

CONCILIATION AGREEMENT

Between

THE U. S. DEPARTMENT OF LABOR

OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS
And

HOUSTON RAPID TRANSIT – JOINT VENTURE

2979 MCKINNEY ST.

HOUSTON, TX 77003

PART I. PRELIMINARY STATEMENT

The Office of Federal Contract Compliance Programs (“OFCCP”) evaluated Houston Rapid Transit – Joint Venture located at 2979 McKinney St., Houston, TX (hereafter “HRT”). HRT is a separate entity created by Parsons Transportation Group, Inc., Granite Construction Company, Kiewit Texas Construction, L.P., and Stacy and Witbeck, Inc. OFCCP concluded that HRT was not in compliance with the Executive Order 11246, as amended (“E.O. 11246”), and its implementing regulations at 41 C.F.R. Section 60-1. OFCCP notified HRT of the specific violations found and the corrective actions required in a Notice of Violations issued on January 31, 2014 and a Show Cause Notice issued on August 15, 2014. 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 HRT enter this contract (“Agreement”) and agree to all the terms stated below.

PART II. GENERAL TERMS AND CONDITIONS

1. In exchange for HRT’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 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 violation described in Part III if HRT violates this Agreement. Nothing in this Agreement precludes OFCCP from initiating enforcement proceedings based on future compliance evaluations or complaint investigations.
2. HRT agrees that OFCCP may review its compliance with this Agreement. As part of such review, OFCCP may require written reports, inspect the premises, interview witnesses, and examine and copy documents. HRT will permit access to its premises during normal business hours for these purposes and will provide OFCCP with all reports and documents requested.
3. HRT understands that nothing in this Agreement relieves HRT of its obligation to fully comply with the requirements of E.O. 11246, 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"), their implementing regulations, and other applicable equal employment laws.

4. HRT 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(a).
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 Regional Director of the Southwest and Rocky Mountain ("SWARM") Region (the "Effective Date") unless the Director of OFCCP indicates otherwise within 45 calendar days of the date the Regional Director signs the Agreement.
9. This Agreement will expire sixty (60) days after HRT submits the documentation required in Part IV (2), below, unless OFCCP notifies HRT in writing prior to the expiration date that HRT has not fulfilled all of its obligations under the Agreement, in which case the Agreement is automatically extended until the date that OFCCP determine HRT has met all of its obligations under the Agreement.
10. If HRT violates this Conciliation Agreement,
 - A. The procedures set forth at 41 C.F.R. § 60-1.34 will govern:
 - 1) If OFCCP believes that HRT violated any term of the Agreement while it was in effect, OFCCP will send HRT a written notice stating the alleged violations and summarizing any supporting evidence.
 - 2) HRT will have 15 days from receipt of such notice to demonstrate in writing that it has not violated the Conciliation Agreement, unless such a delay would result in irreparable injury to the employment rights of affected employees or applicants.
 - 3) If HRT 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. HRT may be subject to the sanctions set forth in 209 of the Executive Order and/or other appropriate relief for violation of this Agreement.

11. This Agreement does not constitute an admission by HRT of any violation of E.O. 11246, its implementing regulations, Section 503, VEVRAA, or other laws, nor has there been an adjudicated finding that HRT violated any laws.

PART III. SPECIFIC VIOLATIONS AND REMEDIES

1. HIRING DISCRIMINATION

A. STATEMENT OF VIOLATION. OFCCP concluded that HRT was not in compliance with the nondiscrimination requirements of the equal opportunity clause of E.O. 11246 § 202 and 41 C.F.R. § 60-1.4(a)(1). OFCCP's analysis of HRT's hiring process and selection procedures revealed that during the period of January 1, 2010 through August 31, 2012 ("review period") there was a statistically significant disparity in the hiring of black applicants for Carpenter/Concrete Finisher and Equipment Operator positions.

B. OFCCP'S SPECIFIC FINDINGS. OFCCP's analysis of HRT's hiring process and selection procedures revealed statistical disparities against black applicants in hiring for Carpenter/Concrete Finisher and Equipment Operator positions during the period of January 1, 2010 through August 31, 2012.

In each applicant pool, OFCCP included applicants who applied for and/or were hired into each position. OFCCP excluded from its analyses applicants whose applications OFCCP determined were more than 60 days beyond the application date, and who therefore had inactive applications. OFCCP's analysis of the hiring data showed a statistically significant disparity that negatively affected black applicants.

OFCCP's analysis resulted in a statistically significant disparity negatively affecting black applicants at ^{(b)(7)(E)} standard deviations with a shortfall of 7 in the Carpenter/Concrete Finishers.

OFCCP's analysis resulted in a statistically significant disparity negatively affecting black applicants at ^{(b)(7)(E)} standard deviations with a shortfall of 13 in the Equipment Operators.

OFCCP was unable to identify a legitimate non-discriminatory reason for the hiring disparities and found other anecdotal evidence and inconsistencies in the selection process that support OFCCP's statistical findings. Thus, OFCCP concluded that HRT engaged in discrimination in hiring against black applicants for construction craft jobs.

C. REMEDY FOR AFFECTED CLASS.

1) **Notification**: Within 15 calendar days of the effective date of this Agreement, HRT must notify the black applicants listed in Attachment 1a, 1b, and 1c of the terms of this Agreement by mailing by first class mail to each individual in the affected class the: Notice to Affected Class (Attachment 2, "Notice"), Information Verification Form (Attachment 3, "Verification Form"), the Release of Claims (Attachment 4, "Release of Claims") and a postage paid return envelope. Within 60 calendar days of the effective date of this Agreement, HRT will notify OFCCP of all letters returned as undeliverable and provide a list to OFCCP of the individuals in the affected class who have not yet responded to the Notice and/or have not returned a signed Interest Form. Within 70 calendar days of the effective date of this Agreement, OFCCP will attempt to obtain and provide updated addresses to HRT. Within 80 calendar days of the effective date of this Agreement, HRT will mail by First Class mail a second Notice, Verification Form and Release of Claims, and postage paid return envelope to all individuals for whom updated addresses were obtained.

- 2) **Eligibility**. All members of the affected class (listed on Attachment 1a, 1b, and 1c) who sign and return the Verification and Release of Claims Forms to HRT within 120 calendar days of the effective date of this Agreement ("Eligible Class Members") will receive a share of the monetary settlement. If an individual receives, but does not return the Verification Form and Release of Claims Form to HRT within 120 calendar days of the effective date of this Agreement, he/she will no longer be entitled to a payment. The class will close 120 calendar days from the effective date of this Agreement.

Within 10 days after the class closure, HRT will provide OFCCP with a list of the Eligible Class Members (individuals who returned the Verification and Release of Claim Forms by the deadline). Within 5 calendar days after receiving the list, OFCCP will approve the final list of Eligible Class Members or discuss with HRT any issues necessary to finalize the list, such as the inclusion or exclusion of certain individuals.

- 3) **Monetary Settlement**. HRT agrees to distribute \$ 225,000.00 (\$ 202,500 in back pay and \$ 22,500 in interest), less legal deductions required by law from back pay only (such as federal, state and/ or local taxes and the Eligible Class Members' share of FICA taxes), in equal shares among all Eligible Class Members on the final approved list. HRT will pay the Internal Revenue Service ("IRS") the employer's share of social security withholdings and will mail each Eligible Class Member an IRS W-2 Form reporting the portion of the payment representing back pay and an IRS Form 1099 for the portion of the payment representing interest. These IRS forms will be mailed at the end of the year. HRT will disburse the monetary settlement within 30 calendar days after OFCCP approves the final list of Eligible Class Members.

No later than 30 calendar days after HRT has mailed the checks to the Eligible Class Members, HRT will notify OFCCP of the checks returned as undeliverable

via e-mail sent to Assistant Houston District Director Karen Hyman (hyman.karen@dol.gov). OFCCP will attempt to locate the Eligible Class Member and notify HRT within 5 days if OFCCP learns of an alternate address or speaks to the class member. HRT will re-mail the check within 10 calendar days of receiving the address. Any check that remains uncashed 120 days after the initial date the check was mailed to the Eligible Class Member (check cashing deadline) will be void. With respect to any uncashed funds, within 30 days of the check cashing deadline, HRT will make a second distribution to all Eligible Class Members who cashed their first check if the amount of the un-cashed funds would result in a payment of \$20.00 or more to each of the located Eligible Class Members. If the total amount of un-cashed funds would result in a payment of less than \$20.00 to each located Eligible Class Member who cashed the first distribution check, within 30 days of the check cashing deadline, HRT will contribute those uncashed funds to an organization assisting with training and development of employment opportunities for women and blacks in the Houston area.

- 4) Employment. HRT represents it has no plans for further hiring of Carpenter/Concrete Finishers or Equipment Operators between the present date and the completion of the work on the Houston (METRO) Mega Project. When METRO acknowledges that HRT has completed its contract obligations on the METRO project, HRT will be dissolved. Because of the dissolution of HRT and its discontinuation as an employer, HRT will not be required to extend job offers to eligible class members. If HRT does any hiring of Carpenters/Concrete Finishers or Equipment Operators on the Houston (METRO) Mega Project before its dissolution, HRT shall hire, as positions become available, 7 Eligible Class Members in Carpenter/Concrete Finishers positions and 13 Eligible Class Members in Equipment Operator positions to remedy this violation.

PART IV. REPORTS REQUIRED

1. HRT agrees to submit the reports and information by the dues dates as describe in the remedy above.
2. Thirty days following the final distribution of settlement monies as described in Section C3 above (180 days from class closure date), HRT must submit the documents and reports described below to: Karen Hyman, Houston Assistant District Director of OFCCP, 2320 La Branch St., Suite 1103, Houston, Texas 77004:
 - Documentation of monetary payments to all Eligible Class Members as specified in Section 3C. The documentation must include the names of Eligible Class Members who were paid, and, for each Eligible Class Member, the number and the amount of the check and the date the check cleared the bank. HRT must provide OFCCP with copies of all canceled checks upon request; and

- If required, information on the hires to included name, date of hire, job title hired into, and hourly wage.

3. HRT 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.

PART V: SIGNATURES:

This Conciliation Agreement is hereby executed by and between the OFCCP and HRT.

Houston Rapid Transit JV

by: **6 & 7c**
DOUG REEHL
Project Director

Date: 10/3/14

(b) (7)(C)

Compliance Officer
Houston District Office

Date: 10/6/14

6 & 7c
KAREN N. HYMAN
Assistant District Director
Houston District Office

Date: 10/6/14

6 & 7c
MELISSA L. SPEER
Regional Director
Southwest and Rocky Mountain Region
OFCCP

Date: 10-6-2014

- Attachment 1a, 1b, 1c: List of Eligible Class Members
- Attachment 2: Notice to Affected Class
- Attachment 3: Information Verification Form
- Attachment 4: Release of Claims

ATTACHMENT 1a, 1b, and 1c
LIST OF ELIGIBLE CLASS MEMBERS

CARPENTER/CONCRETE FINISHER CLASSMEMBERS

COUNT	LAST NAME ON AFL	FIRST NAME ON AFL	MIDDLE NAME ON AFL	RACE	GENDER
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EQUIPMENT OPERATOR CLASSMEMBERS

COUNT	LAST NAME ON AFL	FIRST NAME ON AFL	MIDDLE NAME ON AFL	RACE	GENDER
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59	(b) (7)(C)
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ATTACHMENT 2
NOTICE TO AFFECTED CLASS

Dear [Ms./Mr.] [Name]

Houston Rapid Transit (“HRT”) and the Department of Labor’s Office of Federal Contract Compliance Programs (“OFCCP”) have entered into a Conciliation Agreement (“Agreement”) to remedy the OFCCP’s allegation of violation of Executive Order 11246 (“E.O. 11246”) that OFCCP found during a compliance review of HRT’s Mega Project, the Metropolitan Transit Authority of Harris County (METRO) located in Houston, Texas. OFCCP’s analysis of HRT’s hiring process for the period of January 1, 2010 through August 31, 2012 (“review period”) indicated HRT discriminated against black applicants for Carpenter/Concrete Finisher and Equipment Operator positions. OFCCP found that there was a statistically significant disparity in the hiring of Carpenter/Concrete Finisher and, Equipment Operator, positions based on race. HRT has not admitted to any violations of E.O. 11246 and there has not been any adjudicated finding that HRT violated any laws. OFCCP and HRT entered into the Agreement to resolve the matter without resorting to further legal proceedings. You have been identified as an individual who applied for a Carpenter/Concrete Finisher or Equipment Operator position during the review period, but was not hired.

As part of the Conciliation Agreement, you are eligible to receive a distribution of at least \$ [redacted] less lawful payroll deductions. Under the terms of the Agreement it may take up to 6 months from the date of this letter before you receive your distribution. In order to be eligible for a payment, you must complete, sign, and return the enclosed Information Verification Form and Release of Claims Form. You should complete and mail back both forms as soon as possible; the return envelope with the completed forms *must* be returned within 120 calendar days of the effective date of this agreement [by DATE] for you to be entitled to participate in this settlement:

(Name)
(Position)
(Company)
(Address)

You may use the enclosed postage-paid return envelope to return the completed and signed Information Verification Form and Release of Claims.

IF YOU FAIL TO COMPLETE AND RETURN THE ENCLOSED DOCUMENTS TO HRT ON OR BEFORE [INSERT DATE 120 DAYS FROM THE EFFECTIVE DATE OF THE AGREEMENT], YOU WILL NOT BE ELIGIBLE TO RECEIVE A PAYMENT.

Sincerely,
(Name)

Enclosures: Information Verification Form
Release of Claims

ATTACHMENT 3
INFORMATION VERIFICATION FORM

You must complete this form in order to be eligible for the monetary payment under the terms of the Conciliation Agreement ("Agreement") between Houston Rapid Transit ("HRT") and the Department of Labor's Office of Federal Contract Compliance Programs ("OFCCP"). Please print legibly, except for the signature.

Name: _____
Address: _____
Telephone Nos.: Home _____ Cell _____ Work _____

Notify HRT at the address below if your address or phone number changes within the next twelve months.

(Name)
(Position)
(Company)
(Address)

Your Social Security Number (to be used for tax purposes only): ____ - ____ - ____
Your Date of Birth (to be used for payroll purposes only): __/__/____

For purposes of this settlement, it is necessary to verify your gender and race:

Caucasian African American Hispanic Asian Native American

Male Female

IF YOU FAIL TO COMPLETE AND RETURN THE ENCLOSED DOCUMENTS TO HRT ON OR BEFORE [INSERT DATE 120 DAYS FROM THE EFFECTIVE DATE OF THE AGREEMENT], YOU WILL NOT BE ELIGIBLE TO RECEIVE A PAYMENT.

I, _____, certify the above is true and correct.
(Print Name)

Signature

Date

ATTACHMENT 4
RELEASE OF CLAIMS

This Release of Claims under Executive Order 11246 ("Release") is a legal document. This document states that in return for Houston Rapid Transit Joint Venture ("HRT") paying you money, you agree that you will not file any lawsuit against HRT for allegedly violating Executive Order 11246 in connection with its selection procedures for applicants for Carpenter/Concrete Finisher and Equipment Operator positions. It also says that HRT 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 at least \$ [REDACTED] (less deductions required by law) by HRT to me, which I agree is acceptable, I [REDACTED] agree to the following:

print name

I.

I hereby waive, release and forever discharge HRT, its predecessors, successors, related entities, parents, subsidiaries, affiliates and organizations, and its and their shareholders, 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 Executive Order 11246, as amended, which I or my representatives (heirs, executors, administrators, or assigns) have or may have which relate in any way to my non-selection for employment as a Carpenter/Concrete Finisher, or Equipment Operator on the basis of my race or gender at any time through the effective date of this Release.

II.

I understand that HRT denies that it treated me unlawfully or unfairly in any way and that HRT 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 alleged disparities in hiring and to resolve the matter without further legal proceedings in the compliance review initiated by OFCCP on July 15, 2010. I further agree that the payment of the aforesaid sum by HRT to me is not to be construed as an admission of any liability by HRT.

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 HRT within [INSERT DATE 120 DAYS FROM THE EFFECTIVE DATE OF THE AGREEMENT], I will not be entitled to receive any payment (less deductions required by law) from HRT.

IN WITNESS WHEREOF, I have signed this document on this _____ day of _____, 2014.

Signature