

## CONCILIATION AGREEMENT

Between

THE U.S. DEPARTMENT OF LABOR

OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS

and

FJC SECURITY SERVICES, INC.

### **PART I. PRELIMINARY STATEMENT**

The Office of Federal Contract Compliance Programs (OFCCP) has conducted a complaint investigation of (b) (6), (b) (7)(C) against FJC Security Services, Inc. (FJC), which was formerly located at 4414 Centerview Drive, Suite 226, San Antonio, TX 78228, and found that FJC was not in compliance with Executive Order 11246, as amended (E.O.11246), Section 503 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 793 (Section 503), and their implementing regulations at 41 C.F.R. Section(s) 60-1 and 60-741. OFCCP notified FJC of the specific violations found and the remedies required in a Notification of Results of Investigation (NORI) issued on December 15, 2017. 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 FJC enter this Conciliation Agreement (Agreement) and agree to all the terms stated below.

### **PART II. GENERAL TERMS AND CONDITIONS**

1. In exchange for FJC's fulfillment of all obligations in Parts III and IV of the Agreement, OFCCP agrees not to institute administrative or judicial enforcement proceedings under E.O.11246 or Section 503 based on the violations described in more detail in Part III below. However, OFCCP has the right to initiate legal proceedings to enforce the Agreement itself or to correct and obtain relief for the violations described in Part III if FJC violates this Agreement. Nothing in this Agreement precludes OFCCP from initiating enforcement proceedings based on future compliance evaluations or complaint investigations.
2. FJC agrees that OFCCP may review its compliance with this Agreement. As part of such review, OFCCP may require written reports, inspect the premises (located at 3355 Cherry Ridge, Suite 200, San Antonio, TX 78230, hereinafter the "San Antonio Office"), interview witnesses, and examine and copy documents. FJC will permit access to its premises during normal business hours for these purposes and will provide OFCCP with all reports and documents requested.

3. FJC understands that nothing in this Agreement relieves FJC of its obligation to fully comply with the requirements of E.O.11246, Section 503, and/or the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, 38 U.S.C. § 4212 (VEVRAA), their implementing regulations, and other applicable equal employment laws.
4. FJC promises not to harass, intimidate, threaten, discriminate, or otherwise retaliate against any individual because the individual: benefits from this Agreement, files a complaint or participates in any investigation or proceeding under E.O.11246, Section 503, and/or VEVRAA, or engages in any activity listed at 41 C.F.R. § 60-1.32 and 60-741.69.
5. The parties understand the terms of this Agreement and enter into it voluntarily.
6. This document and its attachments contain the complete and final understanding of the parties with respect to the matters referenced herein. This Agreement contains all terms by which the parties are bound and it supersedes all prior written or oral negotiations and agreements. There will be no modifications or amendments to this Agreement unless they are in writing, signed by all parties.
7. If one or more provisions of this Agreement are rendered unlawful or unenforceable, the remaining provisions will remain in full force and effect.
8. This Agreement becomes effective on the day it is signed by the Houston District Director (the Effective Date) unless the Regional Director of the Southwest and Rocky Mountain Region or the Director of OFCCP indicates otherwise within 45 calendar days of the date the Houston District Director signs the Agreement.
9. This Agreement will expire sixty (60) days after FJC submits the final progress report required in Part IV (D), below, unless OFCCP notifies FJC in writing prior to the expiration date that FJC has not fulfilled all of its obligations under the Agreement, in which case the Agreement is automatically extended until the date that OFCCP determines FJC has met all of its obligations under the Agreement.
10. If FJC violates this Conciliation Agreement,
  - A. The procedures set forth at 41 C.F.R. §§ 60-1.34 and 60-741.63 will govern
    - 1) If OFCCP believes that FJC violated any term of the Agreement while it was in effect, OFCCP will send FJC a written notice stating the alleged violations and summarizing any supporting evidence.
    - 2) FJC will have 15 days from receipt of such notice to demonstrate in writing that it has not violated the Agreement, unless such a delay would result in irreparable injury to the employment rights of affected employees or applicants.

- 3) If FJC 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.
  - 4) OFCCP may seek enforcement of this Agreement itself and is not required to present proof of any underlying violations resolved by this Agreement.
- B. FJC may be subject to the sanctions set forth in Section 209 of the Executive Order, 41 C.F.R. § 60-741.66 and/or other appropriate relief for violation of this Agreement.
11. This Agreement does not constitute an admission by FJC of any violation of E.O.11246, Section 503, VEVRAA or other laws, nor has there been an adjudicated finding that FJC violated any laws.

### **PART III. SPECIFIC PROVISIONS**

1. **VIOLATION:** OFCCP found that FJC failed to provide equal employment opportunity to the Complainant, (b) (6), (b) (7)(C) an otherwise qualified individual with a disability within the meaning of the ADA, Section 503, and OFCCP's regulations at 41 CFR 60-741.2(g), by failing to make a reasonable accommodation to (b) (6), (b) (7)(C) in violation of 41 CFR 60-741.S(a)(1) and 41 CFR 60-741.21(a)(1), (6) and (7).

OFCCP found that FJC failed to initiate an informal interactive process with the Complainant to determine an appropriate reasonable accommodation after a medical examination indicated that the Complainant did not meet federal contract-specified (b) (6), (b) (7)(C) requirements.

OFCCP found FJC failed to demonstrate that an accommodation would impose an undue hardship on the operation of its business as stated in 41 CFR § 60-741.21(a)(6).

The reasonable accommodation at issue includes changing the process for employees with (b) (6), (b) (7)(C) that are tested during their mandatory bi-annual medical exam. Specifically, FJC employees were instructed to (b) (6), (b) (7)(C) before taking (b) (6), (b) (7)(C) exam, and as a result they failed the test. Upon failing the test, FJC immediately removed these employees from the Federal contract and improperly placed them on unpaid leave.

Complainant (b) (6), (b) (7)(C) and one other employee, (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) due to (b) (6), (b) (7)(C) and requested that FJC provide a reasonable accommodation that would allow them to (b) (6), (b) (7)(C) while being tested. However, FJC did not provide this accommodation, nor did FJC provide any evidence that this accommodation would impose an undue hardship for the company. Due to FJC's failure to provide a reasonable accommodation to employees with (b) (6), (b) (7)(C) disabilities, these employees lost wages for time they should have worked, incurred doctor co-pays and paid ancillary medical fees totaling \$1,869.14.

In January 2015 FJC changed its policy and no longer removes employees from contract for failing their initial (b) (6), (b) (7)(C) exam.

REMEDY: FJC agrees to, and already has, immediately ceased using the alleged discriminatory practices, policies and procedures that negatively affected (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) and will take the following corrective actions:

- A. Training: FJC will continue to enforce its policy and procedures that currently comply with 41 CFR 741.2 (s)(3). Within 90 days of the Effective Date of this Agreement, FJC's successor entity will provide training to all managers and Human Resources personnel who work at the San Antonio office regarding the appropriate policies and procedures in place to engage in the interactive process and to determine and implement reasonable accommodations, and to initiate an informal, interactive process with qualified disabled veterans and/or qualified individuals with disabilities to determine appropriate reasonable accommodations, in accordance with 41 CFR 741.2(s)(3).
- B. Notice: Within 10 calendar days of the Effective Date of this Agreement, FJC will provide (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) full disclosure of the terms of the Agreement (Attachments 1A and 1B, Notice) and the Release of Claims Under Section 503 (Attachments 2A and 2B, Release). The Notice and Release will be provided by certified mail, return receipt requested along with a postage paid return envelope.
- C. Eligibility: (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) must return the Release to FJC within 35 calendar days from the postmark on this envelope to be entitled to receive the monetary settlement.
- D. Monetary Settlement: Within 50 calendar days of the Effective Date of this Agreement, FJC will provide (b) (6), (b) (7)(C) a make whole remedy in the amount of \$1,000.59 that includes \$859.20 in back wages (less legal deductions required by law), \$116.39 in interest, and \$25.00 as reimbursement for medical expenses incurred related to this violation.

Within 50 calendar days of the Effective Date of this Agreement, FJC will provide (b) (6), (b) (7)(C) a make whole remedy in the amount of \$868.55 that includes \$740.00 in back wages (less legal deductions required by law), \$78.55 in interest, and \$50.00 as reimbursement for medical expenses incurred related to this violation.

The back wages will be reported on an IRS Form W-2 and the interest and compensatory damages will be reported on an IRS Form 1099. No disbursements of the monetary settlement covered by this Agreement are to be made prior to 45 calendar days following the Effective Date of this Agreement.

**2. VIOLATION:** As a result of an investigation conducted on January 27, 2015, the OFCCP concluded that FJC, at the San Antonio Office, failed to ensure that its workplace was free from harassment, intimidation, threats, coercion or discrimination, in violation of 41 CFR 60- 1.32(b). Specifically, OFCCP found that FJC allowed persistent conduct and behaviors, by employees, that created a hostile work environment. During OFCCP's onsite investigation, multiple employees interviewed described the conduct allowed by FJC. One employee admitted to making racist and sexist remarks regularly and described the climate at company training sessions as being similar to that of a locker room. Other employees also alleged that it was common for them to openly engage in offensive and derogatory comments on a regular basis. OFCCP found this behavior to be severe, pervasive and unwelcome, and supports the complainants' claim of a hostile work environment.

**REMEDY:** FJC agrees to take measures to ensure that its workplace is free from harassment, intimidation, threats, coercion, or discrimination, as required by 41 CFR 60-1.32 (b). Within 90 days of the Effective Date of this Agreement, FJC or FJC's successor entity will provide sensitivity training to managers and Human Resources personnel who work at the San Antonio Office. FJC's successor entity will distribute a reaffirmation of the Company's Equal Opportunity Employer policy to all employees who report to the San Antonio Office by electronically posting said reaffirmation on its e-hub system.

#### **PART IV. REPORTS REQUIRED**

I. FJC Security Services, Inc. must submit the documents and reports described below to:

Karen N. Hyman  
District Director of OFCCP  
2320 La Branch, Suite 1103  
Houston, TX 77004

- A. Within 120 calendar days of the Effective Date of this Agreement, FJC will submit documentation that it has complied with the training provisions as described in Part III, Violation 1, Remedy A. The documentation will include the dates of the training, a roster containing the names and job titles of all attendees, a copy of the material, and the name and job title of each person who conducted the training. The attendance roster must be signed by the local or corporate official.
- B. Within 120 calendar days of the Effective Date of this Agreement, FJC will submit documentation of the monetary payments to (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) verifying that the checks cleared, if (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) have returned their signed Releases of Claims. The company will also submit signed copies of the Release of Claims.

C. Within 120 days of the Effective Date of this Agreement, FJC will submit documentation that it has complied with the training provisions as described in Part III, Violation 2, Remedy. The documentation will include the dates of the training, a roster containing the names and job titles of all attendees, a copy of the material, and the name and job title of each person who conducted the training. The attendance roster must be signed by the local or corporate official.

2. FJC will retain all records and data pertinent to the violations resolved by this Agreement and/or used to prepare required reports until this Agreement expires or as long as required by OFCCP's regulations, whichever date occurs later. Such documents and information may include letters returned as undeliverable.

**PART V. SIGNATURES**

This Conciliation Agreement is hereby executed by and between the OFCCP and FJC Security Services, Inc., 1551 N. Tustin Ave., Suite 650, Santa Ana, CA 92705 on behalf of FJC Security Services, Inc. formerly located at 4414 Centerview Drive, suite 226, San Antonio, TX 78228.

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

Ashley Coleman  
Assistant General Counsel  
FJC Security Services, Inc

Date: 3-8-18

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

Karen N. Hyman  
Houston District  
Director OFCCP

Date: 03/09/2018

ATTACHMENT IA

NOTICE TO AFFECTED CLASS MEMBER

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

FJC Security Services, Inc. (FJC) and the Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) have entered into a Conciliation Agreement (Agreement) to resolve the alleged violation of Section 503 and its implementing regulations and to resolve the matter without further legal proceedings.

As part of the Agreement, you are eligible to receive a total distribution of \$1,000.59 to include:

- \$859.20 in back pay
- \$116.39 in interest
- \$25.00 for medical records retrieval fees

The amount you receive will be less than the total distribution because the back pay amount will be reduced by deductions required by law, such as federal, state and/or local taxes and your share of FICA taxes.

Under the terms of this Agreement, it will take up to 50 days before you receive your distribution. In order to be eligible for the distribution, you must complete, sign and return the Release of Claims under Section 503 within 35 days from the postmark on this envelope to the following address:

Ashley Coleman, Assistant General Counsel, FJC Security Services, Inc.  
1551 N. Tustin Ave., Suite 650 Santa Ana, CA 92705

Enclosed please find a postage paid return envelope that you may use to return the completed and signed documents.

By entering into this Agreement, FJC has not admitted nor has there been any adjudicated finding that FJC violated any laws. FJC has entered into this Agreement to resolve the matter without further legal proceedings. FJC has denied any wrongdoing.

Sincerely,

Ashley Coleman, Assistant General Counsel, FJC Security Services, Inc.

Enclosure: Release of Claims

ATTACHMENT 1B

NOTICE TO AFFECTED CLASS MEMBER

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

FJC Security Services, Inc. (FJC) and the Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) have entered into a Conciliation Agreement (Agreement) to resolve the alleged violation of Section 503 and its implementing regulations and to resolve the matter without further legal proceedings.

As part of the Agreement, you are eligible to receive a total distribution of \$868.55 to include:

- \$740.00 in back pay
- \$78.55 in interest
- \$50.00 in medical co-pays

The amount you receive may be less than the total distribution because the back pay amount will be reduced by deductions required by law, such as federal, state and/or local taxes and your share of FICA taxes.

Under the terms of this Agreement, it will take up to 50 days before you receive your distribution. In order to be eligible for the distribution, you must complete, sign and return the Release of Claims under Section 503 within 35 days from the postmark on this envelope to the following address:

Ashley Coleman, Assistant General Counsel, FJC Security Services, Inc.  
1551 N. Tustin Ave., Suite 650  
Santa Ana, CA 92705

Enclosed please find a postage paid return envelope that you may use to return the completed and signed documents.

By entering into this Agreement, FJC has not admitted nor has there been any adjudicated finding that FJC violated any laws. FJC has entered into this Agreement to resolve the matter without further legal proceedings. FJC has denied any wrongdoing.

Sincerely,

Ashley Coleman, Assistant General Counsel, FJC Security Services, Inc.

Enclosure: Release of Claim

ATTACHMENT 2A - (b) (6), (b) (7)(C)

RELEASE OF CLAIMS UNDER Section 503 of the Rehabilitation Act of 1973, as amended, 29  
U.S.C. § 793

**PLEASE CAREFULLY READ THE ENCLOSED NOTICE BEFORE COMPLETING  
THIS RELEASE. YOU MUST RETURN A SIGNED RELEASE TO RECEIVE MONEY  
FROM THE SETTLEMENT**

This Release of Claims under Section 503 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 793 and its implementing regulations (Release) is a legal document. This document states that in return for FJC Security Services, Inc. (FJC) providing you with money, you agree that you will not file any lawsuit against FJC for allegedly violating Section 503 of the Rehabilitation Act in connection with your disability claim as a Security Officer. It also says that FJC does not admit it violated any laws. This Release says you had sufficient time to look at the document, to talk with others about the document, including an attorney if you choose, and that no one pressured you into signing the document. Finally, it says that if you do not sign and return the document by a certain date, you will not receive any money.

In consideration of the payment of \$1,000.59 (less deductions required by law) to me, which I agree is acceptable, I agree to the following:

I.

I hereby waive, release and forever discharge FJC, its predecessors, successors, related entities, parents, subsidiaries, affiliates and organizations, and its and their shareholders, owners, directors, officers, employees, agents, successors, and assigns, of and from any and all actions, causes of action, damages, liabilities, and claims arising out of or actionable under Section 503, which I or my representatives (heirs, executors, administrators, or assigns) have or may have which relate in any way to my disability claim.

II.

I understand that FJC denies that it treated me unlawfully or unfairly in any way and that FJC entered into a Conciliation Agreement with the U.S. Department of Labor, Office of Federal Contract Compliance Programs (OFCCP) and agreed to make the payment described above to resolve without further legal proceedings all issues related to OFCCP's complaint investigation of (b) (6), (b) (7)(C). FJC Security Services, Inc. conducted on January 25, 2015. I further agree that the payment by FJC to me is not to be construed as an admission of any liability by FJC.

III.

I declare that I have read this Release and that I have had a full opportunity to consider and understand its terms and to consult with my advisors and seek legal advice. I further declare that I have decided of my own free will to sign this Release.

I understand that if I do not sign this Release and return it to (b) (6), (b) (7)(C) OFCCP or Ashley Coleman, FJC such that it is received no later than 35 calendar days from the postmark on this envelope, I will not be entitled to receive \$1,000.59 (less deductions required by law).

IN WITNESS WHEREOF, I have signed this document of my own free will.

Signature: \_\_\_\_\_  
Date: \_\_\_\_\_

ATTACHMENT 2B - (b) (6), (b) (7)(C)

RELEASE OF CLAIMS UNDER Section 503 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 793

**PLEASE CAREFULLY READ THE ENCLOSED NOTICE BEFORE COMPLETING THIS RELEASE. YOU MUST RETURN A SIGNED RELEASE TO RECEIVE MONEY FROM THE SETTLEMENT**

This Release of Claims under Section 503 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 793 and its implementing regulations (Release) is a legal document. This document states that in return for FJC Security Services, Inc. (FJC) providing you with money, you agree that you will not file any lawsuit against FJC for allegedly violating Section 503 of the Rehabilitation Act in connection with your disability claim as a Security Officer. It also says that FJC does not admit it violated any laws. This Release says you had sufficient time to look at the document, to talk with others about the document, including an attorney if you choose, and that no one pressured you into signing the document. Finally, it says that if you do not sign and return the document by a certain date, you will not receive any money.

In consideration of the payment of \$868.55 (less deductions required by law) to me, which I agree is acceptable, I agree to the following:

I.

I hereby waive, release and forever discharge FJC, its predecessors, successors, related entities, parents, subsidiaries, affiliates and organizations, and its and their shareholders, owners, directors, officers, employees, agents, successors, and assigns, of and from any and all actions, causes of action, damages, liabilities, and claims arising out of or actionable under Section 503, which I or my representatives (heirs, executors, administrators, or assigns) have or may have which relate in any way to my disability claim.

II.

I understand that FJC denies that it treated me unlawfully or unfairly in any way and that FJC entered into a Conciliation Agreement with the U.S. Department of Labor, Office of Federal Contract Compliance Programs (OFCCP) and agreed to make the payment described above to resolve without further legal proceedings all issues related to OFCCP's complaint investigation of (b) (6), (b) (7)(C) v. FJC Security Services, Inc. conducted on January 25, 2015. I further agree that the payment by FJC to me is not to be construed as an admission of any liability by FJC.

III.

I declare that I have read this Release and that I have had a full opportunity to consider and understand its terms and to consult with my advisors and seek legal advice. I further declare that I have decided of my own free will to sign this Release.

I understand that if I do not sign this Release and return it to (b) (6), (b) (7)(C) OFCCP or Ashley Coleman, FJC such that it is received no later than 35 calendar days from the postmark on this envelope, I will not be entitled to receive \$868.55 (less deductions required by law).

IN WITNESS WHEREOF, I have signed this document of my own free will.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_