

CONCILIATION AGREEMENT
BETWEEN
THE U.S. DEPARTMENT OF LABOR
OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS

AND

MONTEREY MUSHROOMS, INC.
777 MAHER COURT
ROYAL OAKS, CA 95076
OFCCP CASE NO.: R00162639

PART I: General Provisions

1. This Agreement is between the Office of Federal Contract Compliance Programs (hereinafter "OFCCP") and Monterey Mushrooms, Inc. located at 777 Maher Court, Royal Oaks, CA 95076 (hereinafter "Monterey Mushrooms").
2. The violations identified in this Agreement were found during a compliance review of Monterey Mushrooms which began on December 29, 2010 and were specified in a Notice of Violation issued on December 21, 2012. OFCCP alleges that Monterey Mushrooms has violated Executive Order 11246, as amended, Section 503 of the Rehabilitation Act of 1973, as amended, and/or Section 4212 of the Vietnam Veterans' Readjustment Assistance Act of 1974, as amended (38 U.S.C. 4212) and implementing regulations at 41 CFR Chapter 60 due to the specific violations cited in Part II below.
3. This Agreement does not constitute an admission by Monterey Mushrooms of any violation of Executive Order 11246, as amended, Section 503 of the Rehabilitation Act of 1973, as amended, and/or the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (38 U.S.C. 4212) and implementing regulations.
4. The provisions of this Agreement will become part of Monterey Mushrooms' Affirmative Action Program (AAP). Subject to the performance by Monterey Mushrooms of all promises and representations contained herein and in its AAP, all named violations in regard to the compliance of Monterey Mushrooms at its facility in Royal Oaks, California, with all OFCCP programs will be deemed resolved. However, Monterey Mushrooms is advised that the commitments contained in this Agreement do not preclude future determinations of noncompliance based on a finding that the commitments are not sufficient to achieve compliance.
5. Monterey Mushrooms agrees that OFCCP may review compliance with this Agreement. As part of such review, OFCCP may require written reports, inspect the premises, interview witnesses, and examine and copy documents, as may be relevant to the matter under investigation and pertinent to Monterey Mushrooms' compliance. Monterey Mushrooms shall permit access to its premises during normal business hours for these purposes.

6. Nothing herein is intended to relieve Monterey Mushrooms from the obligation to comply with the requirements of the Executive Order 11246, as amended, Section 503 of the Rehabilitation Act of 1973, as amended, and/or the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (38 U.S.C. 4212) and implementing regulations, or any other equal employment statute or executive order or its implementing regulations.
7. Monterey Mushrooms agrees that there will be no retaliation of any kind against any beneficiary of this Agreement, or against any person who has provided information or assistance, or who files a complaint, or who participated in any manner in any proceedings under Executive Order 11246, as amended, Section 503 of the Rehabilitation Act of 1973, as amended, and/or the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (38 U.S.C. 4212).
8. This Agreement will be deemed to have been accepted by the Government on the date of signature by the Acting District Director, unless the Acting Regional Director or the Director for OFCCP indicates otherwise within 45 days of the Acting District Director's signature on this Agreement.
9. If at any time in the future, OFCCP believes that Monterey Mushrooms has violated any portion of this Agreement during the term of this Agreement, Monterey Mushrooms will be promptly notified of that fact in writing. This notification shall include a statement of the facts and circumstances relied upon in forming that belief. In addition, the notification will provide Monterey Mushrooms with 15 days from receipt of the notification to respond in writing, except where OFCCP alleges that such a delay would result in irreparable injury.

Enforcement proceedings for violation of this Agreement may be initiated at any time after the 15-day period has elapsed (or sooner, if irreparable injury is alleged) without issuance of a Show Cause Notice.

Where OFCCP believes that Monterey Mushrooms has violated this Conciliation Agreement, OFCCP may seek enforcement of this Agreement itself and shall not be required to present proof of the underlying violations resolved by this Agreement.

Liability for violation of this Agreement may subject Monterey Mushrooms to sanctions set forth in Section 209 of the Executive Order, 41 CFR 60-300.66, 41 CFR 60-741.66, and/or other appropriate relief.

PART II: Specific Provisions

1. **VIOLATION:** During the period of July 11, 2010 through December 31, 2011, Monterey Mushrooms failed to ensure that (b) (7)(C), (b) (6) employees were compensated without regard to their ethnicity, as required by 41 CFR 60-1.4(a). A review of compensation practices for the (b) (7)(C), (b) (6) position revealed that (b) (7)(C), (b) (6) (b) (7)(C), (b) (6) were compensated at a lower rate than their similarly situated (b) (7)(C), (b) (6) counterpart. A review of available records, job descriptions, pay information, and other information obtained during the investigation supports this finding.

REMEDY: In order to resolve this violation, Monterey Mushrooms agrees to:

- A. Provide (b) (7)(C), (b) (6) with back pay in the amount of \$15,482.23 and interest in the amount of \$1,093.43, for a total of \$16,575.66 less legally required withholdings. The payment will be made directly to (b) (7)(C), (b) (6) by payroll check no earlier than 45 days, but within 60 days after the effective date of this agreement. The back pay will be treated as wages for tax purposes and subject to legally required withholdings. Monterey Mushrooms shall pay the employer's portion of all payroll taxes and withholdings such as social security and Medicare withholdings.
 - B. Provide (b) (7)(C), (b) (6) with back pay in the amount of \$9,377.37 and interest in the amount of \$645.92, for a total of \$10,023.29 less legally required withholdings. The payment will be made directly to (b) (7)(C), (b) (6) by payroll check no earlier than 45 days, but within 60 days after the effective date of this agreement. The back pay will be treated as wages for tax purposes and subject to legally required withholdings. Monterey Mushrooms shall pay the employer's portion of all payroll taxes and withholdings such as social security and Medicare withholdings.
 - C. For all non-union job titles, job vacancy postings shall accurately and specifically describe the duties, functions, and competencies required by the position being advertised. If pay rates vary based on the position duties, postings should state this explicitly and applicants should have equal opportunity to be hired for or placed in all available designations regardless of race. Monterey Mushrooms will list clearly on its recruiting and application materials both the requirements for the job title in question and the procedures by which selections are made. Monterey Mushrooms will ensure these standards are consistently applied to all applicants.
 - D. Prevent retaliation, harassment, and any other form of reprisal or adverse action against any beneficiary of this Agreement or against any person who has provided information or assistance.
2. **VIOLATION:** During the period January 1, 2009 to December 28, 2010, Monterey Mushrooms failed to perform in-depth analyses of its employment process to determine whether and where impediments to equal opportunity exist and failed to develop and implement an internal audit and reporting system designed to periodically measure the effectiveness of its total affirmative action program, as required by 41 CFR 60-2.17(b) and (d).

Specifically, Monterey Mushrooms failed to evaluate its compensation system to determine whether there were gender-, race- or ethnicity-based disparities and failed to monitor compensation records at all levels to ensure that a nondiscriminatory policy is carried out, as required by 41 CFR 60-2.17(b)(3) and (d)(1).

REMEDY: Monterey Mushrooms agrees to revise its compensation practices and take steps to ensure that its compensation system provides equal opportunity to all employees, regardless of race/ethnicity or gender.

In order to resolve this violation, Monterey Mushrooms agrees to:

- A. Conduct an internal audit and in-depth analysis of its compensation system for non-union employees at least annually to determine whether there are disparities by gender or race/ethnicity. Where such disparities are found, Monterey Mushrooms will make salary adjustments as appropriate and take other corrective actions, as required by 41 CFR 60-2.17(c).
 - B. Conduct an internal audit and in-depth analysis of its compensation practices and policies for non-union employees at least annually and revise those practices and policies that impede equal employment opportunity. This audit and analysis will cover all aspects of compensation practices and policies, including, but not limited to, initial wage at time of hire, pay increases, and progression into higher pay grades.
 - C. Provide training for all persons, including those at other company locations, who are involved in making compensation decisions for non-union employees at Monterey Mushrooms in Royal Oaks. The training will address Monterey Mushrooms' equal opportunity programs and the principles underlying the uniform application of criteria which are used to establish compensation.
3. **VIOLATION:** Monterey Mushrooms failed to demonstrate good faith efforts to execute action-oriented programs designed to recruit and/or increase the applicant flow of females for positions in job groups with placement goals during the period January 1, 2009 to December 28, 2010, as required by 41 CFR 60-2.17(c) and 60-2.35.

Specifically, Monterey Mushrooms had a placement goal for females in the Equipment Operators job group and failed to execute action-oriented programs designed to recruit and/or increase the applicant flow of females for positions in this job group. Monterey Mushrooms was unable to demonstrate that it made good faith efforts to remove identified barriers, expand employment opportunities, and produce measurable results.

REMEDY: Monterey Mushrooms agrees to develop and execute action-oriented programs designed to recruit and increase the applicant flow of females in the Equipment Operators job group.

In order to resolve this violation, Monterey Mushrooms agrees to:

- A. Monterey Mushrooms will establish and maintain a current list of female recruitment and outreach sources. Monterey Mushrooms will contact these sources at least twice a year and request that they refer qualified female applicants to the union hiring hall for positions in the Equipment Operators job group. In addition, whenever Monterey Mushrooms goes outside of the union hiring hall to hire for positions in the Equipment Operators job group, Monterey Mushrooms will request qualified female applicants from

the female recruitment and outreach sources. The recruitment and outreach sources will be contacted in sufficient time prior to the closing date of the vacancy to allow the sources to find and refer qualified female applicants.

- B. Monterey Mushrooms will identify potential barriers and conduct internal outreach and recruitment of current female employees for opportunities in the Equipment Operators job group.
 - C. Monterey Mushrooms will identify new female recruitment and outreach sources to generate candidates as job opportunities occur should it become evident that the female recruitment and outreach sources outlined in part A of this remedy are not effective in securing female applicants for jobs in the Equipment Operators job group.
4. **VIOLATION:** For the period January 1, 2009 to December 28, 2010, Monterey Mushrooms failed to undertake appropriate outreach and positive recruitment activities for its employment openings that are reasonably designed to effectively recruit qualified individuals with disabilities, disabled veterans, recently separated veterans, other protected veterans, and Armed Forces service medal veterans. This is a violation of 41 CFR 60-300.44(f) and 41 CFR 60-741.44(f).

REMEDY: Monterey Mushrooms agrees to undertake appropriate outreach and positive recruitment activities for its employment openings that are reasonably designed to effectively recruit qualified individuals with disabilities, disabled veterans, recently separated veterans, other protected veterans, and Armed Forces service medal veterans. Specifically, Monterey Mushrooms agrees to enlist the assistance and support of organizations that are devoted to recruiting covered veterans and individuals with disabilities. At a minimum, Monterey Mushrooms will contact the following organizations:

California State Department of
Rehabilitation
(b) (7)(C), (b) (6)
(b) (7)(C), (b) (6)
100 Paseo de San Antonio, Room 324
San Jose, CA 95113
408 (b) (7)(C), (b) (6)
(b) (7)(C), (b) (6) @dor.ca.gov
(b) (6)

California Employment Development
Department
(b) (7)(C), (b) (6)
(b) (7)(C), (b) (6)
730 La Guardia Street
Salinas, CA 93906
831 (b) (7)(C), (b) (6)
(b) (7)(C), (b) (6) @edd.ca.gov

Vocational Rehabilitation Specialists Inc.
(b) (7)(C), (b) (6)
3180 Imjin Road, Suite 154
Marina, CA 93933
831 (b) (7)(C), (b) (6)
(b) (7)(C), (b) (6) @vrspecialists.com
(b) (6)

Monterey Mushrooms will contact these organizations whenever there are non-union employment opportunities available. In addition, Monterey Mushrooms will contact the organizations at least twice a year to notify them of typical union positions that Monterey

Mushrooms hires for and request that they refer qualified applicants to the union hiring hall. Monterey Mushrooms will also contact these organizations each time Monterey Mushrooms goes outside of the union hiring hall to hire for union positions.

5. **VIOLATION:** During the period January 1, 2009 to December 28, 2010, Monterey Mushrooms failed to list all appropriate employment openings with the State of California Employment Development Department, as required by 41 CFR 60-300.5(a)2 through 6.

REMEDY: Monterey Mushrooms agrees to list, on an ongoing basis, all employment openings, other than executive and senior management positions, positions that will be filled from within Monterey Mushrooms, and positions lasting three days or less, with the State of California Employment Development Department's CalJOBS at www.caljobs.ca.gov.

Monterey Mushrooms commits that the above violations will not recur.

PART III: Reporting

In order for OFCCP to monitor Monterey Mushrooms' progress toward fulfilling the provisions of this Agreement, Monterey Mushrooms will submit two (2) progress reports.

Monterey Mushrooms will send the progress reports to:

Sharon Solero
Assistant District Director
U.S. Department of Labor
Office of Federal Contract Compliance Programs
96 North 3rd Street, Suite 410
San Jose, CA 95112

First Report:

The first report shall be due October 31, 2013 and will consist of:

1. A copy of the payroll check disbursed to (b) (7)(C), (b) (6) per Part II(1)(A) of this Agreement.
2. A copy of the payroll check disbursed to (b) (7)(C), (b) (6) per Part II(1)(B) of this Agreement.

Second Report:

The second report shall be due September 30, 2014, and shall cover the period from the effective date of this Agreement through August 31, 2014. Monterey Mushrooms will include the following information in the report:

1. Documentation of Monterey Mushrooms' annual internal audit and analysis of its compensation systems for non-union employees to identify pay disparities by gender and

race/ethnicity. This will include:

- A. A list of all non-union employees during the reporting period, with name, race/ethnicity, gender, job title, pay grade, and annual salary rate.
 - B. The findings of the internal audit and analysis, including a list of pay disparities by gender and race/ethnicity.
 - C. A list of salary adjustments made to address pay disparities by gender and race/ethnicity.
 - D. Where there were any pay disparities by gender or race/ethnicity for which salary adjustments were not made, a detailed justification for the pay disparity will be provided.
2. Documentation of Monterey Mushrooms' annual internal audit and analysis of its compensation practices and policies for non-union employees. This will include:
 - A. The findings of the internal audit and analysis, including identification of practices and policies that impede equal employment opportunity.
 - B. Documentation of revisions made to compensation practices and policies.
3. Documentation of training of all persons involved in making compensation decisions for non-union employees. This will include:
 - A. Date of the training(s)
 - B. Names and titles of the trainers
 - C. Topics covered
 - D. Names and titles of attendees
 - E. Copies of sign-in sheets and training materials
4. Documentation to verify that Monterey Mushrooms has established and maintained a current list of female recruitment sources and has periodically requested that the sources refer qualified female applicants to the union hiring hall for positions in the Equipment Operators job group in the manner indicated in this Agreement.
 5. Documentation to verify that Monterey Mushrooms has contacted the female recruitment sources whenever Monterey Mushrooms has gone outside of the union hiring hall to hire for positions in the Equipment Operators job group.
 6. Documentation to verify that Monterey Mushrooms conducted internal outreach and recruitment of current female employees for opportunities in the Equipment Operators job group.

7. Documentation to verify that Monterey Mushrooms has posted all non-union job openings with the California Department of Rehabilitation, California Employment Development Department, and Vocational Rehabilitation Specialists Inc., and has requested qualified applicants from these sources whenever non-union job vacancies occurred during the reporting period.
8. Documentation to verify that Monterey Mushrooms has periodically contacted the California Department of Rehabilitation, California Employment Development Department, and Vocational Rehabilitation Specialists Inc., and has informed them of the union positions that Monterey Mushrooms typically hires for and requested that they refer qualified candidates to the union hiring hall.
9. Documentation to verify that Monterey Mushrooms contacted the California Department of Rehabilitation, California Employment Development Department, and Vocational Rehabilitation Specialists Inc. whenever Monterey Mushrooms has gone outside of the union hiring hall to hire for union positions.
10. A copy of all job openings posted on CalJOBS during the reporting period.
11. A list of all positions filled during the reporting period, a list of all applicants referred from the recruitment sources for females, individuals with disabilities, and covered veterans, and a list of all individuals hired. Where individuals referred from the recruitment sources were not hired, Monterey Mushrooms will provide an explanation for the non-selection.

Monterey Mushrooms agrees to retain all records pertinent to the violations resolved by this Conciliation Agreement and the reports submitted under it (including the underlying data/information upon which the reports are based) until the expiration date of this Conciliation Agreement or consistent with regulatory timeframes, whichever is later.

This Conciliation Agreement will remain in full force and effect until December 1, 2014 or until OFCCP's written acceptance of the final progress report, whichever date is later.

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PART IV: Signatures

This Conciliation Agreement is hereby executed by and between the Office of Federal Contract Compliance Programs and the Monterey Mushrooms, Inc. Royal Oaks facility only, located at 777 Maher Court, Royal Oaks, CA 95076.

DATE: 8/8/13

(b) (7)(C), (b) (6)
[Redacted Signature]

WAYNE BAUTISTA
General Manager
Monterey Mushrooms, Inc.
777 Maher Court
Royal Oaks, CA 95076

DATE: 8/12/13

(b) (7)(C), (b) (6), (b) (7)(E)
[Redacted Signature]

Compliance Officer
Office of Federal Contract
Compliance Programs
San Jose District Office

DATE: 8/12/2013

(b) (7)(C), (b) (6)
[Redacted Signature]

SHARON SOLERO
Assistant District Director
Office of Federal Contract
Compliance Programs
Pacific Region

DATE: 8/13/13

(b) (7)(C), (b) (6)
[Redacted Signature]

ALICE YOUNG
Acting District Director
Office of Federal Contract
Compliance Programs
Pacific Region