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JS-6

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

U.S. EQUAL EMPLOYMENT  
OPPORTUNITY COMMISSION,

Plaintiff,

vs.

HATHAWAY DINWIDDIE  
CONSTRUCTION COMPANY,

Defendant.

Case No.: 2:20-cv-06741-MCS-PVC

**CONSENT DECREE; ORDER**

1 I.

2 **INTRODUCTION**

3 Plaintiff U.S. Equal Employment Opportunity Commission (“EEOC”) and  
4 Defendant Hathaway Dinwiddie Construction Company (“Hathaway” or “Defendant”)  
5 (“Parties”) hereby stipulate and agree to entry of this Consent Decree (“Decree”) to fully  
6 and finally resolve Plaintiff’s complaint against Defendant in *U.S. Equal Employment*  
7 *Opportunity Commission v. Hathaway Dinwiddie Construction Company*; Case No. 2:20-  
8 CV-06741-MCS-PVC (“Action”). On July 28, 2020, Plaintiff filed this Action in the  
9 United States District Court, Central District of California, alleging a violation of Title  
10 VII of the Civil Rights Act of 1964 and Title I of the Civil Rights Act of 1991 (“Title  
11 VII”). The Action alleged that Defendant failed to take prompt and effective remedial  
12 action to respond to racial harassment claims made by Charging Party Taiwan Childs  
13 (“Charging Party” or “Childs”) and a class of similarly situated Black and Hispanic /  
14 Latino workers employed at the USC Village Project in Los Angeles, California, between  
15 August 25, 2015 and the Effective Date of this Decree (“Claimants”). “Identified EEOC  
16 Claimants” shall refer to the Claimants known and identified by the EEOC. The  
17 remaining Claimants shall be referred herein as “Unidentified EEOC Claimants” or  
18 “Potential Claimants.”

19 Defendant denies each and every allegation asserted in the EEOC’s Complaint and  
20 nothing in the EEOC’s Complaint, this Consent Decree or any affiliated document  
21 constitutes an admission of liability by Defendant.

22 II.

23 **PURPOSES AND SCOPE OF THE CONSENT DECREE**

24 The Parties agree that this Action will be fully and completely resolved by entry of  
25 this Consent Decree. The Decree is made and entered into by and between the EEOC and  
26 Defendant and shall be binding on and enforceable against Defendant, agents and assigns.  
27 The Parties have entered into this Decree for the following purposes:

28 A. To provide monetary and injunctive relief;

- 1 B. To ensure Defendant's employment practices comply with federal law;
- 2 C. To ensure that Defendant maintains a work environment free from discrimination  
3 and retaliation, especially as it relates to racial harassment;
- 4 D. To modify Defendant's policies, procedures and practices regarding employment  
5 discrimination, if necessary;
- 6 E. To ensure training for Defendant's employees, managers, supervisors, human  
7 resources personnel and its officers and owners with respect to the pertinent laws  
8 regarding racial harassment, discrimination and retaliation;
- 9 F. To provide an appropriate and effective mechanism for handling complaints of  
10 racial harassment, discrimination, and retaliation;
- 11 G. To ensure appropriate record-keeping, reporting and monitoring; and
- 12 H. To avoid the expense and uncertainty of further litigation.

13 **III.**

14 **RELEASE OF CLAIMS**

- 15 A. This Decree fully and completely resolves all issues, claims and allegations the  
16 EEOC raised or could have raised against Defendant, its contractors and subcontractors,  
17 on behalf of USC Village Project workers, through the date which terminates the Class  
18 Fund Claims process, described in Section VIII. There are no racial or national origin  
19 discrimination, harassment or retaliation charges from USC Project workers other than  
20 that filed by Charging Party Taiwan Childs, an employee of a Hathaway subcontractor,  
21 who filed an administrative charge at the EEOC in 2016, which provided the basis for the  
22 EEOC's Complaint and this Decree.
- 23 B. Nothing in this Decree shall be construed to limit or reduce Defendant's obligation  
24 to comply fully with Title VII or any other federal employment statute.
- 25 C. Nothing in this Decree shall be construed to preclude the EEOC from bringing suit  
26 to enforce this Decree in the event that any party fails to perform the promises and  
27 representations contained herein.
- 28 D. This Decree does not affect the EEOC's right to bring, process, investigate or

1 litigate other charges that may exist or may later arise against Defendant in accordance  
2 with standard EEOC procedures.

3 **IV.**

4 **JURISDICTION**

5 A. The Court has jurisdiction over the Parties and the subject matter of this litigation.  
6 The Action asserts claims that, if proven, would authorize the Court to grant the equitable  
7 relief set forth in this Decree.

8 B. The terms and provisions of this Decree are fair, reasonable and just.

9 C. This Decree conforms to the Federal Rules of Civil Procedure and Title VII and  
10 does not compromise the rights or privileges of any person.

11 D. The Court shall retain jurisdiction of this Action during the duration of the Decree  
12 for the purposes of entering all orders, judgments, and decrees that may be necessary to  
13 implement the relief provided herein.

14 **V.**

15 **EFFECTIVE DATE AND DURATION OF DECREE**

16 A. The provisions and agreements contained herein are effective immediately upon  
17 the date which this Decree is entered by the Court (“Effective Date”).

18 B. Except as otherwise provided herein, this Decree shall remain in effect for two (2)  
19 years after the Effective Date. Should the Claims Process and Distribution in Section VII  
20 exceed the term of the Decree, the parties agree that the EEOC may continue to direct  
21 distribution until the Class Fund is exhausted.

22 C. The Defendant can request to end its obligations under the Consent Decree by  
23 January 30, 2023 before the expiration of the full two-year term of the Consent Decree.  
24 Defendant shall submit a request no earlier than December 9, 2022 to the Monitor to  
25 prepare a report as to whether Defendant is in full compliance of its obligations under the  
26 Consent Decree.

27 The Monitor shall submit a report and recommendation by January 3, 2023 as to  
28 whether the sunset provision should be invoked. If the monitor reports that Defendant is

1 in full compliance with all the provisions of the Consent Decree and recommends ending  
2 the Defendant's obligations under Consent Decree, then the Monitor's report due by  
3 January 3, 2023 shall be the last report and Defendant's obligations under the Consent  
4 Decree shall sunset on January 30, 2023.

5 **VI.**

6 **MODIFICATION AND SEVERABILITY**

7 A. This Decree constitutes the complete understanding of the Parties with respect to  
8 the matters contained herein. No waiver, modification or amendment of any provision of  
9 this Decree will be effective unless made in writing and signed by an authorized  
10 representative of each Party.

11 B. If one or more provisions of the Decree are rendered unlawful or unenforceable,  
12 the Parties shall make good faith efforts to amend the Decree and the remaining  
13 provisions will remain in full force and effect.

14 C. By mutual agreement of the Parties, this Decree may be amended or modified in  
15 the interests of justice and fairness in order to effectuate the provisions herein.

16 **VII.**

17 **COMPLIANCE AND DISPUTE RESOLUTION**

18 A. If the EEOC believes Defendant has failed to comply with any provision of this  
19 Consent Decree, it may bring an action before this Court to enforce the Decree. Prior to  
20 initiating such action, the EEOC will notify Defendant's legal counsel of record, Mark  
21 Ogden at Littler Mendelson, in writing, of the nature of the dispute. The notice shall  
22 specify the particular provision(s) that the EEOC believes Defendant has violated or  
23 breached. Defendant shall have twenty-one (21) days from receipt of the written notice to  
24 attempt to resolve or cure the alleged breach. The Parties may agree to extend the period  
25 to address the EEOC's concerns.

26 B. The Parties will cooperate with each other and use their best efforts to resolve any  
27 dispute referenced in the EEOC notice.

28 C. After thirty (30) days, inclusive of the twenty-one (21) days to resolve or cure the

1 breach, if the Parties have reached no resolution or agreement to extend the time further,  
2 the EEOC may petition this Court to resolve the dispute, seeking all available relief,  
3 including an extension of the term of the Decree and any other relief the court deems  
4 appropriate.

## 5 **VIII.**

### 6 **MONETARY RELIEF**

7 A. In settlement of this lawsuit with the EEOC, Defendant agrees to pay a total of  
8 \$725,000. The EEOC has sole discretion to determine eligibility, characterization, and  
9 amount of money paid to the EEOC Claimants. In addition to the EEOC claimants, 27  
10 additional individuals represented by private counsel have had their monetary claims  
11 resolved. However, because these individuals also are represented by the EEOC, they  
12 are considered to be covered by the injunctive remedies, including the anti-retaliatory  
13 provisions, of this Consent Decree.

#### 14 B. Claims Administrator

15 1. Defendant has engaged a specific professional individual or organization  
16 (“Claims Administrator”), Mr. Christopher Longley, Atticus Administration, 1250  
17 Northland Drive, Suite 240, Medota Heights, MN 55120, approved by the EEOC, to  
18 oversee the distribution of the Fund to Claimants as designated by the EEOC pursuant to  
19 this Decree. If the Claims Administrator initially appointed by Defendant thereafter  
20 declines to serve or to carry out its duties under this Decree, Defendant shall have ten  
21 (10) business days to notify the EEOC in writing of the need for a replacement Claims  
22 Administrator and the Defendant shall select a replacement.

23 2. Defendant shall ensure payment of all costs associated with the selection  
24 and retention of the Claims Administrator as well as the performance of the Claims  
25 Administrator’s duties under this Decree and beyond the term of this Decree.

#### 26 C. Payments to Identified EEOC Claimants

27 The EEOC provided Defendant with an initial Distribution List designating initial  
28 payments to the Identified EEOC Claimants in which \$150,000 from the \$725,000 has

1 already been distributed. The remaining amount of \$575,000.00 will be paid on or before  
2 September 30, 2021 and thereafter distributed to the Identified and Unidentified EEOC  
3 Claimants (“EEOC Class Fund”). The Distribution List specified the name, address, and  
4 amount for each Identified Claimant. The Claims Administrator has forwarded via first  
5 class mail the initial payment checks from the the EEOC Class Fund in the amounts  
6 designated in the EEOC’s Distribution List.

7         If the EEOC later in the claims process decides another distribution or  
8 distributions from the EEOC Class Fund to the Identified Claimants, the EEOC shall  
9 provide Defendant and Claims Administrator a Distribution List(s) designating payment  
10 to the Identified EEOC Claimants. The Distribution List(s) will specify the name, address  
11 and amount for each claimant. Within twenty (20) days of receiving the EEOC’s  
12 Distribution List(s), Defendant or the Claims Administrator shall forward, via first class  
13 mail, any check(s) from the EEOC Class Fund in the amounts designated in the EEOC’s  
14 Distribution List. Within three (3) business days of mailing the aforementioned  
15 payment(s), Defendant or its Claims Administrator shall submit a copy of any check(s)  
16 and any related correspondence to Anna Y. Park, Regional Attorney, U.S. Equal  
17 Employment Opportunity Commission, 255 East Temple Street, 4th Floor, Los Angeles,  
18 California 90012.

19         As determined by the EEOC, payments to Identified EEOC Claimants will be paid  
20 by a non-wage compensation check for damages in the form of emotional pain and  
21 suffering. Defendant or its Claim Administrator shall prepare and distribute an IRS Form  
22 1099 for each payment and shall make any appropriate report(s) to the Internal Revenue  
23 Service and other tax authorities.

24 D.     Claims Notice Process for Unidentified EEOC Claimants

25         1.     On or before August 31, 2021, Defendant shall provide to the Claims  
26 Administrator and the EEOC a list of all current and former workers it has compiled by  
27 exercising reasonable diligence, with identifying information (address, phone numbers,  
28 emails and other information to assist in reaching the individuals) who: (1) worked at the

1 USC Village Project between August 25, 2015 to August 30, 2017; (2) were employed by  
2 a Hathaway contractor or subcontractor; and (3) are Black/African American or Hispanic  
3 (“Potential Claimants”). The parties recognize that some of the contractors may no  
4 longer be in business. After receiving the Potential Claimant List, within twenty (20)  
5 days thereafter, the Claims Administrator shall do the following for any Potential  
6 Claimant:

7 a. The Claims Administrator shall determine the validity of each  
8 Potential Claimant’s most recent address, utilizing the National Change of Address  
9 Database or an equivalent database to determine the most current address for each  
10 potential claimant.

11 b. The Claims Administrator will then send to potential Claimants the  
12 Questionnaire and Notice which will be provided by the EEOC. The Claims Administrator  
13 may provide the notice via mail and also develop an online claims process.

14 2. The EEOC will provide a copy of the Notice and claim form to Defendant  
15 prior to providing it to the Claims Administrator. Defendant may provide feedback within  
16 ten (10) days before the EEOC submits the documents to the Claims Administrator. The  
17 mailed notice shall have instructions on how to file a claim online or via mail with the  
18 Claims Administrator. The Claims Administrator shall create an online claims process that  
19 will be accessible to both Defendant and the EEOC.

20 3. The Claims Administrator shall:

21 a. Provide to the EEOC certification that the Claims Administrator  
22 mailed the Notice to each potential Claimant;

23 b. Instruct the USPS to notify the Claims Administrator of any  
24 undeliverable Notices; and

25 c. Should any letters be returned undeliverable, within twenty (20)  
26 days of any Notice being returned to sender as undeliverable, the Claims Administrator  
27 shall:  
28

1                   i.       research potential Claimant's most recent address and further  
2 use its best efforts, including a search of a database such as Accurint, to locate the  
3 individual's current contact information. If the Claims Administrator finds a more recent  
4 address for any such employee, resend the Notice to the new address; and/or if the Claims  
5 Administrator fails to find a more recent address for any such individual, the Claims  
6 Administrator shall, within thirty (30) day intervals following the re-mailing of the  
7 Notice provide to the EEOC information outlining efforts to locate the potential  
8 Claimants.

9                   ii.       Defendant shall also provide the Claims Administrator  
10 electronic mail addresses, if available, for these individuals and the Claims Administrator  
11 shall send Notices via electronic mail addresses.

12                   iii.       The Claims Administrator will work with the EEOC to ensure  
13 that information relating to Potential Claimants is communicated on an ongoing basis.

14 E.    Claims Distribution Process

15           At thirty (30) days after mailing all of the Notices to the Potential Claimants, the  
16 Claims Administrator shall forward to the EEOC and Defendant any responses received  
17 from Potential Claimants. All responses shall be provided to the EEOC on a rolling basis  
18 thereafter. The Claims Administrator shall provide the EEOC electronic access to the  
19 claims filed on-line and the paper responses. Based on responses to the Notice, the EEOC  
20 will determine the eligibility of each Potential Claimant to participate in the Class Fund  
21 by evaluating the nature of the claims made by each Potential Claimant and determining  
22 his tier of eligibility for monetary relief from the Class Fund. The EEOC shall have the  
23 sole discretion to determine eligibility and the amount of the Class Fund to be distributed  
24 to each Potential Claimant. The Distribution List shall state the Potential Claimant's  
25 name and the amount to be paid to each. The EEOC has designated the Class Fund to be  
26 non-wage compensation as damages for emotional pain and suffering. The Claims  
27 Administrator shall prepare and distribute an IRS Form 1099 to each Claimant and copies  
28 to the Internal Revenue Service and other tax authorities along with a copy to the EEOC.

1           Upon receipt of the Distribution List(s):

2           1.       If the EEOC determines any circumstance will cause a potential Claimant  
3 inequity, the EEOC may issue a subsequent Distribution List(s).

4           2.       The Claims Administrator will notify the Potential Claimants of their  
5 selection as Claimants as determined by the EEOC and mail the release of claims to them  
6 for signature and return to the Claims Administrator.

7           3.       Once the Claims Administrator receives the signed releases from those  
8 identified on the Distribution List(s), the Claims Administrator shall direct the escrow  
9 agent within ten (10) days to forward a check from the Class Fund via first class mail in  
10 the full amount set forth in the Distribution List for each Claimant. Each check will  
11 remain valid for 180 days. To the extent the checks need to be reissued, the parties will  
12 communicate with the Claims Administrator. At least every thirty (30) days after the  
13 Claims Administrator issues checks pursuant to the Distribution List, the Claims  
14 Administrator shall provide the EEOC with a copy of each canceled check and identify  
15 any check not negotiated and/or returned non-negotiated to the Claim Administrator, to  
16 enable the Parties to track remaining funds for redistribution. The Claims Administrator  
17 will also notify the EEOC of anyone who has not signed a release. The Claims  
18 Administrator and the EEOC will work together with respect to reissuance of checks to  
19 achieve equitable results.

20          4.       The EEOC may subsequently issue a Distribution List(s) as necessitated by  
21 further notice from the Claims Administrator that any check issued to a Claimant was not  
22 negotiated within 180 days after issuance and/or was returned non-negotiated to the  
23 Claims Administrator.

24          5.       On a quarterly basis throughout the duration of this Decree, the Claims  
25 Administrator will notify the EEOC of any funds remaining in the Fund and which  
26 Claimant has not claimed the money. The EEOC shall make reasonable efforts to  
27 provide the Final Distribution List before the Consent Decree expires but can continue to  
28

1 direct distribution as set forth under Section VIII and Defendant shall continue to fund  
2 the claims administrator until the distribution is completed.

3 **IX.**

4 **GENERAL INJUNCTIVE RELIEF**

5 A. Anti-Discrimination

6 Defendant, its owners, officers, management, including supervisory and lead  
7 employees and human resources personnel, successors and assigns are hereby enjoined  
8 from: (a) harassing any person on the basis of his/her race; (b) engaging in or being a  
9 party to any action, policy, or practice that discriminates and/or creates a hostile work  
10 environment on the basis of an employee's race; and/or (c) creating, facilitating, or  
11 permitting the existence of a work environment that is hostile to its employees on the  
12 basis of race.

13 B. Anti-Retaliation

14 Defendant, its officers, agents, management, including supervisory and lead  
15 employees and human resources personnel, successors and assigns are hereby enjoined  
16 from implementing or permitting any action, policy or practice that subjects any current  
17 or former employee or applicant to Defendant to retaliation because he or she has in the  
18 past, or during the term of this Decree:

- 19 1. Opposed any practice made unlawful under Title VII;
- 20 2. Filed a charge of discrimination alleging such practice;
- 21 3. Testified or participated in any manner in an internal or external  
22 investigation or proceeding relating to this case or any claim of a violation of Title VII;
- 23 4. Was identified as a possible witness or claimant in this Action;
- 24 5. Asserted any right under this Decree;
- 25 6. Sought and/or received any relief in accordance with this Decree;
- 26 7. Is associated with an employee who has engaged in the activities set forth  
27 in this Section IX.B.

28 This anti-retaliation provision includes, but is not limited to, a prohibition on

1 Defendant and all of its officers, management, supervisory lead employees and human  
2 resources employees from providing a negative reference to or about any claimant to this  
3 Action including to contractors and subcontractors because of any of the reasons set forth  
4 in the preceding paragraph. If Defendant provides a reference to a prospective employer  
5 for a former employee, it will be “neutral,” confirming dates of employment and  
6 position(s) held at Defendant, excluding a reference that claimant participated in this  
7 Action. Further, no mention shall be made to any of Defendant’s contractors/sub-  
8 contractors or any of their officers, agents, or employees that any claimant participated in  
9 this Action.

10 Further, this anti-retaliation provision includes, but is not limited to, a prohibition  
11 against Defendant and all of its officers, management, supervisory and lead employees,  
12 from refusing to hire or rehire any claimant in this Action because of his/her participation  
13 in this Action.

14 **X.**

15 **SPECIFIC INJUNCTIVE RELIEF**

16 A. **Equal Employment Opportunity Monitor**

17 1. Defendant has retained a third-party Equal Employment Opportunity  
18 Monitor ("Monitor") with demonstrated experience in the areas of preventing and  
19 combatting racial discrimination and harassment in the workplace. The Monitor shall  
20 monitor Defendant’s compliance with Title VII and the provisions of this Decree.

21 2. Defendant selected and the EEOC approved Fred Alvarez, at Coblentz,  
22 Patch, Duffy & Bass, LLP, 1 Montgomery Street, Suite 300, San Francisco, California,  
23 94104 to serve as an EEO Monitor.

24 3. The Monitor's responsibilities shall include:

25 a. Reviewing, revising, and/or creating Defendant’s policies,  
26 procedures and practices, if necessary, to ensure compliance with Title VII. Specifically,  
27 the Monitor will review and if necessary, revise Defendant’s employment policies to  
28 ensure that Defendant’s policies clearly prohibit discriminatory or retaliatory conduct.

1 The Monitor shall review, revise and/or create policies, procedures and practices ensuring  
2 that Defendant will quickly and effectively respond to claims of racial harassment, that  
3 Defendant has appropriate complaint procedures in place and that Defendant's policies  
4 conform with Title VII and the provisions of this Decree;

5           b.       Ensuring that effective training with an interactive component is  
6 provided to Defendant's employees regarding their rights and responsibilities under Title  
7 VII including, but not limited to, Defendant's responsibilities to provide a workplace free  
8 of discrimination and harassment based on race, to quickly and effectively respond to  
9 claims of racial harassment, reviewing Defendant's policies and procedures regarding the  
10 racial discrimination and harassment, the prohibition on retaliatory conduct against an  
11 employee for complaining about racial discrimination or harassment and reviewing  
12 Defendant's policies and procedures for making a complaint of racial discrimination or  
13 harassment or Title VII retaliation and an employee's right to make such a complaint;

14           c.       Ensuring effective training with an interactive component is  
15 provided to Defendant's supervisory and managerial employees including, but not limited  
16 to, any staff whose job includes human resources functions, to ensure Defendant's  
17 supervisory and human resources staff understand their responsibilities with regard to  
18 complying with Title VII, Defendant's policies, procedures and practices implemented to  
19 prevent and correct racial discrimination, harassment, retaliation and compliance with  
20 this Decree. For example, the Monitor shall ensure that supervisors are properly trained  
21 regarding their responsibility to quickly and effectively respond to any claims of racial  
22 harassment or discrimination and to actively discourage such conduct;

23           d.       Ensuring that effective training is provided to Defendant's Human  
24 Resources employees including, but not limited to, how to investigate complaints of  
25 discrimination, harassment and retaliation, how to take preventative and corrective  
26 measures against discrimination, harassment and retaliation and how to recognize and  
27 stop harassment, discrimination and retaliation;

28           e.       Ensuring that Defendant creates a centralized system of tracking

1 discrimination complaints and steps taken with respect to the complaint and monitoring  
2 Defendant's investigation of all complaints of racial discrimination, harassment and  
3 retaliation to ensure compliance with Title VII. The Monitor's duties with respect to  
4 complaints will also include ensuring that Defendant properly communicates with  
5 complainants regarding the complaint procedure, status and results of the investigation;

6 f. Monitoring and providing feedback to Defendant regarding the  
7 investigation of any complaint of discrimination, harassment or retaliation to ensure  
8 compliance with Title VII and this Decree;

9 g. Ensuring that Defendant properly communicates with complainants  
10 as required by this Decree;

11 h. Ensuring that Defendant's performance and discipline policies hold  
12 managers, including human resource personnel, accountable for failing to take  
13 appropriate action regarding verified complaints and/or handling of complaints, as  
14 determined by the Monitor, regarding discrimination, harassment or retaliation or for  
15 engaging in conduct prohibited under Title VII or this Decree;

16 i. Ensuring that a claimant's employment opportunities are not  
17 adversely impacted by his/her participation in this Action. This responsibility shall  
18 require the Monitor to contact each claimant identified by the EEOC and presently  
19 employed by Defendant, its contractor or subcontractor, at least annually for the duration  
20 of the Decree. At the first contact with each claimant, the Monitor shall state his  
21 availability to accept and review any claims of discrimination, harassment or retaliation  
22 regarding the claimant's participation in this Action;

23 j. At least quarterly through the term of the Decree, conducting and  
24 documenting an audit of any complaints of racial discrimination, harassment or  
25 retaliation by Defendant's employees or complaints at the worksite made to Defendant  
26 and reporting the findings to Defendant;

27 k. Preparing an annual report to EEOC on Defendant's progress and  
28 compliance under this Decree;

1           l.       Ensuring that Defendant's reports required by this Decree are  
2 accurately compiled and timely submitted;

3           m.       Monitoring and ensuring the retention and maintenance of any  
4 documents or records required by this Decree;

5           n.       Monitoring and ensuring the distribution of any documents and  
6 Notice Posting as required by this Decree; and

7           o.       Otherwise ensuring Defendant's compliance with this Consent  
8 Decree and Title VII.

9           4.       Defendant shall bear all costs associated with the selection and retention of  
10 the Monitor and the performance of his duties.

11 B.    EEO Compliance Audits

12           1.       The Monitor shall conduct an annual audit at one of Defendant's sites to  
13 ensure that Defendant's supervisors, managers, and human resources employees are  
14 complying with this Decree and to encourage employees to report problems of  
15 harassment, discrimination, or related retaliation.

16           2.       The Monitor shall speak with individuals identified in Section X(A)(3) (j)  
17 (worksite employees who complained to Defendant) to ensure compliance with anti-  
18 harassment, discrimination and retaliation policies and procedures. The audits will be  
19 conducted outside the presence of management, supervisors and leads. Audits will be  
20 accompanied by a report to Defendant about employee feedback. Results of the audits  
21 will be reported to Defendants.

22           3.       The Monitor shall review all complaints of harassment and the measures  
23 taken in response to any such complaints. After the Monitor reviews any complaints, the  
24 Monitor shall also conduct an audit in any areas that appear to require a fuller  
25 examination of the complaints. The Monitor shall recommend appropriate corrective  
26 measures for any complaint and identify appropriate preventative steps to avoid  
27 reoccurrence of the same or similar issues.

28           4.       The Monitor shall conduct a physical review of one of Defendant's sites at

1 least once per year to ensure that no racial graffiti is  
2 present, or if the Monitor uncovers any other form of racial harassment taking place at  
3 Defendant's site, the Monitor shall consult with Defendant to determine what steps have  
4 been taken to combat the racial harassment and recommend a course of action to  
5 eradicate the offending conduct.

6 5. The results of the audit shall be evaluated by the Monitor and submitted to  
7 the EEOC in the annual report as set forth below.

8 C. Policies and Procedures

9 1. Scope

10 Defendant shall implement the policies set out in Section X.C.2 to apply to all of  
11 its employees. Defendant shall urge all contractors and subcontractors it hires to  
12 implement and enforce their own policies and procedures that parallel those Defendant  
13 shall implement and enforce, as set out in Section X.C.2, including training of their  
14 employees related to race harassment, discrimination and retaliation. Defendant shall  
15 require each of its contractors and subcontractors to provide written verification that it  
16 has a policy and procedure which forbids unlawful workplace discrimination, harassment  
17 and retaliation, it investigates and resolves employee complaints and provides training  
18 regarding those subjects.

19 2. Revision of Policies and Procedures, If Necessary

20 With the assistance of the Monitor, Defendant will review, revise (if necessary),  
21 distribute and implement its policies and procedures regarding compliance with Title VII  
22 to its employees at its worksites, including prevention of racial discrimination and  
23 harassment, methods for quickly and effectively responding to racial discrimination and  
24 harassment, including discipline for those found to have engaged in racial discrimination,  
25 racial harassment, or retaliation. The specific policies and procedures shall include:

26 a. A clear and express prohibition forbidding Defendant's employee  
27 from engaging in any racial harassment, discrimination or retaliation;

28 b. Assurance that Defendant shall hold employees, including

1 management, supervisory, lead and human resources employees accountable for  
2 engaging in conduct prohibited under Title VII or this Decree;

3 c. A clear explanation of employees' rights and responsibilities under  
4 the Title VII and this Decree, including that federal law requires Defendant to provide a  
5 workplace free of racial harassment and discrimination;

6 d. A clear explanation of prohibited discriminatory conduct on the  
7 basis of race, including examples;

8 e. Assurance that complaints of racial harassment or discrimination  
9 made by employees will be taken seriously and effectively addressed in a timely manner;

10 f. A clearly described process for submitting complaints of racial  
11 harassment or discrimination. That process shall include:

12 i. Investigation and resolution of all complaints of  
13 discrimination, harassment and retaliation, by Defendant's employees, in a timely and  
14 effective manner;

15 ii. Tracking and collection of all complaints of discrimination,  
16 harassment, and retaliation;

17 iii. Retention of records regarding resolution of all complaints;

18 iv. Establishing or engaging a service to provide a toll-free  
19 complaint hotline that Defendant will track. The Monitor shall have access to all tracking  
20 records and call logs.

21 g. Assurance that Defendant will provide a prompt, thorough and  
22 impartial investigation, including interviews of all relevant witnesses and the complainant  
23 and a review of all relevant evidence;

24 h. Assurance that no complainant shall be required to confront his or  
25 her accuser and that the identity of the complainant and nature of the investigation shall  
26 be kept confidential to the fullest extent possible;

27 i. Assurance that an employee who make complaints of discrimination  
28 or who provides information related to such complaints are protected against retaliation;

1           j.       A requirement that any employee in a supervisory position who  
2 receives a complaint of racial harassment or discrimination, whether formal or informal,  
3 written or verbal, report such complaint to Defendant's human resources department  
4 within 48 hours of receiving said complaint;

5           k.       A clear explanation of the duties of supervisory and human  
6 resources employees have to quickly and effectively respond to claims of racial  
7 harassment and discrimination;

8           l.       Assurance that all management, supervisory, lead and human  
9 resources employees who fail to take appropriate action to address discrimination,  
10 harassment, or retaliation will be held accountable;

11          m       A clear requirement that Defendant, specifically Defendant's  
12 employees or human resource personnel, shall advise the complaining employee that it  
13 will investigate the employee's complaint and implement a proportionate remedial  
14 measure;

15          n.       An explanation that the internal complaint procedure does not  
16 replace the right of any employee to file a charge or complaint of discrimination,  
17 harassment or retaliation under any available municipal, state, or federal law. The  
18 procedures shall provide contact information for EEOC and state and local Fair  
19 Employment Practice (FEP) agencies; and

20          o.       Publication to Defendant's employees of the EEOC complaint line  
21 of (800) 669-4000.

22                Defendant will provide to the EEOC a copy of all policies and procedures related  
23 to racial harassment and racial discrimination. Defendant shall submit to the Commission  
24 a statement confirming distribution of the Policy.

25                For each new managerial or non-managerial employee working at any one of  
26 Defendant's job sites, hired after the initial distribution of the Policy described above,  
27 Defendant shall ensure that the new employee and/or manager receives the Policy within  
28 ten (10) days of employment.

1 D. Training

2 1. Harassment Training

3 Defendant, in consultation with the Monitor, will provide training lasting at least  
4 one (1) hour in duration to all of Defendant's employees annually. The training covered  
5 and will cover Defendant's policies and procedures and federal anti-discrimination laws  
6 with an emphasis on racial discrimination, harassment and retaliation. All trainings shall  
7 be designed to effectively teach adult learners and will be conducted or supervised by the  
8 Monitor. The training will address the following:

9 a. The role and purpose of Title VII, including what constitutes  
10 unlawful discrimination, harassment and retaliation. Examples shall be given of  
11 prohibited conduct to ensure understanding by employees;

12 b. Defendant's complaint process, including but not limited to, how  
13 employees can notify Defendant of harassment, discrimination and retaliation;

14 c. Ways to prevent harassment, including racial harassment, stop  
15 bullying, bystander intervention and having respect for diversity in the workplace; and

16 d. Defendant's Policy and procedures regarding harassment,  
17 discrimination, and retaliation.

18 Where an employee is unable to attend the scheduled training, Defendant shall  
19 provide a live or recorded training at an alternative session covering the same issues set  
20 forth above within ten (10) days of the training. All persons required to attend such  
21 training shall verify their attendance in writing.

22 2. Training for Supervisors and other Management

23 On an annual basis thereafter at least until the expiration of this Decree,  
24 Defendant, in consultation with the Monitor, will provide training to all managers, all  
25 human resources personnel, any staff members who are responsible for preventing racial  
26 discrimination and any staff members who are responsible for receiving and processing  
27 complaints of racial discrimination. The training was and will be at least two (2) hours in  
28 duration and focus on Defendant's obligations and responsibilities under Title VII. The

1 training will address the following:

2 a. Unlawful racial discrimination and harassment as prohibited by Title  
3 VII;

4 b. Each trainee's obligations in complying with federal laws regarding  
5 employment discrimination on the basis of race and retaliation;

6 c. The kind of conduct that constitutes racial discrimination,  
7 harassment and retaliation, including examples of each;

8 d. Obligations under this decree, including the duties regarding the  
9 Complaint Log (Section X.E. below); and

10 e. How to address and report racial discrimination and retaliation  
11 complaints.

12 Where a managerial employee or supervisor is unable to attend the scheduled  
13 training, Defendant shall provide a training at an alternative session covering the same  
14 issues set forth above within thirty (30) days of the training. All persons required to  
15 attend such training shall verify their attendance in writing.

16 Contractors and subcontractors will provide written verification to Defendant and  
17 the Monitor of their compliance with workplace discrimination, harassment, and  
18 retaliation training, as required by law, within 60 days of beginning work at Defendant's  
19 worksite, or within 60 days from the Consent Decree is executed by the Court,  
20 whichever occurs later.

21 For Defendant's managerial employees hired or promoted after the annual training  
22 session, Defendant shall provide training of at least two (2) hours, covering the same  
23 topics set forth above, within thirty (30) days of beginning the new position. All persons  
24 required to attend such training shall verify their attendance in writing.

25 3. Human Resources Employee Training

26 All Human Resources employees shall receive advanced Human Resources  
27 training ("HR Training") on investigating complaints of discrimination, harassment, and  
28 retaliation; how to take preventative and corrective measures against discrimination,

1 harassment and retaliation; and how to recognize and stop harassment, discrimination,  
2 and retaliation. This HR Training shall be provided by the Monitor and/or through an  
3 outside provider. This HR training shall occur once each year for the term of this Decree.

4 4. Monitor Oversight

5 With Defendant submitted the Monitor the trainings to be provided and an outline  
6 of the training curriculum. The training was submitted to the Monitor who shall provide  
7 feedback prior to the delivery of the trainings.

8 5. EEOC Oversight

9 Within thirty (30) days after the Effective date, Defendant shall submit  
10 to the EEOC a description of the trainings to be provided and an outline of the curriculum  
11 developed for the trainees. Upon receipt, the EEOC may provide comment within thirty  
12 (30) days.

13 Defendant gave the EEOC a minimum of ten (10) business days advance written  
14 notice of the date, time and location of each training provided pursuant to this Decree.  
15 The written notice shall be sent via U.S. Mail to the attention of Anna Y. Park, Regional  
16 Attorney, U.S. Equal Employment Opportunity Commission, 255 East Temple Street, 4th  
17 Floor, Los Angeles, California, 90012.

18 6. Verification of Training

19 Within ninety (90) days after the Effective date and annually thereafter throughout  
20 the term of this Decree, Defendant shall produce to the EEOC and to the Monitor  
21 documents verifying the occurrence of all training sessions conducted as required under  
22 this Decree, including the written training materials used, a description of the training  
23 provided, a list of the individuals who conducted the training and a list of the names and  
24 job titles of attendees at each training session. In light of the current pandemic, the parties  
25 have agreed that the training can be via video or computer-based with an interactive  
26 component.

27 E. Recordkeeping

28 Defendant shall work with the Monitor to establish a record-keeping procedure

1 that provides for the centralized tracking of discrimination, harassment and retaliation  
2 complaints and the monitoring of such complaints to prevent retaliation at all of its  
3 jobsites regarding all of its employees. The records to be maintained shall include:

4 1. All documents generated in connection with any complaint, including  
5 documents relating to all investigations or resolutions of any complaints and the identities  
6 of all witnesses identified by the complainant and/or through Defendant's investigation;

7 2. A summary of all calls to the toll-free hotline that Defendant established for  
8 complaints, all investigations conducted in response and a copy of all documents  
9 generated in relation to those complaints and investigations;

10 3. All forms acknowledging employees' receipt of Defendant's revised anti-  
11 discrimination, anti-harassment and anti-retaliation policy;

12 4. All documents verifying the occurrence of all training sessions and names  
13 and positions of all attendees for each session as required under this Decree;

14 5. All documents generated in connection with the monitoring, counseling and  
15 disciplining of employees whom Defendant determined to have engaged in behavior that  
16 may be discriminatory, harassing and/or retaliatory;

17 6. All documents generated in connection with Defendant's confidential  
18 follow-up inquiries into whether any complainant believes he or she has been retaliated  
19 against;

20 7. All documents generated in connection with the establishment or review of  
21 performance evaluation measures for leads, supervisors and managers; and

22 8. Documents related to communication with contractors/subcontractors  
23 related to terms under the Decree.

24 F. Reporting

25 1. Defendant, through its EEO Monitor, will submit to the EEOC an initial  
26 report containing:

27 a. A copy of its anti-discrimination, anti-harassment and anti-  
28 retaliation policy, including the final complaint procedures;

1           b.     A summary of the procedures and record-keeping methods  
2 developed with the Monitor for centralized tracking of discrimination, harassment and  
3 retaliation complaints and the monitoring of such complaints;

4           c.     A statement confirming that the required notices pertaining to this  
5 Decree and the revised anti-discrimination, anti-harassment and anti-retaliation Policy  
6 have been posted; and

7           d.     A statement confirming all required training has been completed.

8           2.     Defendant, through its EEO Monitor shall provide the following reports  
9 annually throughout the term of this Decree:

10          a.     Compliance with Section X;

11          b.     Verification of training since the previous report;

12          c.     Acknowledgements of receipt of the Policy for all employees hired  
13 since the previous report;

14          d.     A description of all racial discrimination, harassment and retaliation  
15 complaints made, investigated or resolved in the previous year; the nature of the  
16 complaint; the dates of the alleged harassment or retaliation; and a brief summary of how  
17 each complaint was investigated and resolved. If no results have been reached as of the  
18 time of the report, the result shall be included in the next report.

19          e.     Verification that the Notice Posting requirement as set forth in  
20 Section E is in full compliance throughout the duration of the Decree;

21          f.     The status of Defendant's compliance with the terms of the Decree;  
22 and;

23          g.     Whether any revisions of Defendant's policies and procedures  
24 regarding racial discrimination, racial harassment, and retaliation took place since the  
25 preceding report, including a copy of the revised policies or procedures.

1 **XI.**

2 **COSTS OF ADMINISTRATION AND IMPLEMENTATION**  
3 **OF CONSENT DECREE**

4 Defendant shall bear all costs associated with its administration and  
5 implementation of its obligations under this Consent Decree.

6 **XII.**

7 **COSTS AND ATTORNEYS' FEES**

8 Each party shall bear its own costs and attorneys' fees associated with the EEOC's  
9 Complaint and this Decree.

10 **XIII.**

11 **MISCELLANEOUS PROVISIONS**

12 A. During the term of this Consent Decree, Defendant shall provide any potential  
13 successor-in-interest with a copy of this Consent Decree within a reasonable time of not  
14 less than thirty (30) days prior to the execution of any agreement for acquisition or  
15 assumption of control of any or all of Defendant's facilities, or any other material change  
16 in corporate structure, and shall simultaneously inform the EEOC of same.

17 B. During the term of this Consent Decree, Defendant shall assure that each of its  
18 directors, officers, human resources personnel, managers and supervisors are aware of  
19 any term(s) of this Decree which may be related to his/her job duties. Defendant shall  
20 communicate with contractors to ensure they are aware of their Title VII obligations.

21 C. Unless otherwise stated, all notices, reports and correspondence  
22 required under this Decree shall be delivered to the attention of Anna Y. Park, Regional  
23 Attorney, U.S. Equal Employment Opportunity Commission, 255 East Temple Street, 4th  
24 Floor, Los Angeles, CA, 90012; facsimile number (213) 894-1301.

25 D. The Parties agree to entry of this Decree and judgment subject to final approval by  
26 the Court. All parties, through the undersigned, respectfully apply for and consent to this  
27 entry of this Consent Decree Order.

28

