

**Conciliation Agreement
Between the U.S. Department of Labor
Office of Federal Contract Compliance Programs
and
Papich Construction Company, Inc.
800 Ferroll Road
Grover Beach, California 93448**

PART I: General Provisions

1. This Agreement is between the Office of Federal Contract Compliance Programs (hereinafter OFCCP) and Papich Construction Company, Inc. (hereinafter Papich) located at 800 Ferroll Road, Grover Beach, California 93448.
2. The violations identified in this Agreement were found during a compliance evaluation of Papich which began on July 29, 2011 and they were specified in a Notice of Violation issued on February 3, 2012. OFCCP alleges that Papich has violated Executive Order 11246, as amended and implementing regulations at 41 CFR Chapter 60 due to specific violations cited in Part II below.
3. This Agreement does not constitute an admission by Papich of any violation of Executive Order 11246, as amended, and implementing regulations.
4. The provisions of this Agreement will become part of Papich's Affirmative Action Program (hereinafter AAP). Subject to the performance by Papich of all promises and representations contained herein and in its AAP, all named violations in regard to the compliance of Papich with all OFCCP programs will be deemed resolved. However, Papich is advised that the commitments contained in this Agreement do not preclude future determinations of noncompliance based on a finding that the commitments are not sufficient to achieve compliance.
5. Papich agrees that OFCCP may review compliance with this Agreement. As part of such review, OFCCP may require written reports, inspect the premises, interview witnesses, and examine and copy documents, as may be relevant to the matter under investigation and pertinent to Papich compliance. Papich shall permit access to its premises during normal business hours for these purposes.
6. Nothing herein is intended to relieve Papich 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 the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (38 U.S.C. 4212), and implementing regulations, or any other equal employment statute or executive order or its implementing regulations.
7. Papich agrees that there will be no retaliation of any kind against any beneficiary of this Agreement or against any person who has provided information or assistance, or who files a complaint, or who participates in any manner in any proceedings under Executive Order

11246, as amended, and/or 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).

8. This Agreement will be deemed to have been accepted by the Government on the date of signature by the District Director for OFCCP, unless the Director or Regional Director for OFCCP indicates otherwise within 45 days of the District Director's signature on this Agreement.
9. If at any time in the future, OFCCP believes that Papich has violated any portion of this Agreement during the term of this Agreement, Papich will be promptly notified of that fact in writing. This notification will include a statement of the facts and circumstances relied upon in forming that belief. In addition, the notification will provide Papich with 15 days from receipt of the notification to respond in writing, except where OFCCP alleges that such a delay would result in irreparable injury.

Enforcement proceedings for violation of this Agreement may be initiated at any time after the 15-day period has elapsed (or sooner, if irreparable injury is alleged) without issuing a Show Cause Notice.

Where OFCCP believes that Papich has violated this Conciliation Agreement, OFCCP may seek enforcement of this Agreement itself and shall not be required to present proof of the underlying violations resolved by this Agreement.

Liability for violation of this Agreement may subject Papich to sanctions set forth in Section 209 of the Executive Order and/or other appropriate relief.

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PART II: Specific Provisions

1. **Violation:** Papich failed to provide equal opportunity for females based on gender in its work hour distribution process as required by 41 CFR 60-1.4(a)(1) and 41 CFR 60-20.3.

a) During the period of August 3, 2009 through July 31, 2011, 4 (b) (7)(C) received less work hours than their male counterparts.

b) During the period of June 5, 2011 through July 31, 2011, 1 female (b) (7)(C) received less work hours than her male counterparts.

Personnel records, interviews of managers and employees and the statistical data gathered for the above review period show that Papich failed to provide female (b) (7)(C) the same opportunities afforded to their male counterparts.

Remedy: Papich will revise its work assignment practices and procedures to ensure that the female (b) (7)(C) are afforded the same opportunities their male counterparts. Papich agrees to provide the following "make-whole relief" to the female (b) (7)(C) referenced above:

a) **Location and Notification:** Within 15 days after the effective date of this Agreement, Papich agrees to notify each class member ¹ of their rights, under this Agreement by sending a certified letter ² to their address notifying them of this Conciliation Agreement. Papich will also include a Release of Claims ³ with the notification letter. The class members must return the completed Release to Marcia Papich at Papich within 15 days of receipt of the certified letter or forfeit any consideration for back pay.

Papich will promptly notify OFCCP within 15 days after its initial mailing to the class members if someone could not be located. OFCCP will have an additional 15 days from receipt of notice from Papich to locate the class members and to provide contact information to Papich. Within 3 days of receipt of OFCCP's contact information, Papich will notify the class members and again provide a Release form. The class members will have 30 days after receipt of the notification letter to respond.

If Papich does not receive a response within 30 days of the class members receipt of the notification letter, such lack of a response will be deemed to constitute a rejection of any financial settlement set forth in paragraph (b).

Financial Settlement: The financial settlement of \$22,613.53 for (b) (7)(C) is a negotiated amount that represents total back pay in the amount of \$14,611.33 and interest in the amount of \$890.20 and back fringe pay of \$7,112.00 for a total financial settlement of \$22,613.53.¹

¹ Attachment A – Listing of Class Members

² Attachment B – Notification Letter

³ Attachment C – Release of Claims

The financial settlement for the (b) (7)(C) of \$1,524.96 is a negotiated amount that represents total back pay in the amount of \$1,494.00 and interest in the amount of \$30.06 for a total financial settlement of \$1,524.96.¹ Such payments will constitute a full settlement of all financial claims related to this alleged violation. Papich will submit to the OFCCP documentation of payment of the financial settlement in accordance with the terms contained in "PART III: Reporting", of this Agreement. The payment will be provided to the class members within ninety (90) days after the effective date of this agreement.

- b) **Employment Process:** Papich agrees to take proactive measures to ensure that this violation does not recur. Within 45 days from the effective date of this Agreement, Papich agrees to do the following:
1. Continue reviewing its work assignment criteria and ensure that they are in technical compliance with the Uniform Guidelines on Job Assignments Procedures as provided in 41 CFR 60-20.3.
 2. Continue ensuring that job criteria are uniformly applied to all employees.
 3. Provide training on compliance with Executive Order 11246, as amended, and its implementing regulations, to supervisory and management employees involved in Papich's work assignment process.
 4. Review its assignment procedures annually to ensure nondiscriminatory assignment practices are followed.
 5. Continue performing adverse impact analyses, at least annually, to oversee and monitor its assignment process and results.
2. **Violation:** During the review period of August 3, 2009 through July 31, 2011, Papich failed to make good faith efforts to recruit qualified female and minority applicants for Laborers, Operators, Truck Drivers, and Cement Masons in its construction trade craft openings in the San Luis Obispo, California MSA, as required by the Equal Employment Opportunity (EEO) Construction Contract Specifications set forth at 41 CFR 60-4.2 (d) (2) and 41 CFR 60-4.3. Specifically, Papich failed to fully implement the following recruitment steps:
- a) Establish and maintain a current list of minority and female recruitment sources, provide written notification to these sources and to community organizations when Papich or its unions have employment opportunities available, and maintain a record of the organizations' responses as required by 41 CFR 60-4.3(a) 7.b.
 - b) 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 Papich's recruitment area and employment needs. Papich failed to send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process no later than one month prior to the date for

the acceptance of applications for apprenticeship or other training by any recruitment source as required by 41 CFR 60-4.3(a) 7.i.

Remedy: Papich agrees to perform the following for its Laborer, Operator, Truck Driver, and Cement Mason construction trade craft openings:

- a) Establish and maintain a current list of minority and female recruitment sources, provide written notification to those resources when projects begin or employment opportunities are available, and maintain a record of the organizations' responses.
- b) 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 Papich's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, Papich shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

3. **Violation:** Papich failed to disseminate and review its EEO policy as follows:

- a) Review, at least once a year, the company's EEO policy and affirmative action plan with all employees having any responsibility for hiring, assignments, layoff, terminations, or other employment decisions including specific review of these items with onsite supervisory personnel such as Superintendents, Foremen, etc., prior to the initiation of construction work at any job site. Papich failed to make a written record identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter as required by 41 CFR 60-4.3(a) 7.g.
- b) Disseminate its EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting it in meeting its EEO obligations; and by specific review of the policy with all management personnel and with all minority and female employees at least once a year as required by 41 CFR 60-4.3 (a) 7.f.
- c) Conduct a review, at least annually, of all supervisors' adherence to and performance under Papich's EEO policies and affirmative action obligations as required by 41 CFR 60-4.3(a) 7.p.

Remedy: Papich agrees to disseminate and review its EEO policy as follows:

- a) Review, at least once a year, the company's EEO policy and affirmative action obligations with all employees having any responsibility for hiring, assignments, layoff, terminations, or other employment decisions including specific review of these items with onsite supervisory personnel such as Superintendents, Foreman, etc., prior to the initiation of construction work at any job site. A written record shall be made

and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.

- b) Disseminate its EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting it in meeting its EEO obligations; and by specific review of the policy with all management personnel and with all minority and female employees at least once a year.
- c) Review all supervisors' adherence to and performance under Papich's EEO policies and affirmative action obligations at least once a year. Papich must have copies of memos, letters, reports, minutes of meetings, or interviews with the supervisors regarding their employment practices as they relate to the contractor's EEO Policy, and affirmative action obligations, and written evidence that supervisors were notified when their employment practices adversely or positively impacted on the contractor's EEO and affirmative action commitments.
- 4. **Violation:** Papich failed to conduct an audit and monitor its personnel operations to ensure that seniority practices, job classifications, work assignments, and other personnel practices do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and its obligations under these specifications are being carried out as required by 41 CFR 60-4.3 (a) 7.m.

Remedy: Papich agrees to audit and monitor its personnel operations by maintaining evidence (letters, memos, personnel files, reports) of the following: (a) an annual inventory and evaluation of all minority and female personnel for promotional opportunities and how these employees were encouraged to seek or to prepare for such opportunities by appropriate training; (b) collective bargaining agreements containing an EEO Clause and do not operate to exclude minorities and women; (c) the EEO Officer reviews all monthly work force reports, hiring, terminations, and training provided on-the-job; (d) the EEO Officer's job description identifies his or her responsibility for monitoring all employment activities for discriminatory effects; and (e) initiation of Remedy whenever a possible discriminatory effect has been identified.

Papich agrees that these violations will not be repeated.

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PART III: Reporting

In order for the OFCCP to monitor compliance with this Conciliation Agreement, Papich agrees to furnish the U.S. Department of Labor, Office of Federal Contract Compliance Programs, Los Angeles District Office, 1640 S Sepulveda Blvd, Suite 440, Los Angeles, California 90025, with the following report:

<u>Report Due Date</u>	<u>Period Covered</u>
October 15, 2012	Effective date of Agreement through September 30, 2012

The progress report shall contain the following:

1. Documentation of monetary relief provided to the class members as specified in subparagraphs (b) of the Remedy to Violation 1. The documentation should include copies of all duly executed Releases and cancelled checks disbursed by Papich to the class members or other equivalent documentation verifying that they were paid.
2. Documentation that training on the work assignment processes was provided to Papich management and that such training addressed compliance with Executive Order 11246, as amended, and its implementing regulations. Include the date and location of training, names and positions of trainers, the names and positions of the managers who attended, and copies of training materials disseminated to attendees.
3. The total number of applicants and hires (applicant flow and hire logs) for the review period. The applicant log will show the name, specific race/ethnicity, gender, date of application, position applied for, referral source, and disposition of each applicant for each phase of the selection process. The hire log must show the name, specific race/ethnicity, gender, referral source, date of hire, and job title and classification.
4. Documentation as stated in Remedy 2 of outreach and recruiting for females and minorities conducted internally and externally. This should include copies of recruiting efforts and the results.
5. Documentation as stated in Remedy 3 of the dissemination of the company's EEO policy and affirmative action plan with external and all supervisory personnel and accountability through performance appraisals.
6. Documentation as stated in Remedy 4 of the continual monitoring of all personnel and employment related activities to ensure that the EEO policy that seniority practice, job classifications, work assignments, and other personnel practices do not have a discriminatory effect.

You may also include any other information you have prepared that would assist us in understanding and evaluating your Affirmative Action commitments.

Termination Date:

This Agreement shall remain in effect until November 30, 2012 or until OFCCP's written acceptance of the Progress Report, whichever date is later.

PART IV: Signatures

This Conciliation Agreement is hereby executed by and between the Office of Federal Contract Compliance Programs and Papich Company located at 800 Ferroll Road, Grover Beach, California 93433.

3-30-12
Date



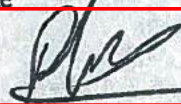
JASON PAPICH
President
Papich Construction Company
800 Ferroll Road
Grover Beach, California

4/2/12
Date



Compliance Officer
Office of Federal Contract
Compliance Programs
Los Angeles District Office

4/23/2012
Date



ROBERT DOLES
Assistant District Director
Office of Federal Contract
Compliance Programs
Los Angeles District Office

4/23/2012
Date



LANE SUHR
District Director
Office of Federal Contract
Compliance Programs
Los Angeles District Office

Attachment A

Employee	Job Title	Back Pay	Interest	Fringe	Total
(b) (7)(C)					
TOTAL		\$16,106.24	\$920.26	\$7,112.00	\$24,138.50

Attachment B

NOTIFICATION LETTER

Certified Mail

Return Receipt Request

[Name]

Dated:

[Street]

[City, State, Zip Code]

Dear [Ms. /Mr.] [Name]:

Papich Construction Company located at 800 Farroll Road, Grover Beach, California 93433 and the Department of Labor's Office of Federal Contract Compliance Programs (hereinafter "OFCCP") have entered into a Conciliation Agreement (hereinafter "CA") to resolve a disparity in work assignment hours in (b) (7)(C) between August 3, 2009 through July 31, 2011. You have been identified as an individual who was affected by the disparity during that time period.

By entering into this Agreement, Papich Construction Company has not admitted nor has there been any adjudicated finding that Papich Construction Company violated any laws when it did not equally distribute work assignment hours. Papich Construction Company has entered into this CA for its convenience and to resolve the matter without further legal proceeding.

As part of this CA, you are also eligible to receive a monetary distribution of \$ _____, subject to lawful payroll deductions. Under the terms of this CA, you may receive a payment up to six (6) months from the date of this letter. Papich Construction requests that you return the Release of Claims within fifteen (15) days of receipt. In order to be eligible for this distribution, you must execute and return the Release of Claims, within thirty (30) days of your receipt of this letter to:

**Marcia Papich
EEO Officer
P.O. Box 2210
Pismo Beach, California 93448**

Attachment B

**NOTIFICATION LETTER
(Continued)**

If you fail to return any of the required documentation within the specified timeframe, you will be ineligible for monetary and/or other relief provided by this CA.

If you have any questions, you may call me at (805) 473-3016 and your call will be returned as soon as possible.

Sincerely,

Marcia Papich, EEO Officer
Papich Construction Company

cc: (b) (7)(C) Compliance Officer
Los Angeles District Office
U.S. Department of Labor - OFCCP

Enclosures: Release of Claims

Attachment C

RELEASE OF CLAIMS

In consideration of the payment by Papich Construction Company of at least \$ _____, less deductions required by law, which I agree is acceptable, and also in consideration of the Conciliation Agreement between Papich Construction Company and the Office of Federal Contract Compliance Programs (hereinafter "OFCCP"), I _____ agree to the following:

I.

I hereby waive, release and forever discharge Papich Construction Company and its current and former officers, directors, agents, representatives, servants, employees, attorneys, subsidiaries, departments and units, sister corporations, parent corporations, affiliates, joint ventures, and related entities, as well as its predecessors, successors and assigns (hereinafter collectively referred to as "Papich Construction Company") 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, and/or 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), which I or my representatives (heirs, executors, administrators, or assigns) have or may have which relate in any way to my not being selected for employment at any time prior to the effective date of this Release.

II.

I understand that if I am concerned about how the process described in this Release applies to me, I may contact the OFCCP for assistance:

(b) (7)(C) Compliance Officer
U. S. Department of Labor/OFCCP
1640 South Sepulveda, Suite 440
Los Angeles, California 90025
Telephone Number: (b) (7)(C)

III.

I understand that Papich Construction Company denies that it treated me unlawfully or unfairly in any way and that Papich Construction Company entered into the above-referenced Conciliation Agreement with OFCCP in the spirit of conciliation and to bring closure to the Compliance Review initiated by OFCCP on July 29, 2011. I further agree that the payment of the aforesaid sum by Papich Construction Company to me will not be offered or admitted as evidence in any proceeding or construed as an admission of any liability by Papich Construction Company.

IV.

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. I further declare that I have decided of my own free will to sign this Release.

V.

I understand that if I do not sign this Release and return it to Papich Construction Company, within 30 days of my receipt of this Notice, I will not be entitled to receive the payment (less deductions required by law) from Papich Construction Company.

IN WITNESS WHEREOF, I have set my hand to this Release on the _____ day of _____, 2012.

Signature