



ADMINISTRATIVE AGREEMENT

This Administrative Agreement (the "Agreement") is made between MCP Business Solutions, Inc; MCP Development, Inc.; MCP Mountain Builders, Inc; and CRM Investments, LC.,¹ and the United States Department of the Army (the "Army") acting through its Suspension & Debarment Official and on behalf of the U.S. Government, as the lead agency for determining the present responsibility of the MCP Entities under Subpart 9.4 of the Federal Acquisition Regulation (FAR).

PREAMBLE

1. On June 12, 2019, the Army's SDO suspended Mr. Matthew C. McPherson and eight affiliated business entities based on Mr. McPherson's guilty plea to one count of 18 U.S.C. § 371, conspiracy to commit wire fraud (i.e., he and his co-conspirators fraudulently obtained federal set-aside contracts to which they were not entitled). From 2009 to 2018, Mr. McPherson and his co-conspirators sought to fraudulently obtain approximately 199 federal set-aside contracts to which they were not entitled, and for which the government paid Zieson Construction Company approximately \$335 Million. To this end, the conspirators knowingly and willfully agreed and conspired with each other to commit wire fraud in violation of 18 U.S.C. § 1343 and Major Program Fraud against the United States by knowingly executing a scheme and artifice to defraud the United States, and to obtain money and property by means of false and fraudulent pretenses, representations and promises in a procurement of property and services as a prime contractor with the United States where the value exceeded \$1 Million, in violation of 18 U.S.C. § 1031. The Army's SDO suspended the MCP Entities based on their affiliation with Mr. McPherson.

2. On August 15, 2019, Counsel for four of Mr. McPherson's affiliated business entities, MCP Business Solutions, Inc., MCP Development, Inc., MCP Mountain Builders, Inc., and CRM Investments, LC. requested termination of their suspensions based on their actions to sever their affiliation with Mr. McPherson by the creation of a Voting Trust Agreement (VTA).

NOW THEREFORE, in consideration of the promises set forth herein and for good and valuable consideration, the parties mutually agree as follows.

ARTICLES

1. **Consideration of Suspension and Debarment.** Upon execution of this Agreement by the Army, the Army agrees to terminate the suspensions of the MCP Entities for the conduct identified in the Preamble. The Army, in its sole discretion, shall retain the

¹ Further reference to MCP Business Solutions, Inc; MCP Development, Inc.; MCP Mountain Builders, Inc; and CRM Investments, LC. will be known as the "MCP Entities."

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ability to institute administrative action, including suspension or debarment, for any reason consistent with FAR Subpart 9.4, including based upon information constituting independent cause. By entering into this Administrative Agreement, the MCP Entities do not waive its rights to contest, based on the FAR or any other basis in law, equity or fact, any administrative action taken by the Army.

2. Definitions.

a. "Affiliate." Business concerns, organizations, or individuals are affiliates of each other if, directly or indirectly--(i) Either one controls or has the power to control the other; or (ii) A third party controls or has the power to control both. Indicia of control include, but are not limited to, interlocking management or ownership, identity of interests among family members, shared facilities and equipment, common use of employees, or a business entity organized following the debarment, suspension, or proposed debarment of a contractor which has the same or similar management, ownership, or principal employees as the contractor that was debarred, suspended, or proposed for debarment.

b. "Contractor" refers to the MCP Entities, including their directors, officers, and employees, while acting in their capacities as such.

c. "Days" refers to "calendar days."

d. "Effective date" (of this Compliance Agreement) refers to the date on which the Army's Suspension and Debarment Official signs this Agreement on behalf of the Army.

e. "Employee" refers to officers, managers, supervisors. All full and part-time workers and consultants will be considered employees for training purposes.

f. "FAR" refers to the Federal Acquisition Regulation.

g. "Government" refers to any department, agency, division, independent establishment, or wholly-owned corporation of the United States Government.

h. "Independent cause" for suspension or debarment refers to a reason or basis for such action not directly related to information set forth in the Preamble or any document referred to in the Preamble.

i. "Army SDO" refers to the Army's Suspension and Debarment Official.

j. "Government contracting activities" refers to the pursuit and/or performance of any Government contract by the Contractor and any of Contractor's business activities reasonably related to Contractor's present responsibility to enter into and to perform Government contracts.

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3. Severing Affiliation between MCP Entities and Mr. McPherson. The MCP Entities affirm that Mr. McPherson will not exercise any influence or control over the MCP Entities, either directly or indirectly, regarding the business or management of the Company's federal government contracting business.

a. Mr. McPherson is prohibited from being present at the offices of the MCP Entities and from communicating directly or indirectly with all employees of the MCP Entities regarding the business or management of the Company's federal government contracting business, except where such visits and/or communications are unrelated to MCP Entities' federal government contracting business.

b. The MCP Entities will not accept direction from or allow Mr. McPherson to exercise any control or influence over the business or management of the Company's federal government contracting business.

4. Self-Report of Violations. The MCP Entities and their employees have a duty to provide notice of any violation of this agreement to the Army within one week from when knowledge of the violation occurred.

5. Business Relationships with Suspended or Debarred Individuals and Entities. With the exception of Mr. McPherson, within 60 days of the effective date of this Agreement, Contractor agrees to institute a written policy stating that:

a. Contractor shall not knowingly employ, with or without pay, an individual who is listed by a federal agency as debarred, suspended, or otherwise ineligible for federal programs. Contractor shall make reasonable inquiry into the status of any potential employee or consultant. Such reasonable inquiry shall include, at minimum, review of the Systems for Award Management. The policy will further provide that, if any employee is charged with a criminal offense relating to Government contracts or otherwise indicating a lack of business integrity or business honesty, the Contractor will remove that employee immediately from responsibility for, or involvement with, Contractor's business affairs. Contractor shall notify the Army of each such personnel action taken, and the reasons therefore, within 30 days of the action.

b. Contractor shall not knowingly form a contract with, purchase from, or enter into any business relationship with any individual or business entity that is listed by a federal agency as debarred, suspended, or otherwise ineligible for federal programs. Contractor shall make reasonable inquiry into the status of any potential business partner. Such reasonable inquiry shall include, at minimum, review of the Systems for Award Management. The MCP Entities may continue contracts or subcontracts in existence prior to the execution of this Administrative Agreement.

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6. **Advance Notice of VTA Termination or Change in Trustee.** The MCP Entities will provide 60 days advance notice if the VTA is terminated prior to any termination of any debarment or exclusion action against Mr. McPherson. Any proposed change of Trustee of the VTA will be reported by the MCP Entities to the Army's Procurement Fraud Division 45 days in advance of the proposed change. Such notification will include the name of the individual selected as successor trustee as well as their qualifications for selection.

7. **Adverse Actions.** The Contractor avers that adverse actions taken, or to be taken, by Contractor against any employee, other individual, or business entity associated with Contractor arising out of or related to the conduct described in the Preamble were or are solely the result of Contractor's initiatives and decisions, and were or are not the result of any action by, or on behalf of, agents or employees of the Army.

8. **Present Responsibility.** Contractor's compliance with the terms and conditions of this Agreement shall constitute an element of Contractor's present responsibility for Government contracting. By entering into this Agreement, the Army is not determining that Contractor is presently responsible for any specific Government contract.

9. **Survival of this Agreement.** If, during the term of this Agreement, Contractor establishes new companies, subsidiaries, merges with another company, or transfers the entire company or major assets to new owners, it shall notify the Army not less than 90 days in advance of such action and provide a copy of the corporate documents. This Agreement shall inure to the benefit of, and be binding upon, the parties and their respective successors and assigns, unless the new owners request and show good cause why it should not be applicable to their operations.

10. **Breach of Agreement.** If at any point during the term of this Agreement, the Army determines, in its sole discretion, that Contractor has breached a term of this Agreement or failed to meet any requirement of this Agreement, the Army may terminate this Agreement and suspend or initiate proceedings to debar Contractor and its managers, employees, and other agents, as appropriate. The basis of this determination may include any conduct that constitutes a breach of this Agreement. Contractor does not, by this Agreement or otherwise, waive its right to oppose such action under FAR Subpart 9.4, or any other substantive, procedural, or due process rights, existing in law, equity or fact, it may have under the United States Constitution, or other applicable laws or regulations of the United States.

11. **Release.** Contractor releases the United States, its instrumentalities, agents, and employees, in their official and personal capacities, of any and all liability or claims, monetary or equitable, arising out of the investigation and negotiation of this Agreement.

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12. Paragraph Headings. The paragraph headings in this Agreement are inserted for convenient reference only and shall not affect the meaning or interpretation of this Agreement.

13. Severability. In the event that any one or more of the provisions contained in this Agreement shall, for any reason, be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect other provisions of this Agreement.

14. Entire Agreement. This Agreement constitutes the entire agreement between the Army and MCP Entities and supersedes all prior agreements or understandings, oral or written, with respect to the subject matter of this action. This Agreement shall be binding upon, and be enforceable by, the parties hereto and their respective successors and assigns.

15. Modifications of this Agreement. Any requirements imposed on Contractor by this Agreement may be discontinued by the Army at its sole discretion. Other modifications shall be made only in writing and upon mutual consent of the parties to this Agreement.

16. Restriction on Use. Contractor shall not use any term of this Agreement, the existence of this Agreement, or the termination of Contractor's proposed debarment for any purpose related to the defense or litigation of, or in mitigation of, any criminal, civil, or administrative investigation or proceedings. Notwithstanding this provision, Contractor may share a copy of this Agreement with other Government agencies.

17. Public Document. This Agreement, and any related Army administrative actions and notices, is a public document that may be distributed by the Army throughout the Government for official purposes and to other interested parties.

18. Truth and Accuracy of Submissions. Contractor represents that all written materials and other information supplied to the Army directly by Contractor's authorized representatives or through its counsel during the course of discussions with the Army preceding this Agreement are true and accurate in all material respects to the best of Contractor's information and belief. Contractor understands that this Agreement is executed on behalf of the Army in reliance upon the truth, accuracy, and completeness of all such representations.

19. Notices. All submissions required by this Agreement shall be delivered to the following addresses, or such other addresses as the parties may designate in writing:

If to the Army:
Office of the Judge Advocate General
Procurement Fraud Division

If to the MCP Entities:
John R. Prairie
Wiley Rein, LLP
1776 K Street NW

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ATTN: DAJA-PFD (MAJ Cameron Edlefsen)
9275 Gunston Road, Suite 2100
Fort Belvoir, VA 22060-5546

Washington D.C. 20006

19. **Period of Agreement.** This Agreement shall be effective upon its execution by the Army SDO. The parties intend that the terms and conditions of this Agreement shall continue in force and effect until Mr. Matthew C. McPherson is no longer in an excluded status. Any decision to terminate this Agreement prior to expiration of its term shall be at the sole discretion of the Army SDO.



MCP Business Solutions, Inc.
Gregory Stueve,
President

9.9.19

DATE



SUSAN K. ESCALLIER
Brigadier General
Army Suspension and Debarment
Official
U.S. Army

9/12/19

DATE



MCP Development, Inc.
Gregory Stueve
President

9.9.19.

DATE



MCP Mountain Builders, Inc..
Gregory Stueve,
President

9.9.19

DATE



CRM Investments, LC.
Matthew C. McPherson,
Member

9/9/19

DATE