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U.S. DISTRICT COURT
SAN JUAN, P.R.
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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA,
Plaintiff,

v.

OSCAR SANTAMARIA-TORRES,
Defendant.

Crim. No. 21- 464 (RAM)

PLEA and FORFEITURE AGREEMENT

TO THE HONORABLE COURT:

The United States of America, Defendant, Oscar Javier Santamaria Torres, and Defendant's counsel, Maria Dominguez-Victoriano, Esq., pursuant to Federal Rule of Criminal Procedure 11, state that they have reached a Plea Agreement, the terms and conditions of which are as follows:

1. **Charges to which Defendant will Plead Guilty**

Defendant agrees to waive his right to be indicted by a Grand Jury and plead guilty to a one-count Information charging the following:

Count One: Conspiracy; Federal Funds Bribery and Kickbacks. From in or about June 2017, until in or about February 2021 in the District of Puerto Rico, defendant OSCAR SANTAMARIA-TORRES did knowingly and willfully combine, conspire, and agree with others known and unknown to the government to commit offenses against the United States, including Federal Program Bribery, that is, to corruptly give, offer, and agree to give things of value to Individual A, a public official and agent of Cataño, with the intent of influencing and rewarding Individual A in connection with any business, transaction, and

series of transactions of Cataño valued at $5,000 or more as opportunities arose, that is, municipal contracts. In each of the years 2017, 2018, 2019, 2020, and 2021, the municipality of Cataño received benefits in excess of $10,000.00 under federal programs involving grants, subsidies, loans, guarantees, insurance, and other forms of assistance, in violation of 18 U.S.C. §§ 371 and 666(a)(2).

2. Maximum Penalties

The maximum statutory penalty for the offense charged in Count One of the Information is a term of imprisonment of five years, pursuant to 18 U.S.C. § 371; a fine not to exceed two hundred and fifty thousand dollars, pursuant to 18 U.S.C. § 3571(b)(2); and a supervised release term of not more than three years, pursuant to 18 U.S.C. § 3583(b)(2).

3. Sentencing Guidelines Applicability

Defendant understands that the sentence will be imposed by the Court in accordance with 18 U.S.C. § § 3551-86, and the United States Sentencing Guidelines (hereinafter "Guidelines"), which are advisory pursuant to the United States Supreme Court decision in *United States v. Booker*, 543 U.S. 220 (2005). Further, Defendant acknowledges that parole has been abolished, and that the imposition of Defendant's sentence may not be suspended.

4. Special Monetary Assessment

Defendant agrees to pay a special monetary assessment ("SMA") of one hundred dollars ($100.00). The SMA will be deposited in the Crime Victim Fund, pursuant to 18 U.S.C. § 3013 (a)(2)(A).

5. Fines and Restitution

The Court may, pursuant to Section 5E1.2 of the Guidelines order Defendant to pay a fine. The Court may also impose restitution. Defendant agrees to execute and make available, prior to sentencing, a standardized financial statement (OBD Form 500). The United States will advocate on behalf of any identified victim and comply with its obligations under the Mandatory Victim Restitution Act of 1996.

6. Sentence to be Determined by the Court

Defendant understands that the sentence to be imposed will be determined solely by the United States District Judge. The United States cannot make and has not made any promise or representation as to what sentence Defendant will receive. Any discussions that the parties might have had about possible sentences are not binding in any way on the Court, and do not constitute representations about what the parties will seek, or what the actual sentence will be.

7. Recommended Sentencing Guidelines Calculations

The parties are aware that Probation will calculate a sentence applying the Sentencing Guidelines. It is the understanding of the parties that the guideline calculation for the count of conviction will be 60 months, the statutory maximum for the charged offense.

8. Sentence Recommendation

As to Count One, after due consideration of the relevant factors enumerated in 18 U.S.C. § 3553(a), and pursuant to Federal Rule of Criminal Procedure 11(c)(1)(B), the parties recommend a sentence of 60 months imprisonment.

The parties agree that any recommendation by either party for a term of imprisonment below or above 60 months will constitute a material breach of the Plea Agreement.

9. No Stipulation as to Criminal History Category

The parties do not stipulate as to any Criminal History Category for Defendant.

10. Waiver of Appeal

Defendant knowingly and voluntarily agrees that, if the sentence imposed by the Court is 60 months or less of imprisonment, Defendant waives the right to appeal any aspect of this case's judgment and sentence, including, but not limited to the term of imprisonment or probation, restitution, fines, forfeiture, and the term and conditions of supervised release.

11. No Further Adjustments or Departures

The United States and Defendant agree that no further adjustments or departures to Defendant's total adjusted base offense level and no variant sentence under 18 U.S.C. § 3553—other than any explicitly provided for in this Plea Agreement or accompanying Supplement—shall be sought by Defendant. The parties agree that any request by Defendant for an adjustment or departure that is not explicitly provided for in this Plea Agreement will be considered a material breach of this Plea Agreement, and the United States will be free to ask for any sentence, either guideline or statutory.

12. Satisfaction with Counsel

Defendant is satisfied with counsel, Maria Dominguez-Victoriano, Esq., and asserts that counsel has rendered effective legal assistance.

13. Rights Surrendered by Defendant Through Guilty Plea

Defendant understands that by entering into this Plea Agreement, Defendant surrenders and waives certain rights as detailed in this agreement. Defendant understands that the rights of criminal defendants include the following:

a. If Defendant had persisted in a plea of not guilty to the charges, Defendant would have had the right to a speedy jury trial with the assistance of counsel. The trial may be conducted by a judge sitting without a jury if Defendant, the United States and the judge agree.

b. If a jury trial is conducted, the jury would be composed of twelve lay persons selected at random. Defendant and Defendant's attorney would assist in selecting the jurors by removing prospective jurors for cause where actual bias or other disqualification is shown, or by removing prospective jurors without cause by exercising peremptory

challenges. The jury would have to agree, unanimously, before it could return a verdict of either guilty or not guilty. The jury would be instructed that Defendant is presumed innocent, that it could not convict Defendant unless, after hearing all the evidence, it was persuaded of Defendant's guilt beyond a reasonable doubt, and that it was to consider each charge separately.

c. If a trial is held by the judge without a jury, the judge would find the facts and, after hearing all the evidence and considering each count separately, determine whether or not the evidence established Defendant's guilt beyond a reasonable doubt.

d. At a trial, the United States would be required to present its witnesses and other evidence against Defendant. Defendant would be able to confront those witnesses and Defendant's attorney would be able to cross-examine them. In turn, Defendant could present witnesses and other evidence on Defendant's own behalf. If the witnesses for Defendant would not appear voluntarily, Defendant could require their attendance through the subpoena power of the Court.

e. At a trial, Defendant could rely on the privilege against self-incrimination to decline to testify, and no inference of guilt could be drawn from Defendant's refusal to testify. If Defendant desired to do so, Defendant could testify on Defendant's own behalf.

14. Stipulation of Facts

The accompanying Stipulation of Facts signed by Defendant is hereby incorporated into this Plea Agreement. Defendant adopts the Stipulation of Facts and agrees that the facts therein are accurate in every respect. Defendant agrees and accepts that had the matter proceeded to trial, the United States would have proven those facts beyond a reasonable doubt.

15. Limitations of Plea Agreement

This Plea Agreement binds only the United States Attorney's Office for the District of Puerto Rico, the Public Integrity Section of the Criminal Division of the U.S. Department of Justice, and Defendant. It does not bind any other federal district, state, or local authorities.

16. Entirety of Plea Agreement

This written agreement constitutes the complete Plea Agreement between the United States, Defendant, and Defendant's counsel. The United States has made no promises or representations except as set forth in writing in this Plea Agreement and accompanying Supplement.

17. Amendments to Plea Agreement

No other promises, terms or conditions will be entered into between the parties unless they are in writing and signed by all parties.

18. Voluntariness of Plea Agreement

Defendant acknowledges that no threats have been made against Defendant and that Defendant is pleading guilty freely and voluntarily because Defendant is guilty.

19. Breach and Waiver

Defendant agrees that defendant will have breached this Plea Agreement if, after entering into this Plea Agreement, Defendant: (a) fails to perform or to fulfill completely each and every one of Defendant's obligations under this Plea Agreement; (b) engages in any criminal activity prior to sentencing; or (c) attempts to withdraw Defendant's guilty plea. In the event of such a breach, the United States will be free from its obligation under this Plea Agreement and Defendant will not have the right to withdraw the guilty plea. Moreover, Defendant agrees that if Defendant is in breach of the Plea Agreement, Defendant is deemed to have waived any objection to the reinstatement of any charges under the Indictment, Information, or complaint which may have previously been dismissed or which may have not been previously prosecuted. Additionally, in the event of such a breach, the United States will be free to use against the defendant, directly and indirectly, in any criminal or civil proceeding, all statements made by the defendant and any of the information or materials provided by the defendant at any time, including such statements, information, and materials provided pursuant to this Plea Agreement or during the course of any interviews, conversations, or debriefings conducted in anticipation of, or after entry of this Plea Agreement, including the defendant's statements made during proceedings before the Court pursuant to Rule 11 of the Federal Rules of Criminal Procedure. The defendant understands that Rule 11(f) of the Federal Rules of Criminal Procedure and Rule 410 of the Federal Rules of Evidence ordinarily limit the admissibility of statements made by a defendant in the course of plea discussions

or plea proceedings if a guilty plea is later withdrawn. The defendant knowingly and voluntarily waives the rights arising under these rules.

20. Potential Impact on Immigration Status

Pursuant to Federal Rule of Criminal Procedure 11(b)(1)(O), Defendant hereby agrees and recognizes that if convicted, a Defendant who is not a United States citizen may be removed from the United States, denied citizenship, and denied admission to the United States in the future.

21. Felony Conviction

Defendant hereby agrees and recognizes that the plea of guilty in this case will be recognized as a felony conviction, which will result in the loss of certain rights, including, but not limited to, the right to vote in a federal election, to serve as a juror, to hold public office, and to lawfully possess a firearm.

22. Forfeiture Provision

Defendant agrees to waive and forgo any interests or claims over the entry of a six million dollar ($6,000,000.00) judgment.

Defendant further agrees to waive all interest in any such asset in any administrative or judicial forfeiture proceeding, whether criminal or civil, state or federal. Defendant agrees to consent to the entry of orders of forfeiture for such property and waives the requirements of Federal Rules of Criminal Procedure 32.2 and 43(a) regarding notice of the forfeiture in the charging instrument, announcement of the forfeiture at sentencing, and incorporation of the forfeiture in

the judgment. Defendant acknowledges that the forfeiture of assets is part of the sentence that may be imposed in this case and waives any failure by the court to advise Defendant of this, pursuant to Rule 11(b)(1)(J), at the time Defendant's guilty plea is accepted.

Defendant further agrees to waive all constitutional and statutory challenges in any manner (including direct appeal, habeas corpus, or any other means) to any forfeiture carried out in accordance with this Plea Agreement on any grounds, including that the forfeiture constitutes an excessive fine or punishment. Defendant agrees to take all steps as requested by the United States to pass clear title to forfeitable assets to the United States, and to testify truthfully in any judicial forfeiture proceeding. Defendant acknowledges that all property covered by this agreement is subject to forfeiture as proceeds of illegal conduct, giving rise to forfeiture and/or substitute assets for property otherwise subject to forfeiture.

Defendant, by agreeing to the forfeiture stated above, acknowledges that such forfeiture is not grossly disproportionate to the gravity of the offense conduct to which Defendant is pleading guilty. Defendant agrees that the forfeiture provisions of this Plea Agreement are intended to and will survive Defendant, notwithstanding the abatement of any underlying criminal conviction after the execution of this agreement.

The forfeitability of any particular property pursuant to this agreement shall be determined as if Defendant had survived, and that determination shall be binding

upon Defendant's heirs, successors and assignees until the agreed forfeiture, including any agreed money judgment, is collected in full.

W. STEPHEN MULDROW
United States Attorney

COREY R. AMUNDSON
Chief, Public Integrity Section
Department of Justice

Seth Erbe
Assistant U.S. Attorney
Chief, Financial Crimes and
And Public Corruption
Dated: 11/29/2021

Scott Anderson
Assistant U.S. Attorney
Dated: 11/29/21

Ryan R. Crosswell
Trial Attorney
Dated: 11/29/21

Maria Dominguez-Victoriano, Esq.
Counsel for Defendant
Dated: 11-30-2021

Oscar Santamaria-Torres
Defendant
Dated: 11-30-2021

UNDERSTANDING OF RIGHTS

I have consulted with counsel and fully understand all of my rights as to the charges pending against me. Further, I have consulted with my attorney and fully understand my rights as to the provisions of the Guidelines that may apply in my case. I have read this Plea Agreement and carefully reviewed every part of it with my attorney. My counsel has translated the Plea Agreement to me in the Spanish language and I have no doubts as to the contents of the agreement. I fully understand this agreement and voluntarily agree to it.

Date: 11-30-2021

Oscar Santamaria-Torres
Defendant

I am the attorney for Defendant. I have fully explained Defendant's rights to Defendant with respect to the pending charges. Further, I have reviewed the applicable provisions of the Guidelines and I have fully explained to Defendant the provisions of those Guidelines that may apply in this case. I have carefully reviewed every part of this Plea Agreement with Defendant. I have translated the Plea Agreement and explained it in the Spanish language to the Defendant who has expressed having no doubts as to the contents of the agreement. To my knowledge, Defendant is entering into this Plea Agreement voluntarily, intelligently, and with full knowledge of all consequences of Defendant's plea of guilty.

Date: 11-30-2021

María Dominguez-Victoriano
Counsel for Defendant

STIPULATION OF FACTS

In conjunction with the submission of the accompanying Plea Agreement in this case, the Defendant Oscar Santamaria-Torres admits that Defendant is guilty as charged in the Information and admits the following:

Defendant was the owner of Company A, a business specializing in waste management and disposal, and Company B, a construction company, both located in Puerto Rico. Defendant also owned Company C in Puerto Rico, although he recruited two women to serve as its nominal owners.

In approximately June 2017, Santamaria began making $2,000 weekly cash payments to Individual A, a public official and agent of the municipality of Cataño, to help ensure his company would be awarded and continue to be awarded municipal contracts as opportunities arose. Santamaria's bribe payments to Individual A continued until in or about April 21, 2021. Santamaria also conspired with others to effectuate these bribe payments to Individual A, including Mario Villegas-Vargas and Raymond Rodriguez, owners of an asphalt company named Company D, and others. In exchange for Santamaria's cash payments, Santamaria's companies were awarded the following contracts:

Municipality of Cataño to Company A

Executed on or about:	Contract Number:	Approximate Amount:
05/01/2017	2017-000176	$29,979,758.00
09/25/2017	2018-000108	$47,970.00
10/11/2017	2018-000099	$440,925.00
10/25/2017	2018-000111	$150,000.00
12/21/2017	2018-000111-C	$1,000,000.00
02/25/2018	2018-000111-D	$450,000.00
06/06/2018	2018-000111-E	$625,000.00

06/28/2018	2017-000176-A	$2,050,307.50
09/06/2018	2018-000111-G	$450,000.00
06/28/2019	2017-000176-B	$2,101,565.16
06/30/2020	2017-000176-D	$1,914,104.17
Total		$39,209,629.83

Municipality of Cataño to Company B

Executed on or about:	Contract Number:	Approximate Amount:
11/01/2018	2019-000140	$193,610.00
02/25/2019	2019-000267	$192,610.00
09/19/2019	2020-000170	$198,610.00
Total		$584,830.00

Municipality of Cataño to Company C

Executed on or about:	Contract Number:	Approximate Amount:
06/30/2017	2018-000011	$1,134,000.00
12/21/2017	2018-000011-A	$1,134,000.00
08/24/2017	2018-000072	$2,000.00
06/29/2018	2019-000031	$2,268,000.00
08/23/2018	2019-000041-A	$7,680.00
09/25/2018	2019-000041-B	$6,358.00
10/24/2018	2019-000041-C	$6,223.81
11/13/2018	2019-000041-D	$6,975.54
12/17/2018	2019-000041-E	$6,640.50
01/28/2019	2019-000041-F	$7,129.34
02/21/2019	2019-000041-G	$6,665.59
03/12/2019	2019-000041-H	$7,119.13
05/01/2019	2019-000041-I	$15,477.03
06/12/2019	2019-000041-J	$9,774.30
07/01/2019	2020-000057	$5,000.00
07/01/2019	2020-000058	$2,268,000.00
09/03/2019	2020-000057-A	$17,623.35
09/17/2019	2020-000057-B	$9,737.59
10/18/2019	2020-000057-C	$9,630.46
11/22/2019	2020-000057-D	$9,494.33
12/16/2019	2020-000057-E	$7,855.91
02/10/2020	2020-000057-F	$8,769.92
02/24/2020	2020-000057-G	$8,830.35
04/20/2020	2020-000354	$4,125.00
07/01/2020	2021-000114	$1,000.00
07/02/2020	2020-000057-H	$6,355.36
06/30/2020	2020-000058-A	$567,000.00
07/23/2020	2021-000014	$214,881.00

09/30/2020	2020-000058-B	$567,000.00
10/16/2020	2020-000057-L	$11,072.47
10/16/2020	2021-000114-A	$19,124.93
10/28/2020	2021-000114-B	$6,520.37
12/21/2020	2021-000114-C	$7,021.01
12/29/2020	2020-000058-C	$189,000.00
01/19/2021	2021-000114-D	$7,021.01
01/25/2021	2021-000114-E	$8,262.52
01/29/2021	2021-000255	$945,000.00
02/05/2021	2021-000114-F	$11,703.89
03/08/2021	2021-000114-G	$8,097.05
03/24/2021	2021-000114-H	$11,703.89
Total		$9,547,873.65

Had this matter proceeded to trial, the United States would have presented evidence through the testimony of witnesses as well as physical and documentary evidence which would have proven beyond a reasonable doubt that in or in or about June 2017 until in or around April 2021, Defendant conspired with Mario Luis Villegas Vargas and Raymond Rodriguez to corruptly give, offer, and agree to give things of value to a public official, Individual A with the intent of influencing and rewarding Individual A in order to obtain municipal contracts valued over $5,000. The evidence would have proved that in each of the years 2017, 2018, 2019, 2020, and 2021,

[REMAINDER INTENTIONALLY BLANK]

Cataño received federal benefits in excess of $10,000 under federal programs involving grants, subsidies, loans, guarantees, insurance, and other forms of assistance.

Scott Anderson
Assistant U.S. Attorney
Dated: 11/29/21

Maria Dominguez-Victoriano Esq.
Counsel for Defendant
Dated: 11-30-2021

Ryan Crosswell
Trial Attorney
Dated: 11/29/21

Oscar Javier Santamaria Torres
Defendant
Dated: 11-30-2021