

EXHIBIT 1

Plea Agreement

Ex. A to Plea Agreement Filed Under Seal

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10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION

13
14 UNITED STATES OF AMERICA,) NO. CR 20-00353
15 Plaintiff,) PLEA AGREEMENT
16 v.)
17 BALMORE HERNANDEZ,)
18 Defendant.)

1 I, Balmore Hernandez, and the United States Attorney’s Office for the Northern District of
2 California (hereafter “the government”) enter into this written Plea Agreement (the “Agreement”) pursuant to Rule 11(c)(1)(A) and 11(c)(1)(B) of the Federal Rules of Criminal Procedure:

3
4 The Defendant’s Promises

5 1. I agree to plead guilty to Count One of the captioned Information, charging me with
6 Conspiracy to Commit Honest Services Wire Fraud in violation of 18 U.S.C. §§ 1343, 1346 and 1349. I
7 agree the elements of conspiracy to engage in honest services wire fraud in violation of 18 U.S.C.
8 § 1349 (Count One) are: (1) I agreed with one or more people to engage in a scheme or plan to deprive
9 the people of San Francisco of the honest services of a San Francisco public official(s); and (2) I joined
10 in that agreement knowing of at least one of its objects and intending to help achieve it. The elements of
11 honest services wire fraud, in violation of 18 U.S.C. §§ 1343 and 1346, are as follows: (1) I knowingly
12 devised or participated in a scheme to defraud the public of its right to the honest services of a public
13 official through bribery or kickbacks in breach of the official’s fiduciary duty; (2) I did so knowingly
14 and with an intent to defraud, that is, the intent to deceive and cheat the public of honest services; (3) the
15 scheme or artifice to defraud involved a deception, misrepresentation, false statement, false pretense, or
16 concealment that was material; and (4) I used, or caused to be used, an interstate or foreign wire
17 communication to carry out or attempt to carry out an essential part of the scheme.

18 I agree that the maximum penalties are as follows:

- | | | | |
|----|----|---------------------------------|---|
| 19 | a. | Maximum prison term | 20 years |
| 20 | b. | Maximum fine | \$ 250,000 or not more than
the greater of twice the gross gain or
twice the gross loss (18 U.S.C. §
3571) |
| 21 | | | |
| 22 | c. | Restitution | |
| 23 | d. | Maximum supervised release term | 3 years |
| 24 | e. | Mandatory special assessment | \$100 per felony count |
| 25 | f. | Forfeiture | |

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1 7. I understand that the Court must consult the United States Sentencing Guidelines and
2 take them into account when sentencing, together with the factors set forth in 18 U.S.C. § 3553(a). I also
3 agree that the sentencing range will be calculated by the Court and that other than joining in a possible
4 government downward departure pursuant to U.S.S.G. § 5K1.1, I will not ask for any other adjustment
5 to or reduction in the offense level or for a downward departure or variance from the Guidelines range as
6 determined by the Court. I also reserve my right to argue for a variance from the Guidelines range
7 determined by the Court based on 18 U.S.C. § 3553(a) factors. I understand that the government is free
8 to oppose any such request. I understand that regardless of the sentence that the Court imposes on me, I
9 will not be entitled, nor will I ask, to withdraw my guilty plea.

10 8. I agree that regardless of any other provision of this Agreement, the government may and
11 will provide the Court and the Probation Office with all information relevant to the charged offense and
12 the sentencing decision, including any victim impact statements and letters from the victim(s), and/or
13 their friends and family. I agree that, based on the nature of the offense, the Court should impose the
14 following special condition of supervised release which is reasonably related to deterrence and
15 rehabilitation:

16 Special Condition (Searches)

17 The defendant shall submit his person, residence, office, vehicle, electronic
18 devices and their data (including cell phones, computers, and electronic storage
19 media), and any property under defendant's control to a search. Such a search
20 shall be conducted by a United States Probation Officer or any federal, state, or
21 local law enforcement officer at any time, with or without suspicion. Failure to
22 submit to such a search may be grounds for revocation; the defendant shall warn
23 any residents that the premises may be subject to searches.

24 9. I agree that I will make a good-faith effort to pay any fine, forfeiture, or restitution I am
25 ordered to pay. I agree to pay the special assessment at the time of sentencing.

26 I agree to pay full restitution for all losses caused by all the schemes or offenses with which I
27 was charged in this case, and I understand that the amount of restitution will not be limited to the loss
28 attributable to the count to which I am pleading guilty, pursuant to 18 U.S.C. § 3663(a)(3). I understand
that the Court will not consider my economic circumstances in determining the restitution amount. I
agree to pay restitution in an amount to be set by the Court at the time of sentencing.

Any restitution payments shall be paid through the Office of the Clerk of the District Court by

1 bank or cashier's check or money order made payable to the "Clerk, United States District Court."

2 I understand that the restitution described above creates a lien in favor of the United States on all
3 property and rights to property I may possess upon entry of judgment and continues for the later of 20
4 years from the entry of judgment or 20 years after release from imprisonment or until the debt is paid in
5 full. I further understand the government will record a notice of the lien in any county where I reside or
6 have property. I further understand that this order of restitution cannot be discharged in bankruptcy and
7 that if I default on the payment of a fine or restitution, the Court may revoke probation or a term of
8 supervised release, modify the terms or conditions of probation or supervised release, resentence me,
9 hold me in contempt of court, order the sale of property, enter or adjust a payment schedule, or take any
10 other action necessary to obtain compliance.

11 At least sixty days prior to sentencing, I agree to complete, under penalty of perjury, a financial
12 statement provided by the U.S. Attorney's Office and to update that statement with material changes
13 within seven days of the change. I understand that I must identify all assets and financial interests
14 valued at more than \$1,000. I further understand that these assets and financial interests include all
15 assets and financial interests in which I have an interest or in which I had an interest prior to June 8,
16 2020, direct or indirect, whether held in my own name or in the name of another, in any property, real or
17 personal.

18 I agree to surrender assets I obtained as a result of my crimes, and release funds and property
19 under my control in order to pay any fine, forfeiture, or restitution. I further agree to notify the Financial
20 Litigation Unit, United States Attorney's Office ("FLU") before transferring any interest in property
21 owned directly or indirectly by me, including any interest held or owned under any other name or entity,
22 including trusts, partnerships, and/or corporations. I also agree to notify the FLU of any interest in
23 property I may obtain, directly or indirectly, including any interest obtained under any other name, or
24 entity, including a trust, partnership, or corporation, after the execution of this Plea Agreement until the
25 fine or restitution is paid in full.

26 I agree that any fine, forfeiture, or restitution imposed by the Court against me will be due
27 immediately and subject to immediate enforcement by the government as authorized by 18 U.S.C.
28 § 3613. I further understand that the government may seek immediate collection of the entire fine,

1 forfeiture, or restitution from any assets without regard to any schedule of payments imposed by the
2 Court or established by the Probation Office and that monetary penalties imposed by the Court will be
3 submitted to the Treasury Offset Program so that any federal payment or transfer of returned property I
4 receive may be offset and applied to federal debts.

5 10. I agree to cooperate with the U.S. Attorney's Office before and after I am sentenced. My
6 cooperation will include, but will not be limited to, the following:

- 7 a. I will meet with the government when requested;
- 8 b. I will respond truthfully and completely to any and all questions put to me, whether in
9 interviews, before a grand jury, or at any trial or other proceeding;
- 10 c. I will provide all documents and other material asked for by the government;
- 11 d. I will testify truthfully at any grand jury, court, or other proceeding as requested by the
12 government;
- 13 e. I will surrender any and all assets acquired or obtained directly or indirectly as a result of
14 my illegal conduct;
- 15 f. I will request continuances of my sentencing date, as necessary, until my cooperation is
16 completed;
- 17 g. I will participate in undercover activities under the supervision of law enforcement agents
18 or the U.S. Attorney's Office.

19 11. I agree that the government's decision whether to file a motion pursuant to U.S.S.G.
20 § 5K1.1 or 18 U.S.C. § 3553(e), as described in the government promises section below, is based on its
21 sole and exclusive decision of whether I have provided substantial assistance and that decision will be
22 binding on me. I understand that the government's decision whether to file such a motion, or the extent
23 of the departure recommended by any motion, will not depend on whether convictions are obtained in
24 any case. I also understand that the Court will not be bound by any recommendation made by the
25 government.

26 12. I agree not to commit or attempt to commit any crimes before sentence is imposed or
27 before I surrender to serve my sentence. I also agree not to violate the terms of my pretrial release; not
28 to intentionally provide false information to the Court, the Probation Office, Pretrial Services, or the
government; and not to fail to comply with any of the other promises I have made in this Agreement. I
agree that if I fail to comply with any promises I have made in this Agreement, then the government will

1 be released from all of its promises in this Agreement, including those set forth in the Government’s
2 Promises Section below, but I will not be released from my guilty plea[s].

3 I agree to abide by all of the terms of my pre-trial release pending sentencing.

4 13. If I am prosecuted after failing to comply with any promises I made in this Agreement,
5 then (a) I agree that any statements I made to any law enforcement or other government agency or in
6 Court, whether or not made pursuant to the cooperation provisions of this Agreement, may be used in
7 any way; (b) I waive any and all claims under the United States Constitution, Rule 11(f) of the Federal
8 Rules of Criminal Procedure, Rule 410 of the Federal Rules of Evidence, or any other federal statute or
9 rule, to suppress or restrict the use of my statements, or any leads derived from those statements; and (c)
10 I waive any defense to any prosecution that it is barred by a statute of limitations, if the limitations
11 period has run between the date of this Agreement and the date I am indicted.

12 14. I agree that this Agreement contains all of the promises and agreements between the
13 government and me, that this Agreement supersedes all previous agreements that I had with the
14 government (including any “proffer” agreement), and I will not claim otherwise in the future. No
15 modification of this Agreement shall be effective unless it is in writing and signed by all parties.

16 15. I agree that the Agreement binds the U.S. Attorney’s Office for the Northern District of
17 California only, and does not bind any other federal, state, or local agency.

18 The Government’s Promises

19 16. The government agrees not to file any additional charges against the defendant that could
20 be filed as a result of the investigation that led to the captioned Information, so long as the defendant has
21 fully disclosed such conduct to the government and otherwise complied fully with this Agreement.

22 17. If, in its sole and exclusive judgment, the government decides that the defendant has
23 cooperated fully and truthfully, provided substantial assistance to law enforcement authorities within the
24 meaning of U.S.S.G. § 5K1.1, and otherwise complied fully with this Agreement, it will file with the
25 Court a motion under § 5K1.1 and/or 18 U.S.C. § 3553 that explains the nature and extent of the
26 defendant’s cooperation and recommends a downward departure.

27 The Defendant’s Affirmations

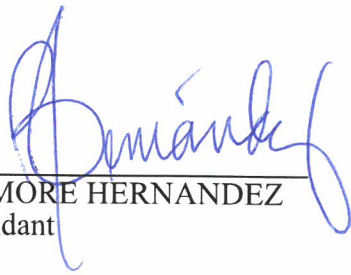
28 18. I confirm that I have had adequate time to discuss this case, the evidence, and the

1 Agreement with my attorney and that my attorney has provided me with all the legal advice that I
2 requested.

3 19. I confirm that while I considered signing this Agreement, and at the time I signed it, I
4 was not under the influence of any alcohol, drug, or medicine that would impair my ability to understand
5 the Agreement.

6 20. I confirm that my decision to enter a guilty plea is made knowing the charges that have
7 been brought against me, any possible defense, and the benefits and possible detriments of proceeding to
8 trial. I also confirm that my decision to plead guilty is made voluntarily, and no one coerced or
9 threatened me to enter into this Agreement.

10
11
12 Dated: 9/16/20


BALMORE HERNANDEZ
Defendant


13
14
15 DAVID L. ANDERSON
United States Attorney

16
17 Dated: 09/16/2020


SCOTT D. JOINER
Assistant United States Attorney

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19 21. I have fully explained to my client all the rights that a criminal defendant has and all the
20 terms of this Agreement. In my opinion, my client understands all the terms of this Agreement and all
21 the rights my client is giving up by pleading guilty, and, based on the information now known to me, my
22 client's decision to plead guilty is knowing and voluntary.

23
24 Dated: 9/16/20


JULIA JAYNE
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