

Conciliation Agreement
Between the
U.S. Department of Labor Office of Federal Contract Compliance Programs
And
Robbert Construction, Incorporated

I. Preliminary Statement

The Office of Federal Contract Compliance Programs (OFCCP) evaluated Robbert Construction, Incorporated's (Contractor) establishment located at P.O. Box 199, Lakeview, Michigan, beginning on December 7, 2023. OFCCP found that Contractor failed to comply with Executive Order 11246, as amended (E.O. 11246 or the Executive Order), and its respective implementing regulations at 41 C.F.R. Chapter 60.

OFCCP notified Contractor of the specific violations and the corrective actions required in a Notice of Violation issued on August 14, 2023 (NOV).

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

II. General Terms and Conditions

1. In exchange for Contractor'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 Contractor 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 Contractor'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. Contractor 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 Contractor 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. Contractor 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, 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 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 Contractor submits its final progress report required in Section VIII, below, unless OFCCP notifies Contractor in writing before the expiration date that Contractor 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 Contractor has met all of its obligations under the Agreement.
10. If Contractor violates this Agreement:
 - a. The procedures at 41 C.F.R. 60-1.3 will govern:
 - i. OFCCP will send Contractor a written notice stating the alleged violations and summarizing any supporting evidence.
 - ii. The Contractor 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 Contractor is unable to demonstrate that it has not violated the Agreement, or if OFCCP's 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 contractor, 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. Contractor may be subject to the sanctions set forth in Section 209 of the Executive Order, 41 C.F.R. 60-1.27 and/or other appropriate relief for violating this Agreement.
11. Contractor neither admits nor denies 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, and in the Timeline included as Attachment B, 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 1:** During the period of December 7, 2021 through December 6, 2022, Contractor failed to include the equal opportunity clause 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).

Remedy 1: Contractor 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).

2. **Violation 2:** During the period of December 7, 2021 through December 6, 2022, OFCCP found that Contractor is not in compliance with the nondiscrimination requirements of the equal opportunity clause of E.O. 11246 Section 202 and 41 CFR 60-1.4(a)(3). Specifically, OFCCP found that Contractor’s employee handbook included a statement that discussing salary rates could be cause for disciplinary action.

Remedy 2: Contractor will comply with the nondiscrimination requirements of the equal opportunity clause of E.O. 11246 Section 202 and 41 CFR 60-1.4(a)(3). Specifically, Contractor will remove all statements from the employee handbook that

indicate that employees or applicants cannot inquire about, discuss, or disclose their compensation or the compensation of another employee or applicant.

3. **Violation 3:** During the period of December 7, 2021 through December 6, 2022, Contractor failed to provide written notification to OFCCP within 10 working days of the 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 3: Contractor will provide notice within 10 working days to OFCCP of the 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. Contractor will provide notification via the Notification of Construction Contract Award Portal (NCAP) at <https://www.dol.gov/agencies/ofccp/ncap>.

4. **Violation 4:** During the period of December 7, 2021 through December 6, 2022, Contractor 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, as required by 41 CFR 60-4.3(a)(2).

Remedy 4: Contractor will 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 60-4.3(a)(2).

5. **Violation 5:** During the period of December 7, 2021 through December 6, 2022, Contractor failed to establish and maintain a current list of minority and female recruitment sources, failed to provide written notification to minority and female recruitment sources and to community organizations when Contractor had employment opportunities available, and failed to maintain a record of the organizations' responses, as required by 41 CFR 60-4.3(a)7.b.

Remedy 5: Contractor will 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 Contractor has employment opportunities available, and maintain a record of the organizations' responses, as required by 41 CFR 60-4.3(a)7.b.

6. **Violation 6:** During the period of December 7, 2021 through December 6, 2022, Contractor 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, in violation of 41 CFR 60-4.3(a)7.g.

Remedy 6: Contractor will 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 must 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)7.g.

7. **Violation 7:** During the period of December 7, 2021 through December 6, 2022, Contractor failed to disseminate its EEO policy externally by including it in any advertising in the news media, failed to specifically include minority and female news media, and failed to provide written notification to and discuss its EEO policy with other Contractors and Subcontractors with whom Robbert Construction, Inc. does or anticipates doing business, as required by 41 CFR 60-4.3(a)7.h.

Remedy 7: Contractor will 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 EEO policy with other Contractors and Subcontractors with whom it does or anticipates doing business, as required by 41 CFR 60-4.3(a)7.h.

8. **Violation 8:** During the period of December 7, 2021 through December 6, 2022, Contractor failed to ensure that seniority practices, job classifications, work assignments and other personnel practices, did not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and its obligations under the "specifications" were being carried out, in violation of 60-4.3(a)7.m. Contractor did not provide evidence to show that it ensured that seniority practices, job classifications, work assignments and other personnel practices, did not have a discriminatory effect by continually monitoring all personnel and employment related activities.

Remedy 8: Contractor will 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)7.o.

9. **Violation 9:** During the period of December 7, 2021 through December 6, 2022, Contractor 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)7.o.

Remedy 9: Contractor will 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)7.o.

10. **Violation 10:** During the period of December 7, 2021 through December 6, 2022, Contractor failed to review its employment practices to determine whether members of the various religious and/or ethnic groups received fair consideration for job opportunities, as required by 41 CFR 60-50.2(b).

Remedy 10: Contractor will review its employment practices to determine whether members of the various religious and/or ethnic groups are receiving fair consideration for job opportunities. Based upon the findings of such reviews, Contractor will undertake appropriate outreach and positive recruitment activities, such as those listed in 41 CFR 60-50.2(b)(1-8), in order to remedy existing deficiencies, as required by 41 CFR 60-50.2(b).

IV. OFCCP Monitoring Period

1. **Recordkeeping.** Contractor agrees to retain all records relevant to the violations 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. Contractor will retain the records until this Agreement expires or for the time period consistent with regulatory requirements, whichever is later.
2. **Contractor Reports.** Contractor agrees to furnish OFCCP with one (1) report, due September 30, 2024, covering the monitoring period of September 1, 2023 through August 30, 2024. The report will contain the following documentation:
 - a. Three (3) recent subcontracts in excess of \$10,000.
 - b. Employee handbook.
 - c. Evidence that Contractor provided notification to OFCCP via the Notification of Construction Contract Award Portal (NCAP) of the award of any construction subcontracts in excess of \$10,000 made under a covered federal or federally assisted construction contract.
 - d. Current list of minority and female recruitment sources, written notifications to minority and female recruitment sources and to community organizations when it had employment opportunities available, and the record of the organizations' responses.
 - e. Evidence that Contractor reviewed, 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. The written record must identify the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.

- f. Evidence that Contractor disseminated its EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and provided written notification to and discussing EEO policy with other Contractors and Subcontractors with whom Robbert Construction, Inc. did or anticipated doing business.
- g. Evidence that Contractor monitored all personnel and employment related activities to ensure that seniority practices, job classifications, work assignments and other personnel practices, did not have a discriminatory effect.
- h. Contractor's record of 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.
- i. Evidence that Contractor reviewed its employment practices to determine whether members of various religious and/or ethnic groups received fair consideration for job opportunities, and that it undertook appropriate outreach and positive recruitment activities in order to remedy existing deficiencies.

Contractor will submit the report to (b) (6), (b) (7)(C) at (b) (6), (b) (7)(C)@dol.gov. Contractor 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 Contractor provides in accordance with this agreement are customarily kept private or closely-held, and the Contractor believes should remain confidential under Exemption 4 of the Freedom of Information Act (FOIA) in the event of a FOIA request, Contractor will provide such reports to OFCCP marked as "Confidential". In the event of a FOIA request, Contractor will provide such reports to OFCCP marked as "Confidential". In the event of a FOIA request, OFCCP will promptly notify Contractor of the FOIA request and provide Contractor 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 Contractor's final progress report as set forth in Section II, Paragraph 9 above. If OFCCP fails to notify Contractor in writing within sixty (60) days of the date of the final progress report that Contractor 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 Contractor within the allotted time that it has not fulfilled all of its obligations, this Agreement is automatically extended until the date that OFCCP determines Contractor has met all of its obligations under the Agreement.

V. SIGNATURES

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

This Agreement is hereby executed by and between the Office of Federal Contract Compliance Programs and Robbert Construction, Incorporated's establishment located at P.O. Box 199, Lakeview, Michigan.

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

William Helmer
President
Robbert Construction, Incorporated
Lakeview, Michigan

DATE: 08/22/2023

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

Margaret Kraak
District Director
Midwest Region

DATE: 8/29/23