

Conciliation Agreement
Between the
U.S. Department of Labor Office of Federal Contract Compliance Programs
and
Colonna's Shipyard, Inc.

I. Preliminary Statement

The Office of Federal Contract Compliance Programs (OFCCP) evaluated the Colonna's Shipyard, Inc. (Colonna's) establishment located at 400 E Indian River Road, Norfolk, VA 23523, beginning on June 11, 2020. OFCCP found that Colonna's failed to comply with Executive Order 11246, as amended (E.O. 11246 or the Executive Order), Section 503 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 793 (Section 503), and/or the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, 38 U.S.C. § 4212 (VEVRAA) and their respective implementing regulations at 41 C.F.R. Parts 60-1, -2, -300, -741.

OFCCP notified Colonna's of the specific violations and the corrective actions required in a Notice of Violation (NOV) issued on February 23, 2021.

In the interest of resolving the violations without engaging in further legal proceedings and in exchange for sufficient consideration described in this document, OFCCP and Colonna's enter into this Conciliation Agreement (Agreement) and its attachments, and the parties agree to all the terms therein.

II. General Terms and Conditions

1. In exchange for Colonna's fulfillment of all its obligations in this Agreement, OFCCP will not institute administrative or judicial enforcement proceedings under E.O. 11246, Section 503, and/or VEVRAA based on the violation(s) alleged in the NOV. However, OFCCP retains the right to initiate legal proceedings to enforce this Agreement if Colonna's violates any provision of this Agreement, as set forth in Paragraph 11, below. Nothing in this Agreement precludes OFCCP from initiating enforcement proceedings based on future compliance evaluations or complaint investigations.
2. OFCCP may review Colonna's compliance with this Agreement. As part of this review, OFCCP may require written reports, inspect the premises, interview witnesses, and examine and copy documents. Colonna's will permit access to its premises during normal business hours for these purposes and will provide OFCCP with all hard copy or electronic reports and documents OFCCP requests, including those specified in this Agreement.
3. Nothing in this Agreement relieves Colonna's of its obligation to fully comply with the requirements of E.O. 11246, Section 503, VEVRAA, their implementing regulations, or other applicable laws requiring nondiscrimination or equal employment opportunity through affirmative action.

4. Colonna's agrees that it will not retaliate against any potential or actual beneficiary of this Agreement or against any person who files a complaint, who has provided information or assistance, or who participates in any manner in any proceeding in this matter.
5. The parties understand the terms of this Agreement and enter into it voluntarily.
6. This Agreement constitutes the entire Agreement and represents the complete and final understanding of the parties. This Agreement contains all of the terms binding the parties and it supersedes all prior written and oral negotiations and agreements. Any modifications or amendments to this Agreement must be agreed upon in writing and signed by all parties. If an administrative error is found, OFCCP will work in good faith with all parties to make the corrections.
7. This Agreement becomes effective on the day it is signed by the Acting Assistant District Director (Effective Date).
8. If one or more provisions of this Agreement is deemed unlawful or unenforceable, the remaining provisions will remain in full force and effect.
9. This Agreement will expire sixty (60) days after Colonna's submits its final progress report required in Section IV, below, unless OFCCP notifies Colonna's in writing before the expiration date that Colonna's has failed to fulfill all of its obligations under the Agreement. In this instance, the Agreement is automatically extended until the date that OFCCP determines that Colonna's has met all of its obligations under the Agreement.
10. If Colonna's violates this Agreement:
 - a. The procedures at 41 C.F.R. 60-1.34, 41 C.F.R. 60-300.63, and/or 41 C.F.R. 60-741.63 will govern:
 - i. OFCCP will send Colonna's a written notice stating the alleged violation(s) and summarizing any supporting evidence.
 - ii. The Colonna's shall have fifteen (15) days from receipt of the notice to respond, except in those cases in which such a delay would result in irreparable injury to the employment rights of affected employees or applicants.
 - iii. If Colonna's 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.
 - iv. In the event of a breach of this Agreement by the Colonna's, OFCCP may elect to proceed to a hearing on the entire case and seek full make-whole relief, and not be limited to the terms in the Agreement.

- b. Colonna's may be subject to the sanctions set forth in Section 209 of the Executive Order, 41 C.F.R. 60-1.27, 41 C.F.R. 60-741.66, or 41 C.F.R. 60-300.66, and/or other appropriate relief for violating this Agreement.
- 11. Colonna's does not admit any violation of the Executive Order, Section 503 or VEVRAA, nor has there been an adjudication on the merits regarding any such violation.
- 12. OFCCP may seek enforcement of this Agreement itself and is not required to present proof of any underlying violations resolved by this Agreement.
- 13. The parties understand and agree that nothing in this Agreement is binding on other governmental departments or agencies other than the United States Department of Labor.
- 14. Each party shall bear its own fees and expenses with respect to this matter.
- 15. This Agreement is limited to the facts of this case. Neither this Agreement, nor any part of the negotiations that occurred in connection with this Agreement, shall constitute admissible evidence with respect to any OFCCP policy, practice or position in any lawsuit, legal proceeding, administrative proceeding, compliance evaluation, or audit, except for legal or administrative proceedings concerning the enforcement or interpretation of this specific Agreement.
- 16. All references to "days" in this Agreement are calendar days. If any deadline for an obligation scheduled to be performed under this Agreement falls on a weekend or a Federal holiday, that deadline will be extended to the next business day.

III. Technical Violations and Remedies

- 1. **VIOLATION:** Colonna's failed to maintain its current AAP and documentation of its good faith effort, as required by 41 CFR 60-1.12(b).

REMEDY: Colonna's will maintain its current AAP and documentation of its good faith efforts, as required by 41 CFR 60-1.12(b).

- 2. **VIOLATION:** During the period January 1, 2019, through December 31, 2019, Colonna's failed to keep and preserve complete and accurate personnel and employment records, in violation of 41 CFR 60-1.12(a) and (e). Specifically, Colonna's failed to maintain acceptable data on its employment activity (applicants, hires, promotions, and terminations) for the immediately preceding AAP year. Colonna's also failed to maintain acceptable employee-level compensation data for all employees.

REMEDY: Colonna's will keep and preserve complete and accurate personnel and employment records, in accordance with 41 CFR 60-1.12(a) and (e), and will keep and preserve those records for a period of not less than two years from the date of the making of the record or the personnel action, whichever occurs later. However, if Colonna's has a total workforce of 150 or fewer employees or does not have a government contract of at

least \$150,000, the minimum record retention period shall be one year from the making of the record or the personnel action, whichever occurs later, as permitted by 41 CFR 60-1.12(a).

3. **VIOLATION:** During the period January 1, 2019, through December 31, 2019, Colonna's failed to document all activities it undertook to comply with its external outreach and recruitment efforts; and to maintain those documents for a period of three (3) years, in accordance with 41 CFR 60-300.44(f)(4).

REMEDY: Colonna's will document all activities it undertakes to comply with its external outreach and recruitment efforts; and to maintain those documents for a period of three (3) years, in accordance with 41 CFR 60-300.44(f)(4).

4. **VIOLATION:** During the period January 1, 2019, through December 31, 2019, Colonna's failed to document and maintain the required data pertaining to applicants and hires, in violation of 41 CFR 60-300.44(k).

REMEDY: Colonna's will document the following computations or comparisons pertaining to applicants and hires, on an annual basis, and will maintain this data for three (3) years, as required by 41 CFR 60-300.44(k):

- The number of applicants who self-identified as protected veterans, or who are otherwise known as protected veterans;
- The total number of job openings and total number of jobs filled;
- The total number of applicants for all jobs;
- The number of protected veteran applicants hired; and
- The total number of applicants hired.

5. **VIOLATION:** During the period January 1, 2019, through December 31, 2019, Colonna's failed to keep and preserve complete and accurate personnel and employment records, in violation of 41 CFR 60-300.80(a). Specifically, Colonna's failed to keep and preserve accurate applicant, hiring, promotion, and termination records. Colonna's also failed to keep the records specified in 60-300.80(b) for three years.

REMEDY: Colonna's will keep and preserve complete and accurate personnel and employment records, in accordance with 41 CFR 60-300.80(a), and will keep and preserve those records specified in 41 CFR 60-300.80(b) for a period of three years from the date of the making of the record.

6. **VIOLATION:** During the period January 1, 2019, through December 31, 2019, Colonna's failed to document all activities it undertook to comply with its external outreach and recruitment efforts; and to maintain those documents for a period of three (3) years, in accordance with 41 CFR 60-741.44(f)(4).

REMEDY: Colonna's will document all activities it undertakes to comply with its external outreach and recruitment efforts; and to maintain those documents for a period

of three (3) years, in accordance with 41 CFR 60-741.44(f)(4).

7. **VIOLATION:** During the period January 1, 2019, through December 31, 2019, Colonna's failed to document and maintain the required data pertaining to applicants and hires, in violation of 41 CFR 60-741.44(k).

REMEDY: Colonna's will document the following computations or comparisons pertaining to applicants and hires, on an annual basis, and will maintain this data for three (3) years, as required by 41 CFR 60-741.44(k):

- The number of applicants who self-identified as individuals with disabilities, or who are otherwise known to be individuals with disabilities;
- The total number of job openings and total number of jobs filled;
- The total number of applicants for all jobs;
- The number of applicants with disabilities hired; and
- The total number of applicants hired.

8. **VIOLATION:** During the period January 1, 2019, through December 31, 2019, Colonna's failed to evaluate its utilization of individuals with disabilities using the goal established by OFCCP, in violation of 41 CFR 60-741.45. Specifically, Colonna's conducted no utilization analysis.

REMEDY: Colonna's will annually evaluate its utilization of individuals with disabilities using the 7 percent goal established by OFCCP, as required by 41 CFR 60-741.45. When conducting this utilization analysis, Colonna's will use the job groups established for utilization analyses required by Executive Order 11246, as required by 41 CFR 60-741.45(d)(2). However, if Colonna's has a total workforce of 100 or fewer employees, it may, instead, choose to measure the representation of individuals with disabilities in its workforce as a whole, using the 7 percent goal established by OFCCP, as permitted by 41 CFR 60-741.45(d)(2)(i). Should the percentage of individuals with disabilities in one or more job groups or in Colonna's workforce be less than the utilization goal, Colonna's will take steps, as required by 41 CFR 60-741.45(e), to determine whether and where impediments to equal employment exist, and will develop and execute action-oriented programs to correct any identified problems, as required by 41 CFR 60-741.45(f).

9. **VIOLATION:** During the period January 1, 2019, through December 31, 2019, Colonna's failed to keep and preserve complete and accurate personnel and employment records, in violation of 41 CFR 60-741.80. Specifically, Colonna's failed to keep and preserve accurate applicant, hiring, promotion, and termination records. Colonna's also failed to keep the records specified in 60-741.80(b) for three years.

REMEDY: Colonna's will keep and preserve complete and accurate personnel and employment records, in accordance with 41 CFR 60-741.80, and will keep and preserve those records specified in 41 CFR 60-741.80(b) for a period of three years from the date of the making of the record.

IV. OFCCP Monitoring Period

1. **Recordkeeping.** Colonna's agrees to retain all records relevant to the violation(s) cited in Section III above and the reports submitted in compliance with Paragraph 2, below. These records include underlying data and information such as Human Resources Information System (HRIS) and payroll data, job applications and personnel records, and any other records or data used to generate the required reports. Colonna's will retain the records until this Agreement expires or for the time period consistent with regulatory requirements, whichever is later.

2. **Contractor Reports.**

Colonna's agrees to furnish OFCCP with the following reports during the Monitoring Period. Each report will contain the documentation specified according to the dates scheduled:

- a. **Progress Report 1: Due on July 30, 2021, covering the period of January 1, 2021, through June 30, 2021. The first progress report will include:**

1. For violation 1: A copy of Colonna's Executive Order 11246 AAP, effective January 1, 2021, as required by 41 CFR 60-2.10-17, including:
 - a. An organizational display or workforce analysis prepared according to 41 CFR 60-2.11.
 - b. The formation of job groups (covering all jobs) consistent with criteria given in 41 CFR 60-2.12.
 - c. For each job group, a statement of the percentage of minority and female incumbents as described in 41 CFR 60-2.13.
 - d. For each job group, a determination of minority and female availability that considers the factors given in 41 CFR 60-2.14(c)(1) and (c)(2).
 - e. For each job group, the comparison of incumbency to availability as explained in 41 CFR 60-2.15.
 - f. Placement goals for each job group in which the percentage of minorities or women employed is less than would be reasonably expected given their availability as described in 41 CFR 60-2.16.
 - g. Documentation of the results of Colonna's in-depth analyses of its total employment process to determine whether and where impediments to equal employment opportunity exist. At a minimum, this documentation will include Colonna's evaluation of:
 - i. The workforce by organizational unit and job group to determine whether there are problems of minority or female utilization (i.e., employment in the

- unit or group), or of minority or female distribution (i.e., placement in the different jobs within the unit or group);
- ii. Personnel activity (applicant flow, hires, terminations, promotions, and other personnel actions) to determine whether there are selection disparities;
 - iii. Compensation system(s) to determine whether there are gender-, race-, or ethnicity-based disparities;
 - iv. Selection, recruitment, referral, and other personnel procedures to determine whether they result in disparities in the employment or advancement of minorities or women; and
 - v. Any other areas that might impact the success of the affirmative action program.
- h. Colonna's report on its internal audit and reporting system that measures the success of the effectiveness of its affirmative action program for women and minorities. The report will include the following:
- i. The schedule of the internal reporting as to the degree to which equal employment opportunity and organizational objectives are attained;
 - ii. The schedule, or dates, the report results were reviewed with all levels of management;
 - iii. The schedule, or dates, top management was advised of the program effectiveness;
 - iv. The recommendations to improve unsatisfactory performance, if applicable.
2. For violations 2, 5, and 9: Data on Colonna's employment activity (applicants, hires, promotions, and terminations) for the period of January 1, 2021, through June 30, 2021. Specifically:
- a. For applicants and hires: Colonna's applicant flow log, in Microsoft Excel format, to include the applicant's name or applicant identification number, gender, race and/or ethnicity¹, method of application (e.g. hard copy application/resume, online, fax, etc.), date of application, position applied for by job group and job title, whether the applicant was interviewed, final disposition of the applicant, including the reason for non-selection, hire date, if applicable, and job title hired into, if applicable.

¹ The term "race/ethnicity" as used throughout this Agreement includes these racial and ethnic groups: African-American/Black, Asian/Pacific Islander, Hispanic, American Indian/Alaskan Native, and White. You also have the option of submitting the requested data using the race and ethnic categories on the EEO-1 survey.

- b. For promotions: For each job group or job title, provide the total number of promotions by gender and race/ethnicity. Also, include a definition of “promotion” as used by your company and the basis on which they were compiled (e.g. promotions to the job group, from and/or within the job group, etc.). If it varies for different segments of your workforce, please define the term as used for each segment. If you present promotions by job title, include the department and job group from which and to which the person(s) was promoted.
 - c. For terminations: For each job group or job title, provide the total number of employee terminations by gender and race/ethnicity. When presenting terminations by job title, include the department and job group from which the person(s) terminated.
3. For violations 2, 5, and 9: Employee level compensation data for all employees (including but not limited to full-time, part-time, contract, per diem or day labor, and temporary employees) as of January 1, 2021. Provide gender and race/ethnicity information and hire date for each employee as well as job title, EEO-1 Category and job group in a single file. Provide all requested data electronically, if maintained in an electronic format. For all employees, compensation includes base salary and or wage rate, and hours worked in a typical workweek. Other compensation or adjustments to salary such as bonuses, incentives, commissions, merit increases, locality pay or overtime should be identified separately for each employee.
4. For violation 3: Documentation to verify that Colonna’s undertook appropriate outreach and positive recruitment activities reasonably designed to effectively recruit qualified protected veterans and conducted an assessment of its efforts. This documentation should include a copy of the sections of Colonna’s VEVRAA AAP that lists: 1) Its outreach activities with supporting documentation; and 2) An assessment of the effectiveness of each activity; as required by 41 CFR 60-300.44(f)(3). Colonna’s should note that 41 CFR 60-300.44(f) lists examples of several resources that may aid contractors in effectively recruiting and employing qualified protected veterans.
5. For violation 3: Copies of all responses or other related correspondence received from each of the organizations used during the reporting period in efforts to recruit qualified protected veterans.
6. For violation 4 and 5: Documentation of the following computations or comparisons pertaining to applicants and hires, as required by 41 CFR 60-300.44(k):
 - The number of applicants who self-identified as protected veterans, or who are otherwise known as protected veterans;
 - The total number of job openings and total number of jobs filled;

- The total number of applicants for all jobs;
 - The number of protected veteran applicants hired; and
 - The total number of applicants hired.
7. For violation 6: Documentation to verify that Colonna's undertook appropriate outreach and positive recruitment activities reasonably designed to effectively recruit qualified individuals with disabilities and conducted an assessment of its efforts. This documentation should include a copy of the sections of Colonna's Section 503 AAP that lists: 1) Its outreach activities with supporting documentation; and 2) An assessment of the effectiveness of each activity; as required by 41 CFR 60-741.44(f)(3). Colonna's should note that 41 CFR 60-741.44(f) lists examples of several resources that may aid contractors in effectively recruiting and employing qualified individuals with disabilities.
 8. For violation 6: Copies of all responses or other related correspondence received from each of the organizations used during the reporting period in efforts to recruit qualified protected individuals with disabilities.
 9. For violation 7 and 9: Documentation of the following computations or comparisons pertaining to applicants and hires, as required by 41 CFR 60-741.44(k):
 - The number of applicants who self-identified as individuals with disabilities, or who are otherwise known to be individuals with disabilities;
 - The total number of job openings and total number of jobs filled;
 - The total number of applicants for all jobs;
 - The number of applicants with disabilities hired; and
 - The total number of applicants hired.
 10. For violation 8: The utilization analysis evaluating the representation of individual with disabilities in each job group, or, if appropriate, evaluating the representation of individuals with disabilities in the workforce as a whole, as provided in 41 CFR 60-741.45.
- b. Progress Report 2: Due on January 31, 2022, covering the period of July 1, 2021, through December 31, 2021. The second progress report will include:**
1. For violations 2, 5, and 9: Data on Colonna's employment activity (applicants, hires, promotions, and terminations) for the period of January 1, 2021, through June 30, 2021. Specifically:
 - a. For applicants and hires: Colonna's applicant flow log, in Microsoft Excel format, to include the applicant's name or applicant identification number, gender, race and/or ethnicity¹, method of application (e.g. hard copy application/resume, online, fax, etc.), date of application, position applied for by job group and job title, whether the applicant was interviewed, final

disposition of the applicant, including the reason for non-selection, hire date, if applicable, and job title hired into, if applicable.

- b. For promotions: For each job group or job title, provide the total number of promotions by gender and race/ethnicity. Also, include a definition of “promotion” as used by your company and the basis on which they were compiled (e.g. promotions to the job group, from and/or within the job group, etc.). If it varies for different segments of your workforce, please define the term as used for each segment. If you present promotions by job title, include the department and job group from which and to which the person(s) was promoted.
 - c. For terminations: For each job group or job title, provide the total number of employee terminations by gender and race/ethnicity. When presenting terminations by job title, include the department and job group from which the person(s) terminated.
2. For violation 3: Documentation to verify that Colonna’s undertook appropriate outreach and positive recruitment activities reasonably designed to effectively recruit qualified protected veterans and conducted an assessment of its efforts. This documentation should include a copy of the sections of Colonna’s VEVRAA AAP that lists: 1) Its outreach activities with supporting documentation; and 2) An assessment of the effectiveness of each activity; as required by 41 CFR 60-300.44(f)(3). Colonna’s should note that 41 CFR 60-300.44(f) lists examples of several resources that may aid contractors in effectively recruiting and employing qualified protected veterans.
3. For violation 3: Copies of all responses or other related correspondence received from each of the organizations used during the reporting period in efforts to recruit qualified protected veterans.
4. For violation 4 and 5: Documentation of the following computations or comparisons pertaining to applicants and hires, as required by 41 CFR 60-300.44(k):
 - The number of applicants who self-identified as protected veterans, or who are otherwise known as protected veterans;
 - The total number of job openings and total number of jobs filled;
 - The total number of applicants for all jobs;
 - The number of protected veteran applicants hired; and
 - The total number of applicants hired.
5. For violation 6: Documentation to verify that Colonna’s undertook appropriate outreach and positive recruitment activities reasonably designed to effectively recruit qualified individuals with disabilities and conducted an assessment of its efforts. This documentation should include a copy of the sections of Colonna’s

Section 503 AAP that lists: 1) Its outreach activities with supporting documentation; and 2) An assessment of the effectiveness of each activity; as required by 41 CFR 60-741.44(f)(3). Colonna's should note that 41 CFR 60-741.44(f) lists examples of several resources that may aid contractors in effectively recruiting and employing qualified individuals with disabilities.

6. For violation 6: Copies of all responses or other related correspondence received from each of the organizations used during the reporting period in efforts to recruit qualified protected individuals with disabilities.
7. For violation 7 and 9: Documentation of the following computations or comparisons pertaining to applicants and hires, as required by 41 CFR 60-741.44(k):
 - The number of applicants who self-identified as individuals with disabilities, or who are otherwise known to be individuals with disabilities;
 - The total number of job openings and total number of jobs filled;
 - The total number of applicants for all jobs;
 - The number of applicants with disabilities hired; and
 - The total number of applicants hired.

Colonna's will submit reports to Acting Assistant District Director Shanae Moody at (b) (6), (b) (7)(C)@usdoj.gov.

Colonna's and OFCCP have a common interest in the information being provided in the reports pursuant to this Agreement. To the extent any of the reports Colonna's provides in accordance with this Agreement are trade secrets, commercial, and/or financial in nature, and customarily kept private or closely-held, and Colonna's believes should remain confidential under Exemption 4 of the Freedom of Information Act (FOIA) in the event of a FOIA request, Colonna's will provide such reports to OFCCP marked as "Confidential". In the event of a FOIA request, OFCCP will promptly notify Colonna's of the FOIA request and provide Colonna's an opportunity to object to disclosure. OFCCP will withhold disclosure of such reports to the maximum extent allowable by law.

3. **Close of Monitoring Period and Termination of Agreement.** This Agreement shall remain in effect until the monitoring period is completed. The monitoring period will close once OFCCP accepts Colonna's final progress report as set forth in Section II, Paragraph 9 above. If OFCCP fails to notify Colonna's in writing within sixty (60) days of the date of the final progress report that Colonna's has not fulfilled all of its obligations under the Agreement, OFCCP will be deemed to have accepted the final report and the Monitoring Period and this Agreement will terminate. If OFCCP notifies Colonna's within the allotted time that it has not fulfilled all of its obligations, this Agreement is automatically extended until the date that OFCCP determines Colonna's has met all of its obligations under the Agreement.

V. SIGNATURES

The person signing this Agreement on behalf of Colonna's personally warrants that he or she is fully authorized to do so, that Colonna's has entered into this Agreement voluntarily and with full knowledge of its effect, and that execution of this Agreement is fully binding on Colonna's.

This Agreement is hereby executed by and between the Office of Federal Contract Compliance Programs and Colonna's Shipyard, Inc., 400 E Indian River Road, Norfolk, VA 23523.

(b) (6), (b) (7)(C)

Thomas W. Godfrey Jr.
President & CEO
Colonna's Shipyard, Inc.
Norfolk, VA

DATE: 3/4/2021

(b) (6), (b) (7)(C)

Shanae Moody
Acting Assistant District Director
Mid-Atlantic Region

DATE: 3/4/2021

(b) (6), (b) (7)(C)

(b) (7)(C), (b) (7)(E)
Compliance Officer
Mid-Atlantic Region

DATE: _____