

CONCILIATION AGREEMENT

Between

THE U.S. DEPARTMENT OF LABOR

OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS

And

C&M CONTRACTORS, INC.

I. Preliminary Statement

The Office of Federal Contract Compliance Programs (OFCCP) evaluated the compliance of C&M Contractors Inc.'s (C&M's) establishment located at HC 6-286, Doniphan, MO 63935, for federal construction projects located in Phillips County, AR, within the Memphis, TN Non-Standard Metropolitan Statistical Area (Non-SMSA), and found that C&M failed to comply with Executive Order 11246, as amended (E.O. 11246), Section 503 of the Rehabilitation Act of 1973 (Section 503), as amended), 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 C&M of the specific violations found and the corrective action(s) required in a Notice of Violation (NOV) issued on July 11, 2023. 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 C&M 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 C&M'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 C&M 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 C&M'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. C&M will permit access to its premises during normal

business hours for these purposes and will provide OFCCP with all hardcopy or electronic reports and documents it requests, including those specified in this Agreement.

3. Nothing in this Agreement relieves C&M 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. C&M 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. C&M 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 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.
8. This Agreement becomes effective on the day it is signed by the District Director of the Dallas 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 C&M submits its final progress report required in Section IV, below, unless OFCCP notifies C&M in writing before the expiration date that C&M 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 C&M has met all of its obligations under the Agreement.
11. If C&M violates this Agreement:
 - a. The procedures at 41 C.F.R. 60-1.34 will govern:
 - i. OFCCP will send C&M a written notice stating the alleged violation(s) and summarizing any supporting evidence.

- ii. C&M 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 C&M 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 C&M, 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. C&M 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, and/or 41 C.F.R. 60-300.66 and/or other appropriate relief for violating this Agreement.
12. C&M denies any violation of the Executive Order, 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 March 16, 2022 through present, C&M failed to 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 its recruitment area and employment needs in violation of 41 CFR 60-4.3(a)7i. Specifically, C&M reported zero minorities and only one female for the performance of its contracts and stated during the virtual onsite, on May 24, 2023, that it uses word-of-mouth as its only recruitment source to hire employees to perform the work.

REMEDY: C&M must 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 C&M's recruitment area and employment needs where the work is performed. Furthermore, C&M must ensure that, not later than one month prior to the date for the acceptance of applications for apprenticeships or other training, it sends written notification to such organizations, describing the openings, screening procedures, and tests to be used in the selection process, as required by 41 CFR 60-4.3(a)7i.

2. **VIOLATION:** During the period of March 16, 2022 through present, C&M failed to encourage present female employees to recruit other women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of its work force in violation of 41 CFR 60-4.3(a)7j. Specifically, during the virtual onsite on May 24, 2023, Melinda Vaughn, President, and the only female employed at C&M, stated that she had hired one female and was training her to do administrative work. Ms. Vaughn stated that there was no program in place to encourage female recruitment or to provide after school, summer or vacation employment to minority and female youth.

REMEDY: C&M must develop a system to encourage its female and minority employees to recruit other female and minority persons and, where reasonable, provide after school, summer and vacation employment to female and minority youth both on the site and in other areas its work force, as required by 41 CFR 60-4.3(a)7j.

3. **VIOLATION:** During the period of March 16, 2022 through present, C&M failed to establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when it had employment opportunities available, and maintain a record of the organizations' responses in violation of 41 CFR 60-4.3(a)7b.

Specifically, C&M did not provide a current list of minority and female recruitment sources it utilized in the Memphis TN Non-Standard Metropolitan Statistical Area during the preceding 12 months. During the virtual onsite on May 24, 2023, Ms. Vaughn stated that they did not have a list and did not provide a written notification to minority and female recruitment sources and community organizations when it had employment opportunities available.

REMEDY: C&M must establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when it has employment opportunities available, and maintain a record of the organizations' responses, as required by 41 CFR 60-4.3(a)7b.

4. **VIOLATION:** During the period of March 16, 2022 through present, C&M failed to develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to its employment needs, especially those programs funded or approved by the Department of Labor in violation of 41 CFR 60-4.3(a)7e. Specifically, during the virtual onsite with OFCCP on May 24, 2023, Ms. Vaughn stated that she does not provide on-the-job training opportunities and/or participate in training programs. She stated that the extent of on-the-job training was that she trains a high school student to scan in documents, build files and other administrative tasks.

REMEDY: C&M must develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to its employment needs, especially those programs funded or approved by the Department of Labor, as required by 41 CFR 60-4.3(a)7e, and the Contractor shall provide notice of these programs to the sources compiled under §60-4.3(a)7b.

5. **VIOLATION:** During the period of March 16, 2022 through present, C&M failed to review, at least annually, its EEO policy and affirmative action obligations under the Standard Federal Equal Employment Construction Specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions including specific review of these items with onsite

supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at any job site; and make and maintain a written record identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter, in violation of 41 CFR 60-4.3(a)7g. Specifically, when asked during the virtual onsite on May 24, 2023, Melinda Vaughn stated she was not aware of the requirement to review its EEO policy and affirmative action obligations and had not done this annually, or at any time in the past, in accordance with the regulations.

REMEDY: C&M must review, at least annually, its EEO policy and affirmative action obligations under the Standard Federal Equal Employment Construction Specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions including specific review of these items with onsite supervisory personnel such as Superintendents, General Foremen, 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, as required by 41 CFR 60-4.3(a)7g.

6. **VIOLATION:** During the period of March 16, 2022 through present, C&M failed to disseminate its EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing its policy with other contractors and subcontractors with whom it does or anticipates doing business in violation of 41 CFR 60-4.3(a)7h. Specifically, C&M failed to submit documentation in response to Item #11 requested in the scheduling letter and during the virtual onsite on May 24, 2023, Ms. Vaughn stated that C&M just called subcontractors it previously knew and did not provide written notification to nor discuss its EEO policy with other contractors and subcontractors with whom it does or anticipates doing business.

REMEDY: C&M must disseminate its EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and provide written notification to and discuss its EEO policy with other Contractors and Subcontractors with whom it does or anticipates doing business, as required by 41 CFR 60-4.3(a)7h.

7. **VIOLATION:** During the period of March 16, 2022 through present, C&M failed to document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations, as required by 41 CFR 60-4.3(a)7o. Specifically, C&M submitted no documentation in response to Item #12, as requested in the scheduling letter and during the virtual onsite on May 24, 2023, Ms. Vaughn stated that C&M did not document or maintain any record of solicitations of offers from minority and female contractors and suppliers.

REMEDY: C&M must document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations, as required by 41 CFR 60-4.3(a)7o.

8. **VIOLATION:** During the period of March 16, 2022 through present, C&M failed to conduct a review, at least annually, of all supervisors' adherence to and performance under its EEO policies and affirmative action obligations in violation of 41 CFR 60-4.3(a)7p. Specifically, during the virtual onsite on May 24, 2023, Ms. Vaughn stated that she did not conduct a review, at least annually, of all supervisors' adherence to and performance under its EEO policies and affirmative action obligations.

REMEDY: C&M must conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's EEO policies and affirmative action obligations, as required by 41 CFR 60-4.3(a)7p.

9. **VIOLATION:** During the period of March 16, 2022 through present, C&M failed to physically include the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" and the "Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity" containing the applicable goals for minority and female participation in its construction subcontracts in excess of \$10,000. 41 CFR 60-4.2(d). Specifically, C&M did not physically include and make part of the "Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity" in any of its subcontracts.

REMEDY: C&M must physically include the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" and the "Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity" containing the applicable goals for minority and female participation in its construction subcontracts in excess of \$10,000, as required by 41 CFR 60-4.2(d).

10. VIOLATION: During the period of March 16, 2022 through present, C&M failed to include The Equal Opportunity Clause published at 41 CFR 60-1.4(b); §60-300.5; and §60-741.5 and make part of, all nonexempt Federal construction subcontracts in excess of \$10,000 performed in the designated geographical areas in violation of 41 CFR 60-4.3(a)(2). Specifically, the Contractor did not include the requirements of the Equal Opportunity Clause in any of its federal construction subcontracts.

REMEDY: C&M must include The Equal Opportunity Clause published at 41 CFR 60-1.4; §60-300.5; §60-741.5 and make part of, all nonexempt Federal construction subcontracts in excess of \$10,000 performed in the designated geographical areas, as required by 41 CFR 60-4.3(a)(2).

IV. Reports and Monitoring

1. **Progress Reports:** Pursuant to the Violations in Part III of this Agreement, C&M will submit two progress reports covering a one-year period. The first progress report will be due on February 21, 2024 (seven months from the effective date of this Agreement) and must cover the period of July 21, 2023 through January 21, 2024. The second progress report will cover the successive six-month period of January 22, 2024 through July 22, 2024 and must be submitted within 30 calendar days of the close of that six-month period (August 21, 2024). C&M will submit the reports and documents described below to:

Kimone Paley
Dallas District Director
U.S. Department of Labor/OFCCP
Dallas District Office
525 South Griffin Street, Room 512
Dallas, Texas 75202
(b)(6), (b)(7C)@dol.gov

C&M will submit the following in its first progress report:

- i. Documentation that C&M has included the Equal Opportunity Clause in all nonexempt Federal construction subcontracts in excess of \$10,000.
- ii. Documentation showing C&M directed recruitment efforts to minority and female organizations.
- iii. Documentation showing C&M encouraged current female and minority employees to recruit other females and minorities.
- iv. Documentation showing that C&M, when opportunities arose, provided after school, summer and vacation employment to minority and female youth both on the worksite and in other areas of its workforce.
- v. Documentation showing a list of minority and female recruitment sources, notification to said recruitment sources and the recording of the organizations' responses.

C&M will submit the following in its second progress report:

- i. Documentation showing development of on-the-job training opportunities which expressly include minorities and women.
- ii. Documentation showing C&M reviewed its EEO policy and affirmative action obligations with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions prior to the initiation of work at any job site. This should include: the time and place of the meeting, persons attending, subject matter discussed and disposition of the subject matter.
- iii. Documentation that C&M disseminated its EEO policy externally by including it in any advertising in the news media.
- iv. Documentation that C&M disseminated its EEO policy externally by discussing it with other contractors and subcontractors with whom it does or anticipates doing business.
- v. Documentation of all solicitations of offers for subcontracts from minority and female construction contractors and subcontractors.
- vi. Documentation that C&M conducted a review of all supervisors' adherence to and performance under its EEO policies and affirmative action obligations.
- vii. Documentation that C&M has included the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" and the "Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity" in its construction contracts in excess of \$10,000.

C&M 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 C&M provides in accordance with this Agreement are trade secrets, commercial, and/or financial in nature, and customarily kept private or closely held, and C&M believes should remain confidential under Exemption 4 of the Freedom of Information Act (FOIA) in the event of a FOIA request, C&M will provide such reports to OFCCP marked as "Confidential". In the event of a FOIA request, OFCCP will promptly notify C&M of the FOIA request and provide C&M an opportunity to object to disclosure. OFCCP will withhold disclosure of such reports to the maximum extent allowable by law.

2. **Recordkeeping:** C&M agrees to retain all records and data pertinent to the violations resolved by this Agreement and to the reports submitted in accordance with it, including the underlying information on which the reports are based, until the expiration of this Agreement or consistent with regulatory requirements, 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 C&M's progress reports as set forth in Part IV. If OFCCP fails to notify C&M in writing within sixty (60) days of the date of the progress reports that C&M 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 C&M within the allotted time that it has not fulfilled all of its obligations, this Agreement is automatically extended until the date that OFCCP determines C&M has met all of its obligations under the Agreement.

V. SIGNATURES

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

This Agreement is hereby executed by and between the Office of Federal Contract Compliance Programs and C&M Contractors Inc.

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

Melinda Vaughn
President
C&M CONTRACTORS INC.

DATE: 07/20/23

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

Kimone Paley
Dallas District Director
Southwest & Rocky Mountain Region

DATE: July 20, 2023