

1 (e) to confront and cross-examine witnesses against him and to subpoena
2 witnesses in his defense at trial;

3 (f) not to be compelled to incriminate himself;

4 (g) to appeal his conviction, if he is found guilty; and

5 (h) to appeal the imposition of sentence against him.

6 AGREEMENT TO PLEAD GUILTY AND WAIVE CERTAIN RIGHTS

7 2. The defendant knowingly and voluntarily waives the rights set out in Paragraph
8 1(b)-(g) above. The defendant also knowingly and voluntarily waives the right to file any
9 appeal, any collateral attack, or any other writ or motion, including but not limited to an appeal
10 under 18 U.S.C. § 3742 or a motion under 28 U.S.C. § 2241 or § 2255, that challenges the
11 sentence imposed by the Court if that sentence is consistent with or below the United States
12 Sentencing Guidelines range stipulated by the parties in Paragraph 8 of this Plea Agreement,
13 regardless of how the sentence is determined by the Court. This Agreement does not affect the
14 rights or obligations of the United States as set forth in 18 U.S.C. § 3742(b). Nothing in this
15 paragraph, however, will act as a bar to the defendant perfecting any legal remedies he may
16 otherwise have on appeal or collateral attack respecting claims of ineffective assistance of
17 counsel or prosecutorial misconduct. Pursuant to Fed. R. Crim. P. 7(b), the defendant will waive
18 indictment and plead guilty to Count One of the Information filed in this case. Count One of the
19 Information charges the defendant with participating in a conspiracy to suppress and restrain
20 competition by rigging bids to obtain selected properties offered at public real estate foreclosure
21 auctions in Contra Costa County in the Northern District of California (“the selected
22 properties”), in unreasonable restraint of interstate trade and commerce, in violation of the
23 Sherman Antitrust Act, 15 U.S.C. § 1, beginning as early as January 2010 and continuing until in
24 or about January 2011 (the “relevant period”).

25 3. The defendant will plead guilty to the criminal charge described in Paragraph 2,
26 above, pursuant to the terms of this Plea Agreement and will make a factual admission of guilt to
27 the Court in accordance with Fed. R. Crim. P. 11, as set forth in Paragraph 4 below.

1 FACTUAL BASIS FOR OFFENSE CHARGED

2 4. The defendant agrees that he is guilty of the offense to which he will plead guilty
3 and agrees that the following facts are true:

4 During the relevant period, the defendant participated in a conspiracy to rig bids to obtain
5 selected real estate at public real estate foreclosure auctions held in Contra Costa County,
6 California, located in the Northern District of California. The primary purpose of this conspiracy
7 was to suppress and restrain competition and obtain selected real estate offered at Contra Costa
8 County public real estate foreclosure auctions at noncompetitive prices. During the relevant
9 period, the defendant and his co-conspirators agreed not to bid against one another and to
10 allocate selected real estate among themselves. To carry out their conspiracy, the defendant and
11 his co-conspirators refrained from bidding on or refrained from bidding up the price for selected
12 auctioned real estate. In many instances, the defendant and his co-conspirators held private
13 auctions, open only to members of the conspiracy, to rebid this real estate. The defendant and
14 his co-conspirators awarded this real estate to the conspirator who submitted the highest bid at
15 the private auctions. The defendant and his co-conspirators distributed the proceeds of the
16 private auctions as payoffs to the other, unsuccessful bidders in the private auctions, based upon
17 a predetermined formula agreed upon by the members of the conspiracy, for refraining from
18 bidding on these properties at the public auction.

19 During the relevant period, the business activities of the defendant and his
20 co-conspirators were within the flow of, and substantially affected, interstate trade and
21 commerce. For example, mortgage holders located in states other than California received
22 proceeds from the public real estate foreclosure auctions that were subject to the bid-rigging
23 conspiracy.

24 During the relevant period, the conspiratorial activities described above took place in the
25 Northern District of California, and the real estate that was the subject of this conspiracy was
26 located in this District.

1 POSSIBLE MAXIMUM SENTENCE

2 5. The defendant understands that the statutory maximum penalty which may be
3 imposed against him upon conviction for a violation of Section One of the Sherman Antitrust
4 Act, 15 U.S.C. § 1, is:

5 (a) a term of imprisonment for ten (10) years (15 U.S.C. § 1);

6 (b) a fine in an amount equal to the greatest of (1) \$1 million, (2) twice the
7 gross pecuniary gain the conspirators derived from the crime, or (3) twice the gross pecuniary
8 loss caused to the victims of the crime by the conspirators (15 U.S.C. § 1; 18 U.S.C. § 3571(b)
9 and (d)); and

10 (c) a term of supervised release of three (3) years following any term of
11 imprisonment. If the defendant violates any condition of supervised release, the defendant could
12 be required to serve up to an additional two (2) years in prison (18 U.S.C. § 3559(a)(3); 18
13 U.S.C. § 3583(b)(2) and (e)(3); and United States Sentencing Guidelines (“U.S.S.G.,”
14 “Sentencing Guidelines,” or “Guidelines”) § 5D1.2(a)(2)).

15 6. In addition, the defendant understands that:

16 (a) pursuant to U.S.S.G. § 5E1.1 or 18 U.S.C. § 3663(a)(3), the Court may
17 order him to pay restitution to the victims of the offense; and

18 (b) pursuant to 18 U.S.C. § 3013(a)(2)(A), the Court is required to order the
19 defendant to pay a \$100 special assessment upon conviction for the charged crime.

20 SENTENCING GUIDELINES

21 7. The defendant understands that the Sentencing Guidelines are advisory, not
22 mandatory, but that the Court must consider, in determining and imposing sentence, the
23 Guidelines Manual in effect on the date of sentencing unless that Manual provides for greater
24 punishment than the Manual in effect on the last date that the offense of conviction was
25 committed, in which case the Court must consider the Guidelines Manual in effect on the last
26 date that the offense of conviction was committed. The Court must also consider the other
27 factors set forth in 18 U.S.C. § 3553(a) in determining and imposing sentence. The defendant
28 understands that the Guidelines determinations will be made by the Court by a preponderance-

1 of-the-evidence standard. The defendant understands that although the Court is not ultimately
 2 bound to impose a sentence within the applicable Guidelines range, its sentence must be
 3 reasonable, based upon consideration of all relevant sentencing factors set forth in 18 U.S.C.
 4 § 3553(a). Pursuant to U.S.S.G. § 1B1.8, the United States agrees that self-incriminating
 5 information that the defendant provides to the United States pursuant to this Plea Agreement will
 6 not be used to increase the volume of affected commerce attributable to the defendant or in
 7 determining the defendant's applicable Guidelines range, except to the extent provided in
 8 U.S.S.G. § 1B1.8(b).

9 SENTENCING AGREEMENT

10 8. The United States and the defendant agree that the following Sentencing
 11 Guidelines apply for Count One (15 U.S.C. § 1):

12	(a) Base Offense Level, U.S.S.G. § 2R1.1(a):	12
13		
14	(b) Conduct involved agreement to submit noncompetitive bids, U.S.S.G. § 2R1.1(b)(1):	+1
15		
16	(c) Volume of commerce (stipulated to be \$754,605), U.S.S.G. § 2R1.1(b)(2)(A):	+0
17		
18	Total:	13
19	Fine calculated as one to five percent of the volume of commerce (stipulated to be \$754,605), but not less than \$20,000, U.S.S.G. § 2R1.1(c)(1):	
20		\$20,000 to \$37,730

21 9. The United States agrees that it will make a motion, pursuant to U.S.S.G. § 3E1.1,
 22 for a downward adjustment of two levels for acceptance of responsibility due to the defendant's
 23 timely notification of his intention to enter a guilty plea. Therefore, the total Guidelines
 24 calculations result in an adjusted offense level of 11, for a jail term of 8 to 14 months and a fine
 25 of \$20,000 to \$37,730. The United States agrees to recommend a fine between \$2,000 and
 26 \$20,000.
 27
 28

1 10. The defendant understands that the Court will order him to pay a special
2 assessment of \$100 pursuant to 18 U.S.C. § 3013(a)(2)(A) in addition to any fine imposed. The
3 parties agree that there exists no aggravating or mitigating circumstance of a kind, or to a degree,
4 not adequately taken into consideration by the U.S. Sentencing Commission in formulating the
5 Sentencing Guidelines justifying a departure pursuant to U.S.S.G. § 5K2.0.

6 11. The government and the defendant agree to recommend that the Court order the
7 defendant to pay restitution in the amount of \$2,411, pursuant to U.S.S.G. § 5E1.1(a). The
8 defendant understands that this Plea Agreement is voidable by the government if he fails to pay
9 the restitution as ordered by the Court. The defendant further agrees that he will not seek to
10 discharge any restitution obligation or any part of such obligation in any bankruptcy proceeding.

11 12. The United States and the defendant are not aware of any information that would
12 affect the defendant's Criminal History Category. If no other information were discovered, the
13 defendant's Criminal History Category would be I. The parties understand that the defendant's
14 Criminal History Category is determined by the Court.

15 13. The defendant understands that the sentence to be imposed on him is within the
16 sole discretion of the sentencing judge. The United States cannot and does not make any
17 promises or representations as to what sentence the defendant will receive. The United States
18 will inform the Probation Office and the Court of (a) this Agreement, (b) the nature and extent of
19 the defendant's activities in this case and all other activities of the defendant that the United
20 States deems relevant to sentencing, and (c) the nature and extent of the defendant's cooperation
21 with the United States. In so doing, the United States may use any information it deems relevant,
22 including information provided by the defendant both prior and subsequent to the signing of this
23 Agreement. The United States reserves the right to make any statement to the Court or the
24 Probation Office concerning the nature of the criminal violation charged in the Information, the
25 participation of the defendant therein, and any other facts or circumstances that it deems relevant.
26 The United States also reserves the right to comment on or to correct any representation made by
27 or on behalf of the defendant and to supply any other information that the Court may require.

1 14. If the United States determines that the defendant has provided substantial
2 assistance in any Federal Proceeding, as defined in Paragraph 17 of this Plea Agreement, and has
3 otherwise fully complied with all of the terms of this Plea Agreement, it will file a motion,
4 pursuant to U.S.S.G. § 5K1.1, advising the sentencing judge of all relevant facts pertaining to
5 that determination and requesting the Court to sentence the defendant in light of the factors set
6 forth in U.S.S.G. § 5K1.1(a)(1)-(5). The defendant acknowledges that the decision whether he
7 has provided substantial assistance in any Federal Proceeding and has otherwise complied with
8 the terms of this Plea Agreement is within the sole discretion of the United States. It is
9 understood that, should the United States determine that the defendant has not provided
10 substantial assistance in any Federal Proceeding, or should the United States determine that the
11 defendant has violated any provision of this Plea Agreement, such a determination will release
12 the United States from any obligation to file a motion pursuant to U.S.S.G. § 5K1.1, but will not
13 entitle the defendant to withdraw his guilty plea once it has been entered. The defendant further
14 understands that, whether or not the United States files a motion pursuant to U.S.S.G. § 5K1.1,
15 the sentence to be imposed on him remains within the sole discretion of the sentencing judge.

16 15. Subject to the full, truthful, and continuing cooperation of the defendant, as
17 defined in Paragraph 17 of this Plea Agreement, and prior to sentencing in this case, the United
18 States will fully advise the Court and the Probation Office of the fact, manner, and extent of the
19 defendant's cooperation and his commitment to prospective cooperation with the United States'
20 investigation and prosecutions, all material facts relating to the defendant's involvement in the
21 charged offense, and all other relevant conduct. To enable the Court to have the benefit of all
22 relevant sentencing information, the United States may request, and the defendant will not
23 oppose, that sentencing be postponed until the defendant's cooperation is complete.

24 16. The United States and the defendant understand that the Court retains complete
25 discretion to accept or reject either party's sentencing recommendation. The defendant
26 understands that, as provided in Fed. R. Crim. P. 11(c)(3)(B), if the Court does not impose a
27 sentence consistent with either party's sentencing recommendation, he nevertheless has no right
28 to withdraw his plea of guilty.

DEFENDANT’S COOPERATION

1
2 17. The defendant will cooperate fully and truthfully with the United States in the
3 prosecution of this case, the conduct of the current federal investigation of violations of federal
4 antitrust and related criminal laws involving the purchase of properties at public real estate
5 foreclosure auctions in the Northern District of California, any other federal investigation
6 resulting therefrom, and any litigation or other proceedings arising or resulting from any such
7 investigation to which the United States is a party (“Federal Proceeding”). The ongoing, full,
8 and truthful cooperation of the defendant shall include, but not be limited to:

9 (a) producing all documents, including claimed personal documents, and
10 other materials, wherever located, not protected under the attorney-client privilege or the work-
11 product doctrine in the possession, custody, or control of the defendant, that are requested by
12 attorneys and agents of the United States in connection with any Federal Proceeding;

13 (b) making himself available for interviews, not at the expense of the United
14 States, upon the request of attorneys and agents of the United States in connection with any
15 Federal Proceeding;

16 (c) responding fully and truthfully to all inquiries of the United States in
17 connection with any Federal Proceeding, without falsely implicating any person or intentionally
18 withholding any information, subject to the penalties of making a false statement or declaration
19 (18 U.S.C. §§ 1001, 1623), obstruction of justice (18 U.S.C. § 1503, *et seq.*), or conspiracy to
20 commit such offenses;

21 (d) otherwise voluntarily providing the United States with any material or
22 information not requested in (a) - (c) of this paragraph and not protected under the attorney-client
23 privilege or work-product doctrine that he may have that is related to any Federal Proceeding;
24 and

25 (e) when called upon to do so by the United States in connection with any
26 Federal Proceeding, testifying in grand jury, trial, and other judicial proceedings fully, truthfully,
27 and under oath, subject to the penalties of perjury (18 U.S.C. § 1621), making a false statement
28

1 or declaration in grand jury or court proceedings (18 U.S.C. § 1623), contempt (18 U.S.C.
2 §§ 401-402), and obstruction of justice (18 U.S.C. § 1503, *et seq.*).

3 GOVERNMENT’S AGREEMENT

4 18. Subject to the full, truthful, and continuing cooperation of the defendant, as
5 defined in Paragraph 17 of this Plea Agreement, and upon the Court’s acceptance of the guilty
6 plea called for by this Plea Agreement and the imposition of sentence, the United States agrees
7 that it will not bring further criminal charges against the defendant for any act or offense
8 committed before the date of signature of this Plea Agreement that was undertaken in furtherance
9 of an antitrust conspiracy or in violation of any related criminal law involving the purchase of
10 properties at public real estate foreclosure auctions in the Northern District of California
11 (“Relevant Offenses”). The nonprosecution terms of this paragraph do not apply to (a) any acts
12 of perjury or subornation of perjury (18 U.S.C. §§ 1621-22), making a false statement or
13 declaration (18 U.S.C. §§ 1001, 1623), obstruction of justice (18 U.S.C. § 1503, *et seq.*),
14 contempt (18 U.S.C. §§ 401-402), or conspiracy to commit such offenses; (b) civil matters of
15 any kind; (c) any violation of the federal tax or securities laws or conspiracy to commit such
16 offenses; or (d) any crime of violence.

17 19. The defendant understands that he may be subject to administrative action by
18 federal or state agencies other than the United States Department of Justice, Antitrust Division,
19 based upon the conviction resulting from this Plea Agreement, and that this Plea Agreement in
20 no way controls whatever action, if any, other agencies may take. However, the United States
21 agrees that, if requested, it will advise the appropriate officials of any governmental agency
22 considering such administrative action of the fact, manner, and extent of the cooperation of the
23 defendant as a matter for that agency to consider before determining what administrative action,
24 if any, to take.

25 REPRESENTATION BY COUNSEL

26 20. The defendant has reviewed all legal and factual aspects of this case with his
27 attorney and is fully satisfied with his attorney’s legal representation. The defendant has
28 thoroughly reviewed this Plea Agreement with his attorney and has received satisfactory

1 explanations from his attorney concerning each paragraph of this Plea Agreement and
2 alternatives available to the defendant other than entering into this Plea Agreement. After
3 conferring with his attorney and considering all available alternatives, the defendant has made a
4 knowing and voluntary decision to enter into this Plea Agreement.

5 VOLUNTARY PLEA

6 21. The defendant's decision to enter into this Plea Agreement and to tender a plea of
7 guilty is freely and voluntarily made and is not the result of force, threats, assurances, promises,
8 or representations other than the representations contained in this Plea Agreement. The United
9 States has made no promises or representations to the defendant as to whether the Court will
10 accept or reject the recommendations contained within this Plea Agreement.

11 VIOLATION OF PLEA AGREEMENT

12 22. The defendant agrees that, should the United States determine in good faith,
13 during the period that any Federal Proceeding is pending, that the defendant has failed to provide
14 full, truthful, and continuing cooperation, as defined in Paragraph 17 of this Plea Agreement, or
15 has otherwise violated any provision of this Plea Agreement, the United States will notify
16 counsel for the defendant in writing by personal or overnight delivery, email, or facsimile
17 transmission and may also notify counsel by telephone of its intention to void any of its
18 obligations under this Plea Agreement (except its obligations under this paragraph), and the
19 defendant will be subject to prosecution for any federal crime of which the United States has
20 knowledge, including, but not limited to, the substantive offenses relating to the investigation
21 resulting in this Plea Agreement. The defendant may seek Court review of any determination
22 made by the United States under this paragraph to void any of its obligations under this Plea
23 Agreement. The defendant agrees that, in the event that the United States is released from its
24 obligations under this Plea Agreement and brings criminal charges against the defendant for any
25 Relevant Offense, the statute of limitations period for such offense will be tolled for the period
26 between the date of signature of this Plea Agreement and six (6) months after the date the United
27 States gave notice of its intent to void its obligations under this Plea Agreement.


23. The defendant understands and agrees that in any further prosecution of him resulting from the release of the United States from its obligations under this Plea Agreement because of the defendant's violation of this Plea Agreement, any documents, statements, information, testimony, or evidence provided by him to attorneys or agents of the United States, federal grand juries, or courts, and any leads derived therefrom, may be used against him. In addition, the defendant unconditionally waives his right to challenge the use of such evidence in any such further prosecution, notwithstanding the protections of Fed. R. Evid. 410.

ENTIRETY OF AGREEMENT

24. This Plea Agreement constitutes the entire agreement between the United States and the defendant concerning the disposition of the criminal charges in this case and supersedes and replaces in its entirety any prior plea agreement between the parties concerning the disposition of the criminal charges in this case. This Plea Agreement cannot be modified except in writing, signed by the United States and the defendant.


25. The undersigned attorneys for the United States have been authorized by the Attorney General of the United States to enter this Plea Agreement on behalf of the United States.

26. A facsimile or PDF signature will be deemed an original signature for the purpose of executing this Plea Agreement. Multiple signature pages are authorized for the purpose of executing this Plea Agreement.



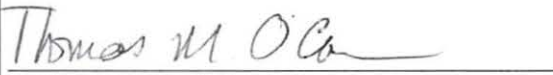
THOMAS LEGAULT
Defendant

Dated: 12/5/16



ALBERT B. SAMBAT
MICHAEL A. RABKIN
Trial Attorneys
U.S. Department of Justice
Antitrust Division

Dated: 12/5/2016



THOMAS O'CONNOR
Counsel for Defendant Thomas Legault

Dated: 12-5-16