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Clerk, U.S. District & Bankruptcy
Courts for the District of Columbia

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

UNITED STATES OF AMERICA	:	Criminal No. _____
	:	
v.	:	Violation:
	:	
WASHINGTON GAS	:	18 U.S.C. § 371 (Conspiracy)
ENERGY SYSTEMS, INC.	:	18 U.S.C. § 1031 (Major Fraud)
	:	
Defendant.	:	

DEFERRED PROSECUTION AGREEMENT

Defendant, Washington Gas Energy Systems, Inc. (“WGESystems” or “the Company”), by its undersigned representatives, pursuant to authority granted by the Board of Directors of its parent company, WGL Holdings, Inc., and the United States Department of Justice, Antitrust Division, and the United States Attorney’s Office for the District of Columbia, (together the “Offices”), enter into this Deferred Prosecution Agreement (the “Agreement”). The terms and conditions of this Agreement are as follows:

Criminal Information and Acceptance of Responsibility

1. WGESystems acknowledges and agrees that the Offices will file the attached one-count criminal Information in the United States District Court for the District of Columbia charging WGESystems with one count of knowingly and willfully conspiring to engage in major fraud against the United States, in violation of Title 18, United States Code, Section 371, and Title 18, United States Code, Section 1031. In so doing, WGESystems: (a) knowingly waives its right to indictment on this charge, as well as all rights to a speedy trial pursuant to the Sixth Amendment to the United States Constitution, Title 18, United States Code, Section 3161, and

Federal Rule of Criminal Procedure 48(b); and (b) knowingly waives for purposes of this Agreement and any charges by the United States arising out of the conduct described in the attached Statement of Offense, and only for those purposes, any objection with respect to venue, and consents to the filing of the Information, as provided under the terms of this Agreement, in the United States District Court for the District of Columbia.

2. WGESystems admits, accepts, and acknowledges that it is responsible under United States law for the acts of its officers, directors, employees, and agents as charged in the Information, and as set forth in the Statement of Offense attached hereto as Attachment A and incorporated by reference into this Agreement, and that the allegations described in the Information and the Offense described in Attachment A are true and accurate. Should the Offices pursue the prosecution that is deferred by this Agreement, WGESystems agrees that it will neither contest the admissibility of, nor contradict, the Statement of Offense in any proceeding, including any guilty plea or sentencing. Neither this Agreement, Attachment A, nor the criminal Information is a final adjudication of the matters addressed in such documents.

Term of the Agreement

3. This Agreement is effective for a period beginning on the date on which the Information is filed and ending two (2) years from that date (the "Term"). WGESystems agrees, that, in the event the Offices determine, in their sole discretion, that WGESystems has knowingly violated any provision of this Agreement, an extension or extensions of the term of the Agreement may be imposed by the Offices, in their sole discretion, for up to a total additional time period of one year, without prejudice to the Offices' right to proceed as provided in

Paragraphs 14 through 17 below. Any extension of the Agreement extends all terms of this Agreement for an equivalent period.

Relevant Considerations

4. The Offices enter into this Agreement based on the individual facts and circumstances presented by this case. Among the facts considered were the following:

a. WGESystems' willingness to acknowledge and accept responsibility for the actions of its officers, directors, employees, and agents as charged in the Information and as set forth in the Statement of Offense;

b. WGESystems' willingness to take disciplinary action against employees who were involved in the conduct.

c. WGESystems' lack of a criminal history;

d. WGESystems' agreement to cease seeking subcontracts on contracts awarded through the Small Business Administration's "8(a) program" during the Term of this Agreement;

e. WGESystems' agreement to continue to cooperate with the Offices in any ongoing investigation of the conduct of the Company and its current or former officers, directors as provided in Paragraphs 5 and 6 below; and

f. WGESystems' provision of valuable information that has expanded and advanced the criminal investigation.

Future Cooperation and Disclosure Requirements

5. WGESystems shall continue to cooperate fully with the Offices in any and all matters relating to the conduct described in this Agreement and Attachment A and other conduct

under investigation by the Offices at any time that has commenced before or during the term specified in Paragraph 3, subject to applicable law and regulations, until the date upon which all investigations and prosecutions arising out of such conduct are concluded, whether or not those investigations or prosecutions are conducted within the term specified in Paragraph 3, or until further agreement with the Offices. At the request of the Offices, and subject to all applicable law and regulation, WGESystems shall also cooperate fully with other domestic law enforcement and regulatory authorities and agencies in any investigation of WGESystems, its parent company or its affiliates, or any of its present or former officers, directors, employees, and agents, or any other party, in any and all matters relating to the conduct described in this Agreement or Attachment A. WGESystems agrees that cooperation shall include, but not be limited to, the following:

a. WGESystems shall truthfully disclose all factual information not protected by a valid claim of attorney-client privilege, work product doctrine, or any other applicable privilege or legal protection against disclosure with respect to its activities, those of its parent company and affiliates, and those of its present and former directors, officers, employees, and agents concerning all matters relating to the conduct described in this Agreement and Attachment A and other conduct under investigation by the Offices, about which WGESystems has any knowledge or about which the Offices may inquire. This obligation of truthful disclosure includes the obligation of WGESystems to provide to the Offices, upon request and subject to applicable law and regulations, any document, record or other tangible evidence relating to the conduct described in this Agreement and Attachment A and other conduct under investigation by the Offices about which the Offices may inquire of WGESystems.

b. Upon request of the Offices, with respect to any issue relevant to its investigation of the conduct described in this Agreement and Attachment A and other conduct under investigation by the Offices, WGESystems shall designate knowledgeable employees, agents or attorneys to provide to the Offices the information and materials described in Paragraph 5(a) above on behalf of WGESystems. It is further understood WGESystems must at all times provide complete, truthful, and accurate information.

c. With respect to any issue relevant to the Offices' investigation of the conduct described in this Agreement and Attachment A and other conduct under investigation by the Offices, WGESystems shall use its best efforts to make available for interviews or testimony, as requested by the Offices, present or former officers, directors, employees, agents of WGESystems. This obligation includes, but is not limited to, sworn testimony before grand juries or in trials, as well as interviews with law enforcement and regulatory authorities. Cooperation under this Paragraph shall include identification of witnesses who, to the knowledge of WGESystems, may have material information regarding the matters under investigation.

d. With respect to any information, testimony, documents, records or other tangible evidence provided to the Offices pursuant to this Agreement, WGESystems consents to any and all disclosures, subject to applicable law and regulations, to other governmental authorities of such materials as the Offices, in their sole discretion, shall deem appropriate.

6. In addition to the obligations in Paragraph 5, during the Term of the Agreement, should WGESystems discover any evidence or allegations of fraud relating to bid submissions to the federal government not otherwise disclosed, or similar misconduct not otherwise disclosed,

including through internal and external investigations, WGESystems shall, subject to applicable law and regulations, promptly report such evidence or allegations to the Offices.

Payment of Monetary Penalty

7. The Offices and WGESystems agree that, based on the factors set forth in 18 U.S.C. § 3572(a), and 18 U.S.C. § 3571(d), \$1,560,000 is an appropriate fine in this case. In addition, WGESystems agrees to pay a monetary penalty in the amount of \$1,027,261. WGESystems hereby acknowledges that at least \$1,027,261 was proceeds of the illegal conduct described in the Statement of Offense. WGESystems and the Offices agree that both the fine and the monetary penalty are appropriate given the facts and circumstances of this case, including the nature and seriousness of the WGESystems' conduct. The \$1,027,261 monetary penalty is final and shall not be refunded. Furthermore, nothing in this Agreement shall be deemed an agreement by the Offices that \$1,027,261 is the maximum penalty that may be imposed in any future prosecution; or that \$1,560,000 is the maximum fine. And the Offices are not precluded from arguing in any future prosecution that the Court should impose a higher fine, although the Offices agree that under those circumstances, it will recommend to the Court that any amount paid under this Agreement should be offset against any fine the Court imposes as part of a future judgment. WGESystems acknowledges that no United States tax deduction may be sought in connection with the payment of any part of this \$1,560,000 fine or this \$1,027,261 monetary penalty. WGESystems shall pay the fine and monetary penalty amount plus any associated transfer fees within five (5) business days of the date on which this Agreement is signed, pursuant to payment instructions provided by the Offices in their sole discretion. WGESystems releases any and all claims it may have to such funds, and further certifies that it passes clean

title to these funds, which are not the subject of any lien, security agreement, or other encumbrance. Transferring encumbered funds or failing to pass clean title to the funds in any way will be considered a breach of this agreement. WGESystems shall indemnify the government for any costs it incurs associated with the passing of clean title to the funds.

Conditional Release from Liability

8. Subject to Paragraphs 14 through 17, the Offices agree, except as provided herein, that it will not bring any criminal or civil case against WGESystems relating to any of the conduct described in the Statement of Offense, attached hereto as Attachment A, or the criminal information filed pursuant to this Agreement. The Offices, however, may use any information related to the conduct described in the attached Statement of Offense against WGESystems: (a) in a prosecution for perjury or obstruction of justice; (b) in a prosecution for making a false statement; (c) in a prosecution or other proceeding relating to any crime of violence; or (d) in a prosecution or other proceeding relating to a violation of any provision of Title 26 of the United States Code.

a. This Agreement does not provide any protection against prosecution for any future conduct by WGESystems.

b. This Agreement does not provide any protection against prosecution of any present or former officer, director, employee, shareholder, agent, consultant, contractor, or subcontractor of WGESystems for any violations committed by them.

Corporate Compliance Program

9. WGESystems represents that it is implementing and will continue to implement a compliance program designed to prevent and detect violations of fraud against the government in

the bid submission process for government contracts throughout its operations. Implementations of these policies and procedures shall not be construed in any future enforcement proceeding as providing immunity or amnesty for any crimes not disclosed to the Offices as of that date of this Agreement for which WGESystems would otherwise be responsible.

10. In order to address any deficiencies in its internal accounting controls, policies, and procedures, WGESystems represents that it has undertaken, and will continue to undertake in the future, in a manner consistent with all of its obligations under this Agreement to:

a. Cease operating as a subcontractor to any 8(a) prime contractor in the provision of building services to any federal government customer for the duration of the Term of this Agreement.

b. Implement new controls when using 8(a) businesses as subcontractors on projects for federal government customers, including:

i. Engaging multiple 8(a) firms where possible and having them compete for the work being subcontracted. WGESystems will select the 8(a) firm that provides the federal government customer the best value for its investment. This process may not always result in the lowest cost, as the quality and timeliness of the work to be performed are also critical in the decision making process.

ii. Taking reasonable steps to ensure that any 8(a) firms selected will be able to perform the work subcontracted to them, and that their work will satisfy all applicable requirements under the Federal Acquisition Regulation, 48 C.F.R. Ch. 1 (the "FAR").

iii. Engaging, when appropriate for large projects, a third party provider to monitor the 8(a)'s compliance with the FAR.

c. Assign an Associate General Counsel or retain outside counsel with federal contracting experience to provide legal oversight for all WGESystems federal government contracts.

d. Engage outside counsel, to the extent that WGESystems' parent and affiliated entities do not have in-house counsel with the requisite FAR expertise, to review WGESystems' federal government contracts.

e. Have WGESystems' Compliance Officer work with the engaged FAR outside counsel to create a FAR training course to be provided within six months of the execution of this Agreement to all current and future WGESystems employees working on federal government contracts.

f. Have WGESystems' Compliance Officer develop and implement appropriate policies and procedures to govern the process of bidding for, entering into, and administering federal government contracts.

g. Implement a process for approval and ongoing review of its teaming, bidding and contracting processes and practices.

h. Have WGL Holdings, Inc.'s Internal Audit unit audit WGESystems' federal contracting processes and practices on an annual basis for the duration of this Agreement, after which such audits will become a permanent part of the rotating audit calendar for WGL Holdings, Inc.'s Internal Audit unit.

Corporate Compliance Reporting

11. WGESystems agrees that it will report to the Offices annually during the term of the Agreement regarding remediation and implementation of any compliance program and

internal controls, policies, and procedures that relate to bid submissions to the federal government.

Deferred Prosecution

12. In consideration of: (a) the past and future cooperation of WGESystems described in Paragraphs 4 through 6 above; (b) WGESystems' payment of a fine of \$1,560,000 and a monetary penalty of \$1,027,261; and (c) WGESystems' implementation and maintenance of remedial measures as described in Paragraph 10 above, the Offices agree that any prosecution of WGESystems for the conduct set forth in the attached Statement of Offense, and for the conduct that WGESystems disclosed to the Offices prior to the signing of this Agreement, be and hereby is deferred for the Term of this Agreement.

13. The Offices further agree that if WGESystems fully complies with all of its obligations under this Agreement, the Offices will not continue the criminal prosecution against WGESystems described in Paragraph 1 and, at the conclusion of the Term, this Agreement shall expire. Within thirty (30) days of the Agreement's expiration, the Offices shall seek dismissal with prejudice of the criminal Information filed against WGESystems described in Paragraph 1.

Breach of the Agreement

14. If, during the Term of this Agreement, the Offices have determined, in their sole discretion, that WGESystems has (a) committed any felony under U.S. federal law subsequent to the signing of this agreement, (b) at any time provided in connection with this Agreement deliberately false, incomplete, or misleading information; (c) fails to cooperate as set forth in Paragraphs 5 and 6 of this Agreement; (d) fails to implement a compliance program as set forth in Paragraphs 9 and 10 of this Agreement; or (e) otherwise fails specifically to perform or to

fulfill completely each of WGESystems' obligations under the Agreement, WGESystems shall thereafter be subject to prosecution for any federal criminal violation of which the Offices have knowledge, including the charges in the Information described in Paragraph 1, which may be pursued by the Offices in the U.S. District Court for the District of Columbia or any other appropriate venue. Any such prosecution may be premised on information provided by WGESystems. Any such prosecution offense that is not time-barred by the applicable statute of limitations on the date of the signing of this Agreement may be commenced against WGESystems notwithstanding the expiration of the statute of limitations between the signing of this Agreement and the expiration of the Term plus one year. Thus, by signing this Agreement, WGESystems agrees that the statute of limitations with respect to any such prosecution that is not time-barred on the date of the signing of this Agreement shall be tolled for the Term plus one year.

15. In the event the Offices determine that WGESystems has breached this Agreement, the Offices agree to provide WGESystems with written notice of such breach prior to instituting any prosecution resulting from such breach. WGESystems shall, within thirty (30) days of receipt of such notice, have the opportunity to respond to the Offices in writing to explain the nature and circumstances of such breach, as well as the actions WGESystems has taken to address and remediate the situation, which explanation the Offices shall consider in determining whether to institute a prosecution.

16. In the event that the Offices determine that WGESystems has breached this Agreement: (a) all statements made by or on behalf of WGESystems to the Offices or to the Court, including the attached Statement of Offense, and any testimony given by WGESystems

before a grand jury, a court, or any tribunal, or at any legislative hearings, whether prior or subsequent to this Agreement, and any leads derived from such statements or testimony, shall be admissible in evidence in any and all criminal proceedings brought by the Offices against WGESystems; and (b) WGESystems shall not assert any claim under the United States Constitution, Rule 11(f) of the Federal Rules of Criminal Procedure, Rule 410 of the Federal Rules of Evidence, or any other federal rule that any such statements or testimony made by or on behalf of WGESystems prior or subsequent to this Agreement, or any leads derived therefrom, should be suppressed or are otherwise inadmissible. The decision whether conduct or statements of any current director, officer or employee, or any person acting on behalf of, or at the direction of, WGESystems, will be imputed to WGESystems for the purpose of determining whether WGESystems has violated any provision of this Agreement shall be in the sole discretion of the Offices.

17. WGESystems acknowledges that the Offices have made no representations, assurances, or promises concerning what sentence may be imposed by the Court if WGESystems breaches this Agreement and this matter proceeds to judgment. WGESystems further acknowledges that any such sentence is solely within the discretion of the Court and that nothing in this Agreement binds or restricts the Court in the exercise of such discretion.

Sale or Merger of Company

18. WGESystems agrees that in the event it sells, merges, or transfers all or substantially all of its business operations as they exist as of the date of this Agreement, whether such sale is structured as a sale, asset sale, merger, or transfer, it shall include in any contract for

sale, merger, or transfer a provision binding the purchaser, or any successor in interest thereto, to the obligations described in this Agreement.

Public Statements by Company

19. WGESystems expressly agrees that it shall not, through present or future attorneys, officers, directors, employees, agents or any other person authorized to speak for WGESystems or its subsidiaries or affiliates, make any public statement, in litigation or otherwise, contradicting the acceptance of responsibility by WGESystems set forth above or the Offense described in the attached Statement of Offense. Any such contradictory statement shall, subject to cure rights of WGESystems described below, constitute a breach of this Agreement, and WGESystems thereafter shall be subject to prosecution as set forth in Paragraphs 14 through 17 of this Agreement. The decision whether any public statement by any such person contradicting a fact contained in the Statement of Offense will be imputed to WGESystems for the purpose of determining whether it has breached this Agreement shall be at the sole discretion of the Offices. If the Offices determine that a public statement by any such person contradicts in whole or in part a statement contained in the Statement of Offense, the Offices shall so notify WGESystems, and WGESystems may avoid a breach of this Agreement by publicly repudiating such statement(s) within five (5) business days after notification. WGESystems shall be permitted to raise defenses, take legal positions, and to assert affirmative claims in other proceedings relating to the matters set forth in the Statement of Offense provided that such defenses, positions, and claims do not contradict, in whole or in part, a statement contained in the Statement of Offense. This Paragraph does not apply to any statement made by any present or former officer, director, employee, or agent of WGESystems in the course of any criminal,

regulatory, or civil case initiated by or against such individual, unless such individual is speaking on behalf of WGESystems.

20. WGESystems agrees that if it, WGL Holdings, Inc., or any of its direct or indirect subsidiaries or affiliates issues a press release or holds any press conference in connection with this Agreement, WGESystems shall first consult with the Offices to determine (a) whether the text of the release or proposed statements at the press conference are true and accurate with respect to matters between the Offices and WGESystems; and (b) whether the Offices have any objection to the release. Statements at any press conference concerning this matter shall not be inconsistent with such a press release.

21. WGESystems understands that it may be subject to suspension or debarment action by state or federal agencies other than the United States Attorney's Office for the District of Columbia and the United States Department of Justice, Antitrust Division, based upon entering into this Agreement, and that this Agreement in no way controls what action, if any, other agencies may take. The Offices agree, if requested to do so, to bring to the attention of governmental and other debarment authorities the Offense and circumstances relating to the nature of the conduct underlying this Agreement, including the nature and quality of WGESystems' cooperation and remediation. By agreeing to provide this information to debarment authorities, the Offices are not agreeing to advocate on behalf of WGESystems, but rather are agreeing to provide information to be evaluated independently by such authorities. WGESystems affirms that it wants to enter into this Agreement regardless of any suspension or debarment consequences.

Limitations on Binding Effect of Agreement

22. This Agreement is binding on WGESystems and the Offices but specifically does not bind any other component of the Department of Justice, other federal agencies, or any state, local or foreign law enforcement or regulatory agencies, or any other authorities, although the Offices will bring the cooperation of WGESystems and its compliance with its other obligations under this Agreement to the attention of such agencies and authorities if requested to do so by WGESystems.

Notice

23. Any notice to the Department of Justice generally, or the Offices specifically, under this Agreement shall be given by personal delivery, overnight delivery by a recognized delivery service, or registered or certified mail, addressed to Lisa M. Phelan, Chief, Washington Criminal I Section, Antitrust Division, U.S. Department of Justice, 950 Pennsylvania Avenue, NW, Room 3211, Washington, DC 20530 or Ronald C. Machen Jr., United States Attorney for the District of Columbia, 555 4th Street, NW, Washington, DC 20530. Any notice to WGESystems under this Agreement shall be given by personal delivery, overnight delivery by a recognized delivery service, or registered or certified mail, addressed to Gautam Chandra, President, WGESystems, 6862 Elm Street, Suite 300, McLean, VA 22101. Notice shall be effective upon actual receipt by the Offices or WGESystems.

Complete Agreement


24. This Agreement sets forth all the terms of the agreement between WGESystems and the Offices. No amendments, modifications or additions to this Agreement shall be valid

unless they are in writing and signed by the Offices, the attorneys for WGESystems and a duly authorized representative of WGESystems.

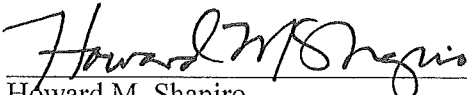
AGREED:

FOR WASHINGTON GAS ENERGY SYSTEMS

Date: 11-17-2014

By: 
Gautam Chandra
President, WGESystems


Date: 11-17-14

By: 
Howard M. Shapiro
Eric Mahr
Danielle Y. Conley
Wilmer Cutler Pickering Hale and Dorr LLP

FOR THE DEPARTMENT OF JUSTICE

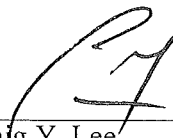
RONALD C. MACHEN JR.
UNITED STATES ATTORNEY

Date: 11-18-14

BY: 
Matt Graves
Bar No. DC - 481052
United States Attorney's Office
District of Columbia
555 4th Street, N.W., 5th Floor
Washington, D.C. 20530

LISA M. PHELAN
CHIEF, WASHINGTON CRIMINAL I
ANTITRUST DIVISION

Date: 11/18/14

BY: 
Craig Y. Lee
Diana Kane
Washington Criminal I
Antitrust Division
United States Department of Justice
450 Fifth Street, N.W., Suite 11300
Washington, D.C. 20530

COMPANY OFFICER'S CERTIFICATE

I have read this Agreement and carefully reviewed every part of it with outside counsel for Washington Gas Energy Systems, Inc. ("WGESystems"). I understand the terms of this Agreement and voluntarily agree, on behalf of WGESystems, to each of its terms. Before signing this Agreement, I consulted outside counsel for WGESystems. Counsel fully advised me of the rights of WGESystems, of possible defenses, of the Sentencing Guidelines' provisions, and of the consequences of entering into this Agreement.

Under the Articles of Association of WGL Holdings, Inc., the Board of WGL Holdings, Inc. may delegate any of its powers to a committee of the Board of Directors. By a resolution of the Board of Directors of WGL Holdings, Inc. dated NOVEMBER 17, 2014 the Board of Directors of WGL Holdings, Inc. delegated its power to consider and approve this Agreement and to authorize the execution and delivery of this Agreement on behalf of WGL Holdings, Inc. to a committee of the Board (the "Board Committee").


I have carefully reviewed the terms of this Agreement with the Board of Directors of WGL Holdings, Inc. I have caused outside counsel for WGESystems to advise the Board of Directors fully of the rights of WGESystems, of possible defenses, of the Sentencing Guidelines' provisions, and of the consequences of entering into the Agreement.

On NOVEMBER 17, 2014 the Board Committee considered and approved this Agreement and authorized the execution and delivery of this Agreement on behalf of WGL Holdings, Inc. and WGESystems.

No promises or inducements have been made other than those contained in this Agreement. Furthermore, no one has threatened or forced me, or to my knowledge any person authorizing this Agreement on behalf of WGESystems, in any way to enter into this Agreement. I am also satisfied with outside counsel's representation in this matter. I certify that I am the President of WGESystems and that I have been duly authorized by WGESystems to execute this Agreement on behalf of WGESystems.

Date: 11-17-2014

Washington Gas Energy Systems, Inc.

By: 
Gautam Chandra
President, WGESystems

CERTIFICATE OF COUNSEL

I am counsel for Washington Gas Energy Systems, Inc. ("WGESystems") in the matter covered by this Agreement. In connection with such representation, I have examined relevant WGESystems documents and have discussed the terms of this Agreement with WGL Holdings, Inc.'s Board of Directors. Based on our review of the foregoing materials and discussions, I am of the opinion that the representative of WGESystems has been duly authorized to enter into this Agreement on behalf of WGESystems and that this Agreement has been duly and validly authorized, executed, and delivered on behalf of WGESystems and is a valid and binding obligation of WGESystems. Further, I have carefully reviewed the terms of this Agreement with the Board of Directors and the President of WGESystems. I have fully advised them of the rights of WGESystems, of possible defenses, of the Sentencing Guidelines' provisions and of the consequences of entering into this Agreement. To my knowledge, the decision of WGESystems to enter into this Agreement, based on the authorization of the Board of Directors, is an informed and voluntary one.

Date: 11-17-14

By: Howard M. Shapiro
Howard M. Shapiro
Wilmer Cutler Pickering Hale and Dorr LLP
Counsel for Washington Gas Energy Systems, Inc.