days of this letter's postmark to:**

NAME  
POSITION  
Barco Enterprises, Inc.  
11200 Pulaski Highway  
White Marsh, Maryland, 21162

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

If you have any questions you may call [NAME] at Barco at [PHONE NUMBER], or OFCCP District Director Tom Wells toll free at (844) 438-0272. Your call will be returned as soon as possible.

**IF YOU FAIL TO COMPLETE AND RETURN THE ENCLOSED DOCUMENT(S) TO BARCO WITHIN 30 DAYS OF THE DATE THE ENVELOPE CONTAINING THIS NOTICE WAS POSTMARKED, YOU WILL NOT BE ELIGIBLE TO RECEIVE A PAYMENT.**

Sincerely,

(BARCO NAME)

Enclosures

Information Verification Form

ATTACHMENT F

**INFORMATION VERIFICATION FORM**

**You must complete this form in order to be eligible for the monetary payment under the terms of the Conciliation Agreement (“Agreement”) between Barco Enterprises, Inc. (“Barco”) and the Department of Labor’s Office of Federal Contract Compliance Programs (“OFCCP”). Please print legibly, except for the signature.**

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

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

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

Notify Barco 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): \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_

**IF YOU FAIL TO COMPLETE AND RETURN THE ENCLOSED DOCUMENTS TO THE ADDRESS BELOW WITHIN 30 DAYS OF THE DATE THE ENVELOPE CONTAINING THIS NOTICE WAS POSTMARKED, YOU WILL NOT BE ELIGIBLE TO RECEIVE A PAYMENT.**

NAME  
POSITION  
Barco Enterprises, Inc.  
11200 Pulaski Highway  
White Marsh, Maryland, 21162

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

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

## Attachment G

### Barco

Addendum A  
Agreement for  
Maryland, Virginia & Washington DC

#### Classification

##### **Demolition Laborer I**

**\$11.00/hr**

All work associated with the interior and exterior demolition of an existing structure or building; does not include lead, asbestos and/or mold abatement or operation of a cutting torch or operation of equipment. Worker has under 12 months in the demolition industry

##### **Demolition Laborer II**

**\$12.50/hr**

All work associated with the interior and exterior demolition of an existing structure or building; does not include lead, asbestos and/or mold abatement or operation of a cutting torch or operation of equipment. Worker has over 12 months in the demolition industry

##### **Torch/Cut & Burn Laborer**

**\$15.00/hr**

All work associated with the cutting and burning of material that requires the use of a cutting torch

##### **Abatement Laborer I**

**\$12.75/hr**

All work associated with the abatement of asbestos, lead, and mold and the Worker has under 12 months experience

##### **Abatement Laborer II**

**\$14.25/hr**

All work associated with the abatement of asbestos, lead, and mold and the Worker has over 12 months, experience

##### **Small Equipment Operator**

**\$17.25/hr**

All work associated with the use of a bobcat, forklift and other machines of similar size and power

#### **FRINGE RATES**

##### Fund

Health & Welfare	\$1.75/hr
Training	\$.10/hr
LECET	\$.10/hr
<b>Total</b>	<b>\$1.95/hr</b>

Provided, that each bargaining unit employee can voluntarily decline to participate in the Health & Welfare Fund and to have the \$1.75 Health & Welfare contribution paid in cash.

Employee Deductions