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CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
SANTA ANA

BY _____

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9 UNITED STATES OF AMERICA

10 UNITED STATES DISTRICT COURT

11 FOR THE CENTRAL DISTRICT OF CALIFORNIA

12 UNITED STATES OF AMERICA,

13 Plaintiff,

14 v.

15 DAVE PHUONG DINH VO,

16 Defendant.

No. SA CR 16- SACR16-00077

PLEA AGREEMENT FOR DEFENDANT
DAVE PHUONG DINH VO

17
18 1. This constitutes the plea agreement between DAVE PHUONG
19 DINH VO ("defendant") and the United States Attorney's Office for the
20 Central District of California (the "USAO") in the above-captioned
21 case. This agreement is limited to the USAO and cannot bind any
22 other federal, state, local, or foreign prosecuting, enforcement,
23 administrative, or regulatory authorities.

24 DEFENDANT'S OBLIGATIONS

25 2. Defendant agrees to:

26 a. Give up the right to indictment by a grand jury and,
27 at the earliest opportunity requested by the USAO and provided by the
28 Court, appear and plead guilty to a single-count information in the

1 form attached to this agreement as Exhibit A or a substantially
2 similar form, which charges defendant with Bribery in Program
3 Receiving Federal Funds in violation of 18 U.S.C. § 666(a)(1)(B).

4 b. Not contest facts agreed to in this agreement.

5 c. Abide by all agreements regarding sentencing contained
6 in this agreement.

7 d. Appear for all court appearances, surrender as ordered
8 for service of sentence, obey all conditions of any bond, and obey
9 any other ongoing court order in this matter.

10 e. Not commit any crime; however, offenses that would be
11 excluded for sentencing purposes under United States Sentencing
12 Guidelines ("U.S.S.G." or "Sentencing Guidelines") § 4A1.2(c) are not
13 within the scope of this agreement.

14 f. Be truthful at all times with Pretrial Services, the
15 United States Probation Office, and the Court.

16 g. Pay the applicable special assessment at or before the
17 time of sentencing unless defendant lacks the ability to pay and
18 prior to sentencing submits a completed financial statement on a form
19 to be provided by the USAO.

20 THE USAO'S OBLIGATIONS

21 3. The USAO agrees to:

22 a. Not contest facts agreed to in this agreement.

23 b. Abide by all agreements regarding sentencing contained
24 in this agreement.

25 c. At the time of sentencing, provided that defendant
26 demonstrates an acceptance of responsibility for the offense up to
27 and including the time of sentencing, recommend a two-level reduction
28 in the applicable Sentencing Guidelines offense level, pursuant to

1 U.S.S.G. § 3E1.1, and recommend and, if necessary, move for an
2 additional one-level reduction if available under that section.

3 d. Recommend that defendant be sentenced to a term of
4 imprisonment no higher than the low end of the applicable Sentencing
5 Guidelines range, provided that the offense level used by the Court
6 to determine that range is 13 or higher. For purposes of this
7 agreement, the low end of the Sentencing Guidelines range is that
8 defined by the Sentencing Table in U.S.S.G. Chapter 5, Part A,
9 without regard to reductions in the term of imprisonment that may be
10 permissible through the substitution of community confinement or home
11 detention as a result of the offense level falling within Zone B or
12 Zone C of the Sentencing Table.

13 NATURE OF THE OFFENSE

14 4. Defendant understands that for defendant to be guilty of
15 the crime charged in the single-count information, that is, Bribery
16 in Program Receiving Federal Funds in violation of Title 18, United
17 States Code, Section 666(a)(1)(B), the following must be true: (a)
18 defendant was an agent of a state or local government, or any agency
19 of that government; (b) defendant solicited, demanded, accepted, or
20 agreed to accept anything of value from another person; (c) defendant
21 did so corruptly with the intent to be influenced or rewarded in
22 connection with some business, transaction, or series of transactions
23 of the state or local government, or agency of that government; (d)
24 the business, transaction, or series of transactions involved
25 anything of a value of \$5,000 or more; and (e) the state or local
26 government, or agency of that government, in a one-year period,
27 received benefits of more than \$10,000 under any federal program
28 involving a grant or other assistance.

PENALTIES

1
2 5. Defendant understands that the statutory maximum sentence
3 that the Court can impose for a violation of Title 18, United States
4 Code, Section 666(a)(1)(B), is: 10 years' imprisonment; a three-year
5 period of supervised release; a fine of \$250,000 or twice the gross
6 gain or gross loss resulting from the offense, whichever is greatest;
7 and a mandatory special assessment of \$100.

8 6. Defendant understands that supervised release is a period
9 of time following imprisonment during which defendant will be subject
10 to various restrictions and requirements. Defendant understands that
11 if defendant violates one or more of the conditions of any supervised
12 release imposed, defendant may be returned to prison for all or part
13 of the term of supervised release authorized by statute for the
14 offense that resulted in the term of supervised release, which could
15 result in defendant serving a total term of imprisonment greater than
16 the statutory maximum stated above.

17 7. Defendant understands that, by pleading guilty, defendant
18 may be giving up valuable government benefits and valuable civic
19 rights, such as the right to vote, the right to possess a firearm,
20 the right to hold office, and the right to serve on a jury.
21 Defendant understands that once the Court accepts defendant's guilty
22 plea, it will be a federal felony for defendant to possess a firearm
23 or ammunition. Defendant understands that the conviction in this
24 case may also subject defendant to various other collateral
25 consequences, including but not limited to revocation of probation,
26 parole, or supervised release in another case and suspension or
27 revocation of a professional license. Defendant understands that
28

1 unanticipated collateral consequences will not serve as grounds to
2 withdraw defendant's guilty plea.

3 8. Defendant understands that, if defendant is not a United
4 States citizen, the felony conviction in this case may subject
5 defendant to: removal, also known as deportation, which may, under
6 some circumstances, be mandatory; denial of citizenship; and denial
7 of admission to the United States in the future. The Court cannot,
8 and defendant's attorney also may not be able to, advise defendant
9 fully regarding the immigration consequences of the felony conviction
10 in this case. Defendant understands that unexpected immigration
11 consequences will not serve as grounds to withdraw defendant's guilty
12 plea.

13 FACTUAL BASIS

14 9. Defendant admits that defendant is, in fact, guilty of the
15 offense to which defendant is agreeing to plead guilty. Defendant
16 and the USAO agree to the statement of facts provided below and agree
17 that this statement of facts is sufficient to support a plea of
18 guilty to the charge described in this agreement and to establish the
19 Sentencing Guidelines factors set forth in paragraph 11 below but is
20 not meant to be a complete recitation of all facts relevant to the
21 underlying criminal conduct or all facts known to either party that
22 relate to that conduct.

23 From on or about January 14, 2009 to at least August 25, 2011,
24 defendant served as a Planning Commissioner on the City of
25 Westminster Planning Commission, a local government agency in Orange
26 County within the Central District of California. As a Planning
27 Commissioner, defendant had influence over the issuance of
28 conditional use permits. On or about June 3, 2011, defendant

1 solicited, agreed to accept, and accepted a \$15,000 bribe payment
2 from a confidential informant ("CI") for defendant's assistance in
3 helping the CI obtain a conditional use permit involving a liquor
4 license. Defendant did so corruptly with the intent to be influenced
5 and rewarded in connection with supporting the issuance of the liquor
6 license for the CI. From August 1, 2011 to August 25, 2011, over the
7 course of four separate meetings, the CI paid defendant, and
8 defendant accepted, the \$15,000 bribe.

9 During the above-referenced time periods, including from 2010 to
10 2011, and 2011 to 2012, defendant's agency, the Planning Commission
11 of the City of Westminster, and the City of Westminster, received
12 more than \$10,000 under federal programs involving grants and other
13 assistance.

14 SENTENCING FACTORS

15 10. Defendant understands that in determining defendant's
16 sentence the Court is required to calculate the applicable Sentencing
17 Guidelines range and to consider that range, possible departures
18 under the Sentencing Guidelines, and the other sentencing factors set
19 forth in 18 U.S.C. § 3553(a). Defendant understands that the
20 Sentencing Guidelines are advisory only, that defendant cannot have
21 any expectation of receiving a sentence within the calculated
22 Sentencing Guidelines range, and that after considering the
23 Sentencing Guidelines and the other § 3553(a) factors, the Court will
24 be free to exercise its discretion to impose any sentence it finds
25 appropriate up to the maximum set by statute for the crime of
26 conviction.

27 11. Defendant and the USAO agree to the following applicable
28 Sentencing Guidelines factors:

1 Base Offense Level: 14 [U.S.S.G. § 2C1.1]

2 Specific Offense

3 Characteristics:

4 Bribe More Than \$6,500: +2 [U.S.S.G. § 2C1.1(b)(2)]

5 Defendant and the USAO reserve the right to argue that additional
6 specific offense characteristics, adjustments, and departures under
7 the Sentencing Guidelines are appropriate.

8 12. Defendant understands that there is no agreement as to
9 defendant's criminal history or criminal history category.

10 13. Defendant and the USAO reserve the right to argue for a
11 sentence outside the sentencing range established by the Sentencing
12 Guidelines based on the factors set forth in 18 U.S.C. § 3553(a)(1),
13 (a)(2), (a)(3), (a)(6), and (a)(7).

14 WAIVER OF CONSTITUTIONAL RIGHTS

15 14. Defendant understands that by pleading guilty, defendant
16 gives up the following rights:

17 a. The right to persist in a plea of not guilty.

18 b. The right to a speedy and public trial by jury.

19 c. The right to be represented by counsel -- and if
20 necessary have the Court appoint counsel -- at trial. Defendant
21 understands, however, that, defendant retains the right to be
22 represented by counsel -- and if necessary have the Court appoint
23 counsel -- at every other stage of the proceeding.

24 d. The right to be presumed innocent and to have the
25 burden of proof placed on the government to prove defendant guilty
26 beyond a reasonable doubt.

27 e. The right to confront and cross-examine witnesses
28 against defendant.

1 f. The right to testify and to present evidence in
2 opposition to the charge, including the right to compel the
3 attendance of witnesses to testify.

4 g. The right not to be compelled to testify, and, if
5 defendant chose not to testify or present evidence, to have that
6 choice not be used against defendant.

7 h. Any and all rights to pursue any affirmative defenses,
8 Fourth Amendment or Fifth Amendment claims, and other pretrial
9 motions that have been filed or could be filed.

10 WAIVER OF APPEAL OF CONVICTION

11 15. Defendant understands that, with the exception of an appeal
12 based on a claim that defendant's guilty plea was involuntary, by
13 pleading guilty defendant is waiving and giving up any right to
14 appeal defendant's conviction on the offense to which defendant is
15 pleading guilty.

16 LIMITED MUTUAL WAIVER OF APPEAL OF SENTENCE

17 16. Defendant agrees that, provided the Court imposes a total
18 term of imprisonment within or below the Sentencing Guidelines range
19 corresponding to an offense level of 13 and the criminal history
20 category calculated by the Court, defendant gives up the right to
21 appeal all of the following: (a) the procedures and calculations used
22 to determine and impose any portion of the sentence; (b) the term of
23 imprisonment imposed by the Court; (c) the fine imposed by the Court,
24 provided it is within the statutory maximum; (d) the term of
25 probation or supervised release imposed by the Court, provided it is
26 within the statutory maximum; and (e) any of the following conditions
27 of probation or supervised release imposed by the Court: the
28 conditions set forth in General Orders 318, 01-05, and/or 05-02 of

1 this Court; and the drug testing conditions mandated by 18 U.S.C.
2 §§ 3563(a)(5) and 3583(d).

3 17. The USAO agrees that, provided (a) all portions of the
4 sentence are at or below the statutory maximum specified above and
5 (b) the Court imposes a term of imprisonment within or above the
6 range corresponding to an offense level of 13 and the criminal
7 history category calculated by the Court, the USAO gives up its right
8 to appeal any portion of the sentence.

9 RESULT OF WITHDRAWAL OF GUILTY PLEA

10 18. Defendant agrees that if, after entering a guilty plea
11 pursuant to this agreement, defendant seeks to withdraw and succeeds
12 in withdrawing defendant's guilty plea on any basis other than a
13 claim and finding that entry into this plea agreement was
14 involuntary, then (a) the USAO will be relieved of all of its
15 obligations under this agreement; and (b) should the USAO choose to
16 pursue any charge that was either dismissed or not filed as a result
17 of this agreement, then (i) any applicable statute of limitations
18 will be tolled between the date of defendant's signing of this
19 agreement and the filing commencing any such action; and
20 (ii) defendant waives and gives up all defenses based on the statute
21 of limitations, any claim of pre-indictment delay, or any speedy
22 trial claim with respect to any such action, except to the extent
23 that such defenses existed as of the date of defendant's signing this
24 agreement.

25 RESULT OF VACATUR, REVERSAL, OR SET-ASIDE

26 19. Defendant agrees that if the count of conviction is
27 vacated, reversed, or set aside, both the USAO and defendant will be
28 released from all their obligations under this agreement.

1 EFFECTIVE DATE OF AGREEMENT

2 20. This agreement is effective upon signature and execution of
3 all required certifications by defendant, defendant's counsel, and an
4 Assistant United States Attorney.

5 BREACH OF AGREEMENT

6 21. Defendant agrees that if defendant, at any time after the
7 signature of this agreement and execution of all required
8 certifications by defendant, defendant's counsel, and an Assistant
9 United States Attorney, knowingly violates or fails to perform any of
10 defendant's obligations under this agreement ("a breach"), the USAO
11 may declare this agreement breached. All of defendant's obligations
12 are material, a single breach of this agreement is sufficient for the
13 USAO to declare a breach, and defendant shall not be deemed to have
14 cured a breach without the express agreement of the USAO in writing.
15 If the USAO declares this agreement breached, and the Court finds
16 such a breach to have occurred, then: (a) if defendant has previously
17 entered a guilty plea pursuant to this agreement, defendant will not
18 be able to withdraw the guilty plea, and (b) the USAO will be
19 relieved of all its obligations under this agreement.

20 22. Following the Court's finding of a knowing breach of this
21 agreement by defendant, should the USAO choose to pursue any charge
22 that was either dismissed or not filed as a result of this agreement,
23 then:

24 a. Defendant agrees that any applicable statute of
25 limitations is tolled between the date of defendant's signing of this
26 agreement and the filing commencing any such action.

27 b. Defendant waives and gives up all defenses based on
28 the statute of limitations, any claim of pre-indictment delay, or any

1 speedy trial claim with respect to any such action, except to the
2 extent that such defenses existed as of the date of defendant's
3 signing this agreement.

4 c. Defendant agrees that: (i) any statements made by
5 defendant, under oath, at the guilty plea hearing (if such a hearing
6 occurred prior to the breach); (ii) the agreed to factual basis
7 statement in this agreement; and (iii) any evidence derived from such
8 statements, shall be admissible against defendant in any such action
9 against defendant, and defendant waives and gives up any claim under
10 the United States Constitution, any statute, Rule 410 of the Federal
11 Rules of Evidence, Rule 11(f) of the Federal Rules of Criminal
12 Procedure, or any other federal rule, that the statements or any
13 evidence derived from the statements should be suppressed or are
14 inadmissible.

15 COURT AND PROBATION OFFICE NOT PARTIES

16 23. Defendant understands that the Court and the United States
17 Probation Office are not parties to this agreement and need not
18 accept any of the USAO's sentencing recommendations or the parties'
19 agreements to facts or sentencing factors.

20 24. Defendant understands that both defendant and the USAO are
21 free to: (a) supplement the facts by supplying relevant information
22 to the United States Probation Office and the Court, (b) correct any
23 and all factual misstatements relating to the Court's Sentencing
24 Guidelines calculations and determination of sentence, and (c) argue
25 on appeal and collateral review that the Court's Sentencing
26 Guidelines calculations and the sentence it chooses to impose are not
27 error, although each party agrees to maintain its view that the
28 calculations in paragraph 11 are consistent with the facts of this

1 case. While this paragraph permits both the USAO and defendant to
2 submit full and complete factual information to the United States
3 Probation Office and the Court, even if that factual information may
4 be viewed as inconsistent with the facts agreed to in this agreement,
5 this paragraph does not affect defendant's and the USAO's obligations
6 not to contest the facts agreed to in this agreement.

7 25. Defendant understands that even if the Court ignores any
8 sentencing recommendation, finds facts or reaches conclusions
9 different from those agreed to, and/or imposes any sentence up to the
10 maximum established by statute, defendant cannot, for that reason,
11 withdraw defendant's guilty plea, and defendant will remain bound to
12 fulfill all defendant's obligations under this agreement. Defendant
13 understands that no one -- not the prosecutor, defendant's attorney,
14 or the Court -- can make a binding prediction or promise regarding
15 the sentence defendant will receive, except that it will be within
16 the statutory maximum.

17 NO ADDITIONAL AGREEMENTS

18 26. Defendant understands that, except as set forth herein,
19 there are no promises, understandings, or agreements between the USAO
20 and defendant or defendant's attorney, and that no additional
21 promise, understanding, or agreement may be entered into unless in a
22 writing signed by all parties or on the record in court.

23 PLEA AGREEMENT PART OF THE GUILTY PLEA HEARING

24 27. The parties agree that this agreement will be considered
25 part of the record of defendant's guilty plea hearing as if the
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27
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1 entire agreement had been read into the record of the proceeding.

2 AGREED AND ACCEPTED

3 UNITED STATES ATTORNEY'S OFFICE
4 FOR THE CENTRAL DISTRICT OF
5 CALIFORNIA

6 EILEEN M. DECKER
7 United States Attorney

8 DAN K. AHN
9 Assistant United States Attorney

5/25/16
Date

10 DAVE PHUONG DINH VO
11 Defendant

5/23/16
Date

12 Dan E. Cleaveland
13 DAN CHAMBERS
14 Attorney for Defendant DAVE PHUONG
15 DINH VO

5/23/16
Date

16 CERTIFICATION OF DEFENDANT

17 I have read this agreement in its entirety. I have had enough
18 time to review and consider this agreement, and I have carefully and
19 thoroughly discussed every part of it with my attorney. I understand
20 the terms of this agreement, and I voluntarily agree to those terms.
21 I have discussed the evidence with my attorney, and my attorney has
22 advised me of my rights, of possible pretrial motions that might be
23 filed, of possible defenses that might be asserted either prior to or
24 at trial, of the sentencing factors set forth in 18 U.S.C. § 3553(a),
25 of relevant Sentencing Guidelines provisions, and of the consequences
26 of entering into this agreement. No promises, inducements, or
27 representations of any kind have been made to me other than those
28 contained in this agreement. No one has threatened or forced me in

1 any way to enter into this agreement. I am satisfied with the
2 representation of my attorney in this matter, and I am pleading
3 guilty because I am guilty of the charge and wish to take advantage
4 of the promises set forth in this agreement, and not for any other
5 reason.

6
7 DAVE PHUONG DINH VO
8 Defendant

5/23/16
Date

9
10 CERTIFICATION OF DEFENDANT'S ATTORNEY

11 I am DAVE PHUONG DINH VO's attorney. I have carefully and
12 thoroughly discussed every part of this agreement with my client.
13 Further, I have fully advised my client of his rights, of possible
14 pretrial motions that might be filed, of possible defenses that might
15 be asserted either prior to or at trial, of the sentencing factors
16 set forth in 18 U.S.C. § 3553(a), of relevant Sentencing Guidelines
17 provisions, and of the consequences of entering into this agreement.
18 To my knowledge: no promises, inducements, or representations of any
19 kind have been made to my client other than those contained in this
20 agreement; no one has threatened or forced my client in any way to
21 enter into this agreement; my client's decision to enter into this
22 agreement is an informed and voluntary one; and the factual basis set
23 forth in this agreement is sufficient to support my client's entry of
24 a guilty plea pursuant to this agreement.

25 Dan E. Chambers
26 DAN CHAMBERS
27 Attorney for Defendant DAVE PHUONG
28 DINH VO

5/23/16
Date

CERTIFICATE OF SERVICE

I, Stephanie Ascencio, declare:

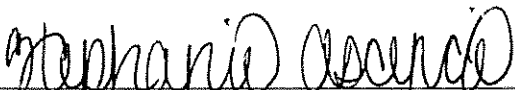
That I am a citizen of the United States and a resident of or employed in Orange County, California; that my business address is the Office of United States Attorney, 411 West 4th Street, Suite 8000, Santa Ana, California 92701; that I am over the age of 18; and that I am not a party to the above-titled action;

That I am employed by the United States Attorney for the Central District of California, who is a member of the Bar of the United States District Court for the Central District of California, at whose direction I served a copy of: PLEA AGREEMENT FOR DEFENDANT

DAVE PHUONG DINH VO

- Placed in a closed envelope for collection and inter-office delivery, addressed as follows:
- Placed in a sealed envelope for collection and mailing via United States mail, addressed as follows: SEE ATTACHED
- By hand delivery, addressed as follows:
- By facsimile, as follows:
- By messenger, as follows:
- By Federal Express, as follows:

This Certificate is executed on June 1, 2016, in Santa Ana, California. I certify under penalty of perjury that the foregoing is true and correct.


Stephanie Ascencio
Legal Assistant

ATTACHMENT

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