

EXHIBIT A

## SETTLEMENT AGREEMENT

This Settlement Agreement (the “Agreement”) is entered into between the United States of America, acting through the United States Attorney’s Office for the Western District of Michigan, the City of East Lansing, Michigan (the “City of East Lansing” or “the City”), and Relator Philip C. Bellfy, Ph.D. (hereafter collectively referred to as “the Parties”), through their authorized representatives.

### RECITALS

A. The City of East Lansing is a municipality situated in Ingham and Clinton Counties in the State of Michigan. The City periodically applies for and receives grant funding from federal agencies, including the U.S. Department of Housing and Urban Development (“HUD”).

B. On August 10, 2016, Relator filed a *qui tam* action in the United States District Court for the Western District of Michigan captioned *United States ex rel. Bellfy v. City of East Lansing, Michigan, et al.*, No. 1:16-cv-995 (W.D. Mich.), pursuant to the *qui tam* provisions of the False Claims Act, 31 U.S.C. § 3730(b) (the “Civil Action”). In the Civil Action, Relator alleges, among other things, that in 2010 and 2011, the City of East Lansing failed to disclose a conflict of interest involving the City Attorney in applying for and obtaining Community Development Block Grant (“CDBG”) funds from HUD for a sidewalk and retaining wall project along Abbot Road. Upon executing this Agreement, the United States will intervene in the Civil Action, in part, for purposes of settlement.

C. The United States contends that it has certain civil claims against the City of East Lansing arising from the following conduct:

In 2010 and 2011, the City of East Lansing received federal grant funding under HUD’s CDBG Program (Grant Nos. B-10-MC-26-0024, B-11-MC-

26-0024) for a sidewalk and retaining wall project along Abbot Road (the "Abbot Road Project"). The United States contends that the Abbot Road Project involved a conflict of interest within the meaning of 24 C.F.R. § 570.611 because (1) the project improved property at 601 Abbot Road, East Lansing, Michigan, a property owned by Woodland Pass Equity Company, of which the City Attorney is a partner; and (2) the City Attorney exercised functions and responsibilities with respect to the project, insofar as he reviewed easements that the City obtained in connection with the project. The United States further contends that the City was required to, but did not, disclose this conflict of interest in obtaining HUD CDBG funding for the Abbot Road Project.

That conduct is referred to below as the "Covered Conduct."

D. This Settlement Agreement is neither an admission of liability by the City of East Lansing nor a concession by the United States that its claims are not well founded.

E. Relator claims entitlement under 31 U.S.C. § 3730(d) 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. No later than thirty (30) days following the Effective Date of this Agreement, the City of East Lansing shall submit a written request for an exception to the conflict-of-interest prohibition set forth in 24 C.F.R. § 570.611(b) for the Abbot Road Project.

a. The City shall submit the written request to the Chief Counsel of the HUD Field Office in Detroit, Michigan, copying the Regional Counsel of the HUD Region V Field Office in Chicago, Illinois and the U.S. Attorney's Office for the Western District of Michigan.

b. The written request shall satisfy the requirements of 24 C.F.R. § 570.611(d), in both form and substance, and shall further describe how the City will ensure future compliance with the conflict-of-interest regulation, 24 C.F.R. § 570.611.

c. The City shall send Relator a courtesy copy of the written request described in this Paragraph 1. The Parties agree that it shall be in the sole discretion of the United States to determine whether the written request meets the requirements set forth in Paragraph 1(b), above.

2. No later than thirty (30) days following the Effective Date of this Agreement, the City of East Lansing shall pay to Relator EIGHT THOUSAND DOLLARS (\$8,000.00) (the "Relator Settlement Amount") pursuant to written instructions to be provided by Relator or his counsel.

3. The City of East Lansing shall pay Relator's counsel the sum of TWELVE THOUSAND DOLLARS (\$12,000.00) for reasonable attorney's fees and costs under 31 U.S.C. § 3730(h), which shall be made payable to the David J. Gilbert Law Office. This amount shall be paid to Relator's counsel within 30 days after the Effective Date of the Agreement pursuant to instructions to be provided by Relator's counsel.

4. Subject to the exceptions in Paragraph 6 (concerning excluded claims) below, and conditioned upon the City of East Lansing's submission of the written request described in Paragraph 1, above, the United States releases the City 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.

5. Subject to the exceptions in Paragraph 6 below, and conditioned upon (a) the City of East Lansing's submission of the written request described in Paragraph 1, above, and (b) the City of East Lansing's full payment of the Relator Settlement Amount, Relator, for himself and for his heirs, successors, attorneys, agents, and assigns, releases the City of East Lansing, its agents and employees, and all Parties named in the Civil Action from any and all claims, whether known or unknown, that Relator has on behalf of himself and on behalf of the United States for the Covered Conduct under the False Claims Act, 31 U.S.C. §§ 3729–3733, and for any other conduct of any of the Parties named in the Civil Action that arose prior to the date of execution of this Settlement Agreement.

6. Notwithstanding the releases given in Paragraphs 4 and 5 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.

7. Relator and his heirs, successors, attorneys, agents, and assigns shall not object to this Agreement but agree and confirm that this Agreement is fair, adequate, and reasonable under all the circumstances, pursuant to 31 U.S.C. § 3730(c)(2)(B). Relator

and his heirs, successors, attorneys, agents, and assigns fully and finally release, waive, and forever discharge 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.

8. Conditioned upon receipt of the payments described in Paragraphs 2 and 3, above, Relator, for himself, and for his heirs, successors, attorneys, agents, and assigns, releases the City of East Lansing, and its officers, agents, 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.

9. The City of East Lansing waives and shall not assert any defenses the City 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. Nothing in this paragraph or any other provision of this Agreement constitutes an agreement by the United States concerning the characterization of the Relator Settlement Amount for purposes of the Internal Revenue laws, Title 26 of the United States Code.

10. The City of East Lansing 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 the City 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.

11. 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 the City of East Lansing 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' audits and investigations of the matters covered by this Agreement;
- (3) the City of East Lansing's investigation, defense, and corrective actions undertaken in response to the United States' audits and investigations in connection with the matters covered by this Agreement (including attorney's fees);
- (4) the negotiation and performance of this Agreement; and
- (5) any payments that the City of East Lansing makes to Relator, including costs and attorney's 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 the City of East Lansing, and the City 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, the City of East Lansing shall identify and repay by adjustment to future claims for payment or otherwise any Unallowable Costs included in payments previously sought by the City or any of its

subsidiaries or affiliates from the United States. The City agrees that the United States, at a minimum, shall be entitled to recoup from the City 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 United States Attorney's Office and/or the affected agencies, reserves its rights to audit, examine, or re-examine the City's books and records and to disagree with any calculations submitted by the City or any of its subsidiaries or affiliates regarding any Unallowable Costs included in payments previously sought by the City, or the effect of any such Unallowable Costs on the amount of such payments.

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

13. Upon submission of the written request described in Paragraph 1, above, and upon payment of the amounts described in Paragraphs 2 and 3, above, the Parties shall promptly sign and file in the Civil Action a joint stipulation dismissing the City of East Lansing from the Civil Action pursuant to Rule 41(a)(1).

14. Upon payment of the amounts described in Paragraphs 2 and 3, above, Relator shall promptly sign and file in the Civil Action a dismissal of all remaining individual defendants from the Civil Action, with prejudice, pursuant to Rule 41(a)(1).

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

16. Each party and signatory to this Agreement represents that it freely and voluntarily enters in to this Agreement without any degree of duress or compulsion.

17. 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 Western District of Michigan. 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.

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

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

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

21. This Agreement is binding on the City of East Lansing's successors, transferees, heirs, and assigns.

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

23. All parties consent to the United States' disclosure of this Agreement, and information about this Agreement, to the public.

24. This Agreement is effective on the date of signature of the last signatory to the Agreement (Effective Date of this Agreement). Facsimiles of signatures shall constitute acceptable, binding signatures for purposes of this Agreement.

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**THE UNITED STATES OF AMERICA**

ANDREW BYERLY BIRGE  
Acting United States Attorney

DATED: 11-8-17

BY: Adam B. Townshend

ADAM B. TOWNSHEND  
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Tel: (616) 456-2404

**THE CITY OF EAST LANSING, MICHIGAN**

DATED: \_\_\_\_\_

BY: \_\_\_\_\_

GEORGE LAHANAS  
City Manager

DATED: \_\_\_\_\_

BY: \_\_\_\_\_

RICHARD L. HILLMAN  
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*Counsel for the City of East Lansing, Michigan*

**PHILIP C. BELLFY, Ph.D.**

DATED: \_\_\_\_\_

BY: \_\_\_\_\_

PHILIP C. BELLFY, Ph.D.

DATED: \_\_\_\_\_

BY: \_\_\_\_\_

DAVID J. GILBERT  
David J. Gilbert Law Office  
306 East Broadway, Suite 1  
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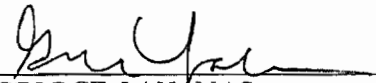
*Counsel for Philip C. Bellfy, Ph.D.*


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City Manager

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*Counsel for the City of East Lansing, Michigan*

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DATED: \_\_\_\_\_ BY: \_\_\_\_\_

GEORGE LAHANAS  
City Manager

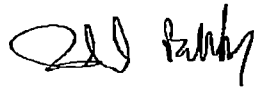
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BY: \_\_\_\_\_

GEORGE LAHANAS  
City Manager

DATED: \_\_\_\_\_

BY: \_\_\_\_\_

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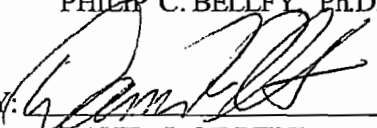
**PHILIP C. BELLFY, Ph.D.**

DATED: \_\_\_\_\_

BY: \_\_\_\_\_

PHILIP C. BELLFY, Ph.D.

DATED: 11-3-17

BY: 

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