

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is entered into among the United States of America, acting through the United States Department of Justice and on behalf of Federal Emergency Management Agency (“FEMA”) (collectively the “United States”), the Roman Catholic Church of the Archdiocese of New Orleans (“ANO”), as debtor and debtor-in-possession, and Robert Romero (“Relator”), through their authorized representatives. Collectively, all of the above will be referred to herein as “the Parties.”

RECITALS

A. ANO is a sub-grantee and recipient of FEMA funds under the Public Assistance (“PA”) program. The PA program operates pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act and FEMA implementing regulations. *See* 42 U.S.C. §§ 5121-5207; 44 C.F.R. §§ 206.1-206.210. Following President George W. Bush’s declaration of a major disaster in Louisiana due to Hurricane Katrina on August 29, 2005, ANO received PA program funds for the repair and replacement of certain facilities damaged by the hurricane. The PA program limits FEMA contribution of funds to sub-grantees such as ANO for “repairing, restoring, reconstructing, or replacing” a facility “on the basis of the design of the facility as the facility existed immediately before the major disaster.” 42 U.S.C. § 5172(e)(1)(A)(i); *see* 44 C.F.R. § 206.226 (2006). Pursuant to the “50% Rule,” if the cost to repair a facility to its pre-disaster condition exceeded 50% of the cost of replacing the facility based on the facility’s pre-disaster condition, FEMA funded the replacement of the damaged facility. 44 C.F.R. § 206.226(f).

B. On September 30, 2016, Relator filed a *qui tam* action in the United States District Court for the Eastern District of Louisiana captioned *United States ex rel. Robert Romero v. AECOM, Xavier University of Louisiana, Dillard University, the Roman Catholic Church of the*

Archdiocese of New Orleans, and Randall Krause, pursuant to the *qui tam* provisions of the False Claims Act, 31 U.S.C. § 3730(b) (the “Civil Action”). Relator alleged that ANO, along with AECOM, violated the FCA, 31 U.S.C. § 3729, by submitting to FEMA false or fraudulent requests for PA funding for the repair and/or replacement of certain ANO facilities.

C. The United States seeks compensation for certain civil claims against ANO arising from ANO’s request and receipt of PA funds for the replacement of various facilities damaged by Louisiana Hurricane Katrina (DR-1603), including the St. Raphael the Archangel Cafeteria Building (“St. Raphael Cafeteria”), the Villa St. Maurice Building #2, and the Villa St. Maurice Building #3 (collectively, “ANO Projects”), from August 29, 2005 through May 29, 2020. Specifically, the United States contends that ANO, acting knowingly, as the FCA defines that term, signed certifications for FEMA Project Worksheets (“PWs”) requesting the obligation of PA funding to replace the above-referenced facilities and property based on false or fraudulent damage descriptions, repair estimates, and 50% Rule calculations prepared, reviewed, and submitted to FEMA by AECOM. For example, with regard to the St. Raphael Cafeteria, AECOM submitted PWs that included false information to inflate the repair estimate, such as damage to a nonexistent air conditioning system, and false information to deflate the replacement estimate, such as misstated square footage of the building. AECOM inflated the repair estimate and deflated the replacement estimate to falsely qualify the building for replacement. Nonetheless, ANO certified as accurate the false and misleading PWs that were prepared by AECOM, and AECOM submitted the PWs to FEMA. Based on AECOM’s submission of the PWs on behalf of ANO to FEMA, FEMA obligated funding to replace the ANO Projects. ANO later obtained reimbursement for the replacement of the ANO Projects from FEMA, through the Louisiana Governor’s Office of

Homeland Security and Emergency Preparedness. This conduct is referred to below as the Covered Conduct.

D. On May 1, 2020, ANO filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code in the case captioned, *In re The Roman Catholic Church of the Archdiocese of New Orleans*, Case No. 20-10846 (Bankr. E.D. La. 2020) (the “Bankruptcy Case”). ANO remains in possession of its property and is managing its business as a debtor in possession pursuant to §§ 1107(a) and 1108 of the Bankruptcy Code. ANO intends to transition into reorganization under Chapter 11 to minimize disruption of its operations. This settlement and the settlement amount represent a non-dischargeable debt under 11 U.S.C. § 1141(d)(6), and ANO will seek approval of this settlement in the Bankruptcy Case.¹

E. This Settlement Agreement is made in compromise of disputed claims. This Settlement Agreement is neither an admission of liability by ANO nor a concession by the United States that its claims are not well founded. ANO expressly denies the allegations of the United States and Relator set forth herein and in the Civil Action.

F. Relator claims entitlement under 31 U.S.C. § 3730(d) to a share of the proceeds of this Settlement Agreement and to Relator’s reasonable expenses, attorneys’ fees and costs.

To avoid the delay, uncertainty, inconvenience, and expense of protracted litigation of the above claims, and in consideration of the mutual promises and obligations of this Settlement Agreement, the Parties agree and covenant as follows:

TERMS AND CONDITIONS

¹ References to ANO shall include and encompass any reorganized ANO created by a plan of reorganization confirmed by the United States Bankruptcy Court for the Eastern District of Louisiana (the “Bankruptcy Court”). For the avoidance of doubt, any reorganized ANO shall be considered a successor to ANO and be fully responsible for any liabilities, obligations, or conditions included in this Settlement Agreement.

1. ANO shall pay to the United States \$1,050,000 (the "Settlement Amount") by electronic funds transfer pursuant to written instructions to be provided by the Civil Division of the Department of Justice, in accordance with the following schedule:

- a. \$300,000 within 30 days of the Effective Date of this Agreement;
- b. \$250,000 on or before six (6) months after the Effective Date of this Agreement;
- c. \$200,000 on or before twelve (12) months after the Effective Date of this Agreement;
- d. \$150,000 on or before eighteen (18) months after the Effective Date of this Agreement; and
- e. \$150,000 on or before twenty-four (24) months after the Effective Date of this Agreement.

2. If ANO fails to make any payments described in Paragraph 1 above at the specified time, upon written notice to ANO of this default, ANO shall have twenty (20) calendar days to cure the default. If the default is not cured within the twenty-day period: (a) the remaining unpaid principal portion of the Settlement Amount shall become accelerated and immediately due and payable, with interest at a simple rate of 2.5% from the Effective Date of this Agreement to the date of default, and at a simple rate of 12% per annum from the date of default until the date of payment; and (b) the United States may offset or recoup the remaining unpaid balance of the Settlement Amount (inclusive of interest) from any amounts due and owing to ANO by a department agency or agent of the United States. ANO agrees not to contest any collection action undertaken by the United States pursuant to this Paragraph 2, and to pay the United States all reasonable costs incurred in any such collection action, including attorneys' fees and expenses.

3. Conditioned upon the United States receiving the Settlement Amount from ANO and as soon as feasible after receipt, the United States shall pay a 19% share of each payment to Relator by electronic funds transfer pursuant to 31 U.S.C. § 3730(d).

4. Following the Effective Date of the Agreement and receipt of written instructions from Relator, ANO agrees to pay to Relator a total of \$50,000 for reasonable costs, expenses, and attorney's fees pursuant to 31 U.S.C. § 3730(d).

5. Subject to the exceptions in Paragraph 7 (concerning excluded claims) below, and conditioned upon ANO's full payment of the Settlement Amount, the United States releases ANO from any civil or administrative monetary claim the United States has for the Covered Conduct under the False Claims Act, 31 U.S.C. §§ 3729-3733; the Program Fraud Civil Remedies Act, 31 U.S.C. §§ 3801-3812; or the common law theories of breach of contract, payment by mistake, unjust enrichment, and fraud; or any statutory provision which the Civil Division of the Department of Justice has actual and present authority to assert and compromise pursuant to 28 CFR Part O, Subpart I, 0.45(d).

6. Subject to the exceptions in Paragraph 7 below, and conditioned upon ANO's full payment of the Settlement Amount and costs, expenses and fees set forth in Paragraph 4, Relator, for himself and for his heirs, successors, attorneys, agents, and assigns, releases ANO, together with its past and present directors, officers and employees from any and all civil claims (including attorney's fees, costs, and expenses of every kind however denominated) known or unknown arising out the Covered Conduct, including claims under the False Claims Act, 31 U.S.C. §§ 3729-3733.

7. Notwithstanding the releases given in paragraphs 5 and 6 of this Agreement, or any other term of this Agreement, the following claims of the United States are specifically reserved and are not released:

- a. Any liability arising under Title 26, U.S. Code (Internal Revenue Code);
- b. Any criminal liability;
- c. Except as explicitly stated in the Agreement, any administrative liability, including the suspension and debarment rights of any federal agency;
- d. Any liability to the United States (or its agencies) for any conduct other than the Covered Conduct;
- e. Any liability based upon obligations created by this Agreement; and
- f. Any liability of individuals.

8. Relator for himself and for his heirs, successors, attorneys, agents, and assigns shall not object to this Agreement but rather agrees and confirms that this Agreement is fair, adequate, and reasonable under all the circumstances, pursuant to 31 U.S.C. § 3730(c)(2)(B). Conditioned upon Relator's receipt of the payment described in Paragraph 3, Relator for himself and for his heirs, successors, attorneys, agents, and assigns fully and finally releases, waives, and forever discharges the United States, its agencies, officers, agents, employees, and servants, from any claims arising from the filing of the Civil Action or under 31 U.S.C. § 3730, and from any claims to a share of the proceeds of this Agreement and/or the Civil Action, as it relates to ANO.

9. Conditioned upon Relator's receipt of the payments described in paragraphs 3 and 4 above, Relator, for himself, and for his heirs, successors, attorneys, agents, and assigns, releases ANO, and its officers, directors, and employees, from any liability to Relator arising from the filing of the Civil Action, or under 31 U.S.C. § 3730(d) for expenses or attorney's fees and costs.

10. ANO waives and shall not assert any defenses ANO may have to any criminal prosecution or administrative action relating to the Covered Conduct that may be based in whole or in part on a contention that, under the Double Jeopardy Clause in the Fifth Amendment of the Constitution, or under the Excessive Fines Clause in the Eighth Amendment of the Constitution, this Agreement bars a remedy sought in such criminal prosecution or administrative action.

11. ANO fully and finally releases the United States, its agencies, officers, agents, employees, and servants, from any claims (including attorney's fees, costs, and expenses of every kind and however denominated) that ANO has asserted, could have asserted, or may assert in the future against the United States, its agencies, officers, agents, employees, and servants, related to the Covered Conduct and the United States' investigation and prosecution thereof.

12. ANO fully and finally releases Relator and his heirs, successors, attorneys, agents, and assigns, from any claims (including attorney's fees, costs, and expenses of every kind and however denominated) that ANO has asserted, could have asserted, or may assert in the future against Relator and/or his heirs, successors, attorneys, agents, and assigns related to the Covered Conduct and/or Relator's or his heirs', successors', attorneys', agents', or assigns' investigation and prosecution thereof.

13. a. Unallowable Costs Defined: All costs (as defined in the Federal Acquisition Regulation, 48 C.F.R. § 31.205-47) incurred by or on behalf of ANO, and its present or former officers, directors, employees, shareholders, and agents in connection with:

- (1) the matters covered by this Agreement;
- (2) the United States' audit(s) and civil investigation(s) of the matters covered by this Agreement;

- (3) ANO's investigation, defense, and corrective actions undertaken in response to the United States' audit(s) and civil investigation(s) in connection with the matters covered by this Agreement (including attorney's fees);
- (4) the negotiation and performance of this Agreement;
- (5) the payment ANO makes to the United States pursuant to this Agreement and any payments that ANO may make to Relator, including costs and attorneys' fees,

are unallowable costs for government contracting purposes (hereinafter referred to as Unallowable Costs).

b. Future Treatment of Unallowable Costs: Unallowable Costs will be separately determined and accounted for by ANO, and ANO shall not charge such Unallowable Costs directly or indirectly to any contract with the United States.

c. Treatment of Unallowable Costs Previously Submitted for Payment: Within 90 days of the Effective Date of this Agreement, ANO shall identify and repay by adjustment to future claims for payment or otherwise any Unallowable Costs included in payments previously sought by ANO or any of its subsidiaries or affiliates from the United States. ANO agrees that the United States, at a minimum, shall be entitled to recoup from ANO any overpayment plus applicable interest and penalties as a result of the inclusion of such Unallowable Costs on previously-submitted requests for payment. The United States, including the Department of Justice and/or the affected agencies, reserves its rights to audit, examine, or re-examine ANO's books and records and to disagree with any calculations submitted by ANO or any of its

subsidiaries or affiliates regarding any Unallowable Costs included in payments previously sought by ANO, or the effect of any such Unallowable Costs on the amount of such payments.

14. ANO agrees to cooperate fully and truthfully with the United States' investigation of and litigation against individuals and entities not released in this Agreement. Upon reasonable notice, ANO shall encourage, and agrees not to impair, the cooperation of its directors, officers, and employees, and shall use its best efforts to make available, and encourage, the cooperation of former directors, officers, and employees for interviews and testimony, consistent with the rights and privileges of such individuals. Within thirty days of the signing of this Agreement, ANO agrees to furnish to the United States complete and unredacted copies of all non-privileged documents, reports, memoranda of interviews, and records in its possession, custody, or control concerning the Covered Conduct.

15. This Agreement is intended to be for the benefit of the Parties only.

16. After payment of the Settlement Amount, the United States and Relator shall promptly file a Stipulation of Dismissal as to ANO only in the Civil Action, as follows:

(a) the Stipulation of Dismissal shall be with prejudice as to the United States' and Relator's claims against ANO only as to the Covered Conduct; and

(b) the Stipulation of Dismissal shall be without prejudice as to the United States and with prejudice as to Relator as to all other claims against ANO only.

17. ANO agrees that any claim, action, or proceeding brought by the United States in connection with the Covered Conduct after a default on ANO's payment obligations or avoidance of ANO's obligations under this Agreement would not be subject to an "automatic stay" pursuant to 11 U.S.C. § 362(a), because it would be an exercise of the United States' police and regulatory power to protect public policy and public health, safety and welfare. ANO shall not argue or

otherwise contend that the United States' claims, actions, or proceedings are subject to an automatic stay and to the extent necessary, consent to relief from the automatic stay for cause under 11 U.S.C. § 362(d)(1).

18. Each Party shall bear its own legal and other costs incurred in connection with this matter, including the preparation and performance of this Agreement.

19. Each Party and signatory to this Agreement represents that it freely and voluntarily enters into this Agreement without any degree of duress or compulsion.

20. This Agreement is governed by the laws of the United States. The exclusive jurisdiction and venue for any dispute relating to this Agreement is the United States District Court for the Eastern District of Louisiana. For purposes of construing this Agreement, this Agreement shall be deemed to have been drafted by all Parties to this Agreement and shall not, therefore, be construed against any Party for that reason in any subsequent dispute.

21. This Agreement constitutes the complete agreement between the Parties. This Agreement may not be amended except by written consent of the Parties.

22. The undersigned counsel represent and warrant that they are fully authorized to execute this Agreement on behalf of the persons and entities indicated below.

23. This Agreement may be executed in counterparts, each of which constitutes an original and all of which constitute one and the same Agreement.

24. This Agreement is binding on ANO's successors, transferees, heirs, and assigns, including without limitation any trustee appointed in the Bankruptcy Case.

25. This Agreement is binding on Relator's successors, transferees, heirs, and assigns.

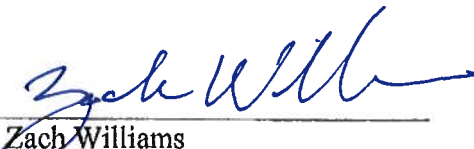
26. All Parties consent to the disclosure of this Agreement, and information about this Agreement, to the public.

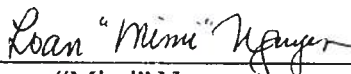
27. Facsimiles of signatures shall constitute acceptable, binding signatures for purposes of this Agreement.

28. This Agreement is effective on the date that all Parties have signed the Agreement, and the Bankruptcy Court has approved of the Agreement (Effective Date of this Agreement).

[Signature Pages Follow]

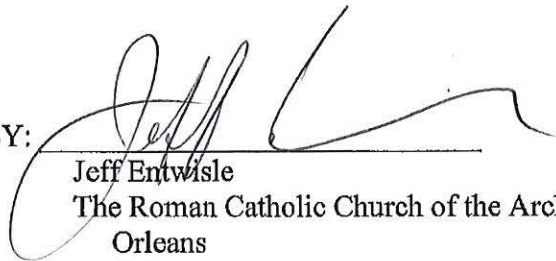
THE UNITED STATES OF AMERICA

DATED: 11/15/21 BY: 
Zach Williams
Laura Hill
Breanna Peterson
Trial Attorneys
Commercial Litigation Branch
Civil Division
United States Department of Justice

DATED: 11/15/2021 BY: 
Loan "Mimi" Nguyen
Assistant United States Attorney
Eastern District of Louisiana

**THE ROMAN CATHOLIC CHURCH OF
THE ARCHDIOCESE OF NEW ORLEANS**

DATED: 11/12/21 BY: _____



Jeff Entwisle
The Roman Catholic Church of the Archdiocese of New
Orleans

DATED: 11/9/21

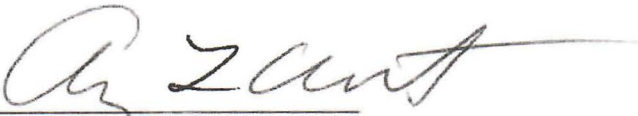
BY: _____



Counsel for the Roman Catholic Church of the Archdiocese
of New Orleans

RELATOR ROBERT ROMERO

DATED: 10/29/21 BY: 
Robert Romero

DATED: 10/28/21 BY: 
Amy Easton and Jeffrey Dickstein
Phillips & Cohen LLP
Counsel for Robert Romero