

CONCILIATION AGREEMENT

Between

THE U.S. DEPARTMENT OF LABOR

OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS

And

DONALD L. MOONEY ENTERPRISES LLC

I. Preliminary Statement

The Office of Federal Contract Compliance Programs (“OFCCP”) evaluated Donald L. Mooney Enterprises LLC’s (“Donald Mooney”) establishment located at 16302 Pleasantville Rd Ste 211, San Antonio, TX 78233 and found that Donald Mooney was not in compliance with Executive Order 11246, as amended (“EO 11246”), and Section 503 of the Rehabilitation Act of 1973 (“Section 503”), and the Vietnam Era Veterans’ Readjustment Assistance Act of 1974 (“VEVRAA”), as amended; and their implementing regulations at 41 Code of Federal Regulations (“CFR”) Chapter 60. OFCCP notified Donald Mooney of the specific violations found and the corrective actions required in a Notice of Violations (“NOV”) issued on September 13, 2021. 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 Donald Mooney (“the parties”) enter into this Conciliation Agreement (“Conciliation Agreement” or “Agreement”) and agree to all the terms therein.

II. General Terms and Conditions

1. In exchange for Donald Mooney’s fulfillment of all its obligations in this Agreement, OFCCP will not institute administrative or judicial enforcement proceedings under EO 11246, Section 503 or VEVRAA based on the violations alleged in the NOV. However, OFCCP retains the right to initiate legal proceedings to enforce this Agreement if Donald Mooney 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 Donald Mooney’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. Donald Mooney 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 it requests, including those specified in this Agreement.
3. Nothing in this Agreement relieves Donald Mooney of its obligation to fully comply with the requirements of EO 11246, Section 503, VEVRAA, their implementing regulations,

or other applicable laws requiring nondiscrimination or equal employment opportunity through affirmative action.

4. Donald Mooney and OFCCP agree that any release of claims required by this Agreement will only pertain to claims under EO 11246, Section 503 and/or VEVRAA.
5. Donald Mooney 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.
6. The parties understand the terms of this Agreement and enter into it voluntarily.
7. This Agreement, including its attachments, 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 correction.
8. This Agreement becomes effective on the day it is signed by the District Director of the San Antonio District Office in the Southwest and Rocky Mountain Region (“Effective Date”).
9. If one or more provisions of this Agreement is deemed unlawful or unenforceable, the remaining provisions will remain in full force and effect.
10. This Agreement will expire sixty (60) days after Donald Mooney submits its final progress report required in Section IV, below, unless OFCCP notifies Donald Mooney in writing before the expiration date that Donald Mooney 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 Donald Mooney has met all of its obligations under the Agreement.
11. If Donald Mooney violates this Agreement:
 - a. The procedures at 41 CFR 60-1.34 will govern:
 - i. OFCCP will send Donald Mooney a written notice stating the alleged violations and summarizing any supporting evidence.
 - ii. Donald Mooney 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 Donald Mooney 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 Donald Mooney, 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 agreed to in the Agreement.
- b. Donald Mooney may be subject to the sanctions set forth in Section 209 of the Executive Order, 41 CFR 60-1.27, and/or other appropriate relief for violating this Agreement.
- 12. Donald Mooney denies any violation of EO 11246, Section 503, or VEVRAA, nor has there been an adjudication on the merits regarding any such violation.
 - 13. OFCCP may seek enforcement of this Agreement itself and is not required to present proof of any underlying violations resolved by this Agreement.
 - 14. 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.
 - 15. Each party shall bear its own fees and expenses with respect to this matter.
 - 16. 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.
 - 17. 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:** During the period of September 23, 2018 through September 23, 2020, for Job Group 8A Leased General Laborer, Donald Mooney failed to track and preserve complete and accurate personnel and employment records, in violation of 41 CFR 60-1.12, 41 CFR 60-3.4, and 41 CFR 60-3.15. Specifically, Donald Mooney failed to track gender, race, and ethnicity of each applicant or Internet Applicant.

REMEDY: For Job Group 8A Leased General Laborer, Donald Mooney will track, keep and preserve complete and accurate personnel and employment records, in accordance with 41 CFR 60-1.12, 41 CFR 60-3.4, and 41 CFR 60-3.15, 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 Donald Mooney 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).

2. **VIOLATION:** During the period of March 1, 2019 through February 1, 2020, Donald Mooney failed to submit an acceptable job group analysis as described in 41 CFR 60-2.12. Specifically, for Job Group 8A Leased General Laborer, the job group analysis failed to combine job titles with similar content, wage rates, and opportunities.

REMEDY: Donald Mooney will develop and include in the AAP a job group analysis that combines job titles at the establishment with similar content, opportunities, and wage rates, as required by 41 CFR 60-2.12. Specifically Donald Moody must re-evaluate its formation of Job Group 8A Leased General Labor to ensure that it appropriately combines job titles at the establishment with similar content, opportunities, and wage rates.

3. **VIOLATION:** During the period of March 1, 2019 through February 1, 2020, Donald Mooney failed to invite applicants to self-identify as a protected veteran as required by VEVRAA, pursuant to 41 CFR 60-300.42. Specifically, Donald Mooney's invitation did not state it is a Federal contractor required to take affirmative action to employ and advance in employment protected veterans pursuant to VEVRAA, summarize the relevant portions of VEVRAA and Donald Mooney's VEVRAA AAP, and that it will not be used in a manner inconsistent with VEVRAA, as required by 41 CFR 60-300.42(c).

REMEDY: Donald Mooney shall invite applicants to self-identify as a protected veteran, as required by VEVRAA, pursuant to 41 CFR 60-300.42. Specifically, Donald Mooney will state that it is a Federal contractor required to take affirmative action to employ and advance in employment protected veterans pursuant to VEVRAA. The invitation will also summarize the relevant portions of VEVRAA and Donald Mooney's VEVRAA AAP. Furthermore, the invitation will state that the information is being requested on a voluntary basis, that it will be kept confidential, that refusal to provide it will not subject the applicant to any adverse treatment, and that it will not be used in a manner inconsistent with VEVRAA, as required by 41 CFR 60-300.42(c). An acceptable form for such an invitation is set forth in appendix B to 41 CFR 60-300¹.

4. **VIOLATION:** During the period of March 1, 2019 through February 1, 2020, Donald Mooney failed to invite its applicants for employment to voluntarily self-identify as an individual with a disability, using the OMB-approved form for this purpose, in violation of 41 CFR 60-741.42.

¹ Appendix B to 41 CFR 60-300 link - https://www.ecfr.gov/cgi-bin/text-idx?SID=efb7a3e89263014de5c69590fca2a049&mc=true&node=pt41.1.60_6300&rgn=div5#ap41.1.60_6300_184_b

REMEDY: Donald Mooney shall invite its applicants for employment to voluntarily self-identify as an individual with a disability, in accordance with 41 CFR 60-741.42. All invitations to self-identify will be made using the OMB-approved form² (available on the OFCCP website).

2 Approved voluntary self-identification form link - <https://www.dol.gov/agencies/ofccp/self-id-forms>

IV. Reports and Monitoring

1. **Progress Report³:** Pursuant to the Technical Violations in Part III of this Agreement, Donald Mooney will submit two progress reports covering a six-month period. The first progress report will be due on November 1, 2022, for the period covering March 1, 2022 through August 31, 2022. The second progress report will will be due on May 1, 2023, for the period covering September 1, 2022 through February 28, 2023. Donald Mooney will submit the reports and documents described below to:

Dinorah S. Boykin
District Director
Office of Federal Contract Compliance Programs (OFCCP)
San Antonio District Office
615 E. Houston Street, Room 340
San Antonio, Texas 78205
(b) (6), (b) (7)(C)@dol.gov

Donald Mooney will submit the following in its first progress report:

- i. Job group analysis pursuant to 41 CFR 60-2.12.
- ii. For Job Group 8A Leased General Laborer, for each job title during the reporting period, the total number of all individuals that express interest in employment, all applicants, all hires and all rehires and the breakdown by race, gender and ethnic group.
- iii. For Job Group 8A Leased General Laborer, a statement from Donald Mooney that confirms and describes how Donald Mooney has implemented a record retention policy and system to preserve personnel and employment records including the tracking of applicants, hires, decisions at each step in the hiring process, and that documents are retained in accordance with the requirements of 41 CFR 60-1.12, 41 CFR 60-3.4 and 41 CFR 60-3.15.
- iv. Pursuant to VEVRAA, 41 CFR 60-300.42, documentation that Donald Mooney invites applicants to self-identify as a covered protected veteran, to include sample screen shots.
- v. Pursuant to Section 503, 41 CFR 60-300.42, documentation that Donald Mooney invited applicants and employees to self-identify as an individual with a disability using the language and manner prescribed by the Director and published on the OFCCP website, to include sample screenshots.

Donald Mooney will submit the following in its second progress report:

³ In order for Donald Mooney to come into compliance with OFCCP's recordkeeping requirements, OFCCP has allowed the extension of the reporting due dates, given Donald Mooney's violations in Part III of this Agreement.

- i. For Job Group 8A Leased General Laborer, for each job title during the reporting period, the total number of all individuals that express interest in employment, all applicants, all hires and all rehires and the breakdown by race, gender and ethnic group.
2. **Recordkeeping:** Donald Mooney agrees to retain all records relevant to the violations cited in Section III above. Donald Mooney will retain the records until this Agreement expires or for the period required by the regulations, whichever is later.
3. **Close of Monitoring Period and Termination of Agreement:** This Agreement shall remain in effect until the monitoring period is complete. The monitoring period will close once OFCCP accepts Donald Mooney's progress reports as set forth in Part IV. If OFCCP fails to notify Donald Mooney in writing within sixty (60) calendar days of the date of the progress reports that Donald Mooney 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 Donald Mooney within the allotted time that it has not fulfilled all of its obligations, this Agreement is automatically extended until the date that OFCCP determines Donald Mooney has met all of its obligations under the Agreement.

V. SIGNATURES

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

This Agreement is hereby executed by and between the Office of Federal Contract Compliance Programs and Donald Mooney, 16302 Pleasantville Rd Ste 211, San Antonio, TX 78233.

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

Donald L. Mooney
CEO & Founder
Donald L. Mooney Enterprises LLC

DATE: 19.10.2021 | 10:52:18 CDT

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

Dinorah S. Boykin
District Director
San Antonio District Office

DATE: _____