

Conciliation Agreement
Between the
U.S. Department of Labor Office of Federal Contract Compliance Programs
and
Caddell Construction Co., LLC

I. Preliminary Statement

The Office of Federal Contract Compliance Programs (OFCCP) evaluated Caddell Construction Co., LLC (Caddell), located at 445 Dexter Avenue, Suite 11000, Montgomery, AL 36104, for construction work performed in the Guam Geographic Area, beginning on July 8, 2022. OFCCP found that Caddell 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 CFR 60-1, 41 CFR 60-4, 41 CFR 60-300, and 41 CFR 60-741.

OFCCP notified Caddell of the specific violations and the corrective actions required in a Notice of Violation (NOV) issued on December 7, 2022.

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 Caddell 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 Caddell'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 violations alleged in the NOV. However, OFCCP retains the right to initiate legal proceedings to enforce this Agreement if Caddell violates any provision of this Agreement, as set forth in Paragraph 10, below. Nothing in this Agreement precludes OFCCP from initiating enforcement proceedings based on future compliance evaluations or complaint investigations.
2. OFCCP may review Caddell'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. Caddell 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 Caddell 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. Caddell 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 will 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 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 Caddell submits its final progress report required in Section IV, below, unless OFCCP notifies Caddell in writing before the expiration date that Caddell 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 Caddell has met all of its obligations under the Agreement.
10. If Caddell 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 Caddell a written notice stating the alleged violation(s) and summarizing any supporting evidence.
 - ii. Caddell 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 Caddell 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 Caddell, 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. Caddell 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. Caddell 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:** During the period January 1, 2021 through December 31, 2021, Caddell failed to include the equal opportunity clause as required for E.O. 11246 in its subcontracts and/or purchase orders, either directly or by reference, in violation of 41 CFR 60-1.4(a)(c) and (d). Specifically, Caddell failed to include the required components of gender identity and sexual orientation in the clause as required by 41 CFR 60-1.4(a).

Remedy: Caddell will include or reference the provisions of the equal opportunity clause in its subcontracts and purchase orders, as required by 41 CFR 60-1.4(a)(c) and (d).

2. **Violation:** During the period January 1, 2021 through December 31, 2021, Caddell failed to provide written notification to OFCCP within 10 working days of award of any construction subcontract in excess of \$10,000 that was made under a covered federal or federally assisted construction contract, as required by 41 CFR 60-4.2(d)3.

Remedy: Caddell will provide written notification to OFCCP within 10 working days of award of any construction subcontract in excess of \$10,000 that is made under a covered federal or federally assisted construction contract, as required by 41 CFR 60-

4.2(d)3. The notification shall list the name, address and telephone number of the subCaddell; employer identification number of the subCaddell; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the subcontract is to be performed.

3. **Violation:** During the period January 1, 2021 through December 31, 2021, Caddell failed to include the equal opportunity clause for VEVRAA in its subcontracts and/or purchase orders, either directly or by reference, in the prescribed manner, in violation of 41 CFR 60-300.5(a)-(d).

Remedy: Caddell will include or reference the provisions of the equal opportunity clause in its subcontracts and purchase orders, as required by 41 CFR 60-300.5(a)-(d). If Caddell incorporates the equal opportunity clause in its subcontracts and purchase orders by reference, rather than by restating the clause verbatim, it will incorporate the clause in the manner prescribed by 41 CFR 60-300.5(d).

4. **Violation:** Caddell's VEVRAA AAP failed to include all the required content, as required by 41 CFR 60-300.44. Specifically, 41 CFR 60-300.44(b) requires that Caddells periodically review personnel processes and make any necessary modifications to ensure that these obligations are carried out. A description of the review and any necessary modifications to personnel processes or development of new processes shall be included in any affirmative action programs. Caddell's submission failed to include their most recent assessment of their personnel processes, as required by 41 CFR 60-300.44(b), including a description of the assessment and any actions taken or changes made as a result of the assessment.

Remedy: Caddell will include the review of personnel process element described in 41 CFR 60-300.44(b) in its VEVRAA AAP, as required by 41 CFR 60-300.44(b).

5. **Violation:** Caddell's VEVRAA AAP failed to include all the required content, as required by 41 CFR 60-300.44. Specifically, Caddell's submission failed to demonstrate that it complied with the requirements of 41 CFR 60-300.44(c) as they were unable to provide their most recent assessment of physical and mental qualifications, including a description of the assessment and any actions taken or changes made as a result of the assessment.

Remedy: Caddell will include in its VEVRAA AAP a schedule for the review of all physical and mental job qualifications standards to ensure that, to the extent qualification standards tend to screen out qualified disabled veterans, they are job-related for the position in question and are consistent with business necessity, as required by 41 CFR 60-300.44(c)(1) and they will be able to demonstrate that they complied with the requirements of 41 CFR 60-300.44(c), as required by 41 CFR 60-300.44(c)(2).

6. **Violation:** Caddell failed to annually review the effectiveness of each of the outreach and recruitment efforts it took over the previous twelve months to identify and recruit qualified protected veterans as required by 41 CFR 60-300.44(f)(3). Specifically,

Caddell failed to document each evaluation, including at a minimum the criteria it used to evaluate the effectiveness of each effort and Caddell's conclusion as to whether each effort was effective.

Remedy: Caddell will annually review its outreach and recruitment activities, assess their effectiveness, and document this review, in accordance with 41 CFR 60-300.44(f)(3). If Caddell concludes that the totality of its efforts were not effective in identifying and recruiting qualified protected veterans, it shall identify and implement alternative efforts listed in 41 CFR 60-300.44(f)(1) or (f)(2).

7. **Violation:** Caddell's VEVRAA AAP failed to include all the required content of 41 CFR 60-300.44(h). Specifically, Caddell's submission failed to document the actions taken to comply with the audit and reporting system obligations of paragraphs 41 CFR 60-300.44(h)(1)(i) through (v), as required by 41 CFR 60-300.44(h)(1)(vi).

Remedy: Caddell will include the audit and reporting system element described in 41 CFR 60-300.44(h) in its VEVRAA AAP, as required by 41 CFR 60-300.44(h).

8. **Violation:** During the period January 1, 2021 through December 31, 2021, Caddell failed to include the equal opportunity clause for Section 503 in its subcontracts and/or purchase orders, either directly or by reference, in the prescribed manner, in violation of 41 CFR 60-741.5(a)-(d).

Remedy: Caddell will include or reference the provisions of the equal opportunity clause in its subcontracts and purchase orders, as required by 41 CFR 60-741.5(a)-(d). If Caddell incorporates the equal opportunity clause in its subcontracts and purchase orders by reference, rather than by restating the clause verbatim, it will incorporate the clause in the manner prescribed by 41 CFR 60-741.5(d).

9. **Violation:** Caddell's Section 503 AAP failed to include all the required content, as required by 41 CFR 60-741.44. Specifically, 41 CFR 60-741.44(b) requires that Caddell periodically review personnel processes and make any necessary modifications to ensure that these obligations are carried out. A description of the review and any necessary modifications to personnel processes or development of new processes shall be included in any affirmative action programs. Caddell's submission failed to include their most recent assessment of their personnel processes, as required by 41 CFR 60-741.44(b), including a description of the assessment and any actions taken or changes made as a result of the assessment.

Remedy: Caddell will include the review of personnel process element described in 41 CFR 60-741.44(b) in its Section 503 AAP, as required by 41 CFR 60-741.44(b).

10. **Violation:** Caddell's Section 503 AAP failed to include all the required content, as required by 41 CFR 60-741.44. Specifically, Caddell's submission failed to demonstrate that it complied with the requirements of 41 CFR 60-741.44(c) as they were unable to provide their most recent assessment of physical and mental qualifications, including a description of the assessment and any actions taken or changes made as a result of the assessment.

Remedy: Caddell will include in its Section 503 AAP a schedule for the review of all physical and mental job qualification standards to ensure that, to the extent qualification standards tend to screen out qualified individuals with disabilities, they are job-related for the position in question and are consistent with business necessity, as required by 41 CFR 60-741.44(c)(1) and they will be able to demonstrate that they complied with the requirements of 41 CFR 60-741.44(c), as required by 41 CFR 60-741.44(c)(2).

11. **Violation:** Caddell failed to annually review the effectiveness of each of the outreach and recruitment efforts it took over the previous twelve months to identify and recruit qualified individuals with disabilities as required by 41 CFR 60-741.44(f)(3). Specifically, Caddell failed to document each evaluation, including at a minimum the criteria it used to evaluate the effectiveness of each effort and Caddell's conclusion as to whether each effort was effective.

Remedy: Caddell will annually review its outreach and recruitment activities, assess their effectiveness, and document this review, in accordance with 41 CFR 60-741.44(f)(3). If Caddell concludes that the totality of its efforts were not effective in identifying and recruiting qualified individuals with disabilities, it shall identify and implement alternative efforts listed in 41 CFR 60-741.44(f)(1) or (f)(2).

12. **Violation:** Caddell's Section 503 AAP failed to include all the required content of 41 CFR 60-741.44(h). Specifically, Caddell's submission failed to document the actions taken to comply with the audit and reporting system obligations of paragraphs 41 CFR 60-741.44(h)(1)(i) through (v), as required by 41 CFR 60-741.44(h)(1)(vi).

Remedy: Caddell will include the audit and reporting system elements described in 41 CFR 60-741.44(h) in its Section 503 AAP, as required by 41 CFR 60-741.44(h).

IV. OFCCP Monitoring Period

1. **Recordkeeping.** Caddell agrees to retain all records relevant to the violations cited in Section III above and the report 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. Caddell will retain the records until this Agreement expires or for the time period consistent with regulatory requirements, whichever is later.

2. **Caddell Reports.**

Caddell agrees to furnish OFCCP with the following report during the Monitoring Period. This report will contain the documentation specified according to the date scheduled:

- a. Progress Report: Due on February 1, 2024 covering the period of January 1, 2023 through December 31, 2023.

Documentation of:

Violations 1, 3 and 8: Inclusion of all required components, in the prescribed manner, of the equal opportunity clause in subcontracts and purchase orders as required by 41 CFR § 60-1.4(a)(c) and (d), 41 CFR § 60-300.5(a)-(d) and 41 CFR § 60-741.5(a)-(d).

Violation 2: Written notifications sent to OFCCP within 10 working days of award of any construction subcontract in excess of \$10,000 that was made under a covered federal or federally assisted construction contract.

Violations 4 and 9: The most recent assessment of your personnel processes, as required by 41 CFR § 60-300.44(b) and 41 CFR § 60-741.44(b), including a description of the assessment and any actions taken or changes made as a result of the assessment.

Violations 5 and 10: The most recent assessment of physical and mental qualifications, as required by 41 CFR § 60-300.44(c) and 41 CFR § 60-741.44(c), including the schedule of the assessment and any actions taken or changes made as a result of the assessment.

Violations 6 and 11: Results of the evaluation of the effectiveness of outreach and recruitment efforts taken to identify and recruit qualified protected veterans and individuals with disabilities as described in 41 CFR § 60-300.44(f) and 41 CFR § 60-741.44(f). This evaluation will include an evaluation of each effort, including at a minimum the criteria it used to evaluate the effectiveness of each effort and Caddell's conclusion as to whether each effort was effective, as well as a conclusion as to the effectiveness of the totality of efforts.

Violations 7 and 12: Documentation of all actions taken to comply with the audit and reporting system requirements described in 41 CFR § 60-300.44(h) and 41 CFR § 60-741.44(h).

Caddell will submit the report to District Director Marvin Jordan at (b) (7)(C), (b) (6)@dol.gov and Compliance Officer (b) (7)(C), (b) (6) at (b) (7)(C), (b) (6)@dol.gov. Caddell and OFCCP have a common interest in the information being provided in the report pursuant to this Agreement. To the extent any of the reports Caddell provides in accordance with this Agreement are trade secrets, commercial, and/or financial in nature, and customarily kept private or closely-held, and Caddell believes should remain confidential under Exemption 4 of the Freedom of Information Act (FOIA) in the event of a FOIA request, Caddell will provide such reports to OFCCP marked as "Confidential". In the event of a FOIA request, OFCCP will promptly notify Caddell of the FOIA request and provide Caddell 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 Caddell's final progress report as set forth in Section II,

Paragraph 9 above. If OFCCP fails to notify Caddell in writing within sixty (60) days of the date of the final progress report that Caddell 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 Caddell within the allotted time that it has not fulfilled all of its obligations, this Agreement is automatically extended until the date that OFCCP determines Caddell has met all of its obligations under the Agreement.

V. SIGNATURES

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

This Agreement is hereby executed by and between the Office of Federal Contract Compliance Programs and Caddell Construction Co., LLC, 445 Dexter Avenue, Suite 11000, Montgomery, AL 36104.

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

Mac Caddell
President and COO
Caddell Construction Co., LLC
Montgomery, AL 36104

DATE: JAN. 2ND, 2023

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

MARVIN R. JORDAN
Interim District Director
Honolulu Area Office
Pacific Region

DATE: 01/06/2023