

INTERGOVERNMENTAL SUPPORT AGREEMENT  
BETWEEN THE  
UNITED STATES ARMY GARRISON, FORT BRAGG  
AND  
NORTH CAROLINA DEPARTMENT OF TRANSPORTATION

This is an Intergovernmental Support Agreement (hereafter referred to as the IGSA or Agreement) between the United States Army Garrison, Fort Bragg (USAG-FB) and North Carolina Department of Transportation (hereafter Department), entered into pursuant to federal law codified at 10 U.S.C. §2679. The statute authorizes the Secretary of the Army to enter into an IGSA on a sole source basis with a State or local government to provide, receive, or share Installation-support services. The Secretary of the Army has delegated the signature authority to execute a non-Federal Acquisition Regulation (FAR) agreement on behalf of the Army for Municipal Services, Base Operations Support Services and Facilities Maintenance and Repair to the IMCOM Commander. The IMCOM Commander further delegated signature authority to the USAG-FB Garrison Commander (hereinafter GC).

When referred to collectively, the USAG-FB and the Department are referred to as the "Parties."

1. PURPOSE:

1.1. The USAG-FB has a number of roads within the Fort Bragg Military Reservation (Installation) located in Harnett, Moore, Richmond, Cumberland, Hoke, and Lee Counties, that are in need of construction, maintenance, and repair. USAG-FB requested the Department to provide services to improve and provide maintenance of existing roads.

1.2. The purpose of this IGSA is to outline the roles and responsibilities of the Parties, identify the services to be furnished by the Department, and the appropriate reimbursement. The Parties undertake this Agreement in order to provide roadway services, supplies, or construction to the United States.

1.3. This IGSA does not include security guard or fire-fighting functions.

2. SCOPE OF THE AGREEMENT:

2.1. The Department and USAG-FB have identified two different types of work related to roads on or around the Installation. These types include (1) construction of roads inside and outside secure areas of the Installation, and (2) repair and maintenance of roads inside and outside secure areas of the Installation (collectively, "roadway services"). Each requested element of work will contain an individual scope of work to be agreed upon by the Parties. The process for constructing or maintaining said roads and an understanding of cost participation by either party is included below.

2.2. The Department will perform the roadway services as stated in this IGSA as agreed to under the terms of this IGSA.

2.3. The tasks, duties and responsibilities set forth in this IGSA may not be interpreted or implemented in any manner that results in the Department's personnel creating or modifying federal policy, obligating appropriated funds of the United States, or overseeing the work of federal employees. Under no circumstances, shall the Department's employees or contractors be deemed federal employees.

2.4. If the Department shall provide services through a contract, the contract must be awarded through competitive procedures. (This requirement does not apply to collective bargaining agreements between the Department and its employees.) Employees of the United States may not perform services for or on behalf of the Department without the approval of the GC.

### 3. PROCESS

3.1. When requested by USAG-FB, and agreed to by the Department, the Department will provide roadway services to improve roads and provide repair and maintenance of existing roads located on or around the Installation.

3.2. The Department will perform any project development necessary to provide USAG-FB an estimate for the work requested. USAG-FB will reimburse the Department 100% of the costs of the project development.

3.3 USAG-FB will review the estimate and provide concurrence to the Department in writing to move forward with said work and will provide funds for all costs associated with developing, designing, letting, constructing and administering the work.

3.4. If at any time, USAG-FB does not provide approval to move forward with the work, USAG-FB will ensure that 100% of the actual costs incurred for development, design, and letting of the work are paid to the Department.

3.5. The Department has the right to refuse to accept any work requested by USAG-FB. USAG-FB is not obligated to request all road work be performed by the Department, it may use other methods to obtain required work. If the Department does not continue or complete the work for any reason, any work products developed by the Department and reimbursed by the USAG-FB will be provide to USAG-FB.

3.6. The Department shall prepare the environmental and/or planning document and obtain any environmental permits needed for the work. USAG-FB and the Department shall jointly participate in the preparation of the National Environmental Policy Act (NEPA) analyses, if needed for a project; to include, disclosing relevant information early in the analytical process; applying available technical expertise and staff support when/where appropriate; avoiding duplication with other Federal, State, and local procedures. The Department shall prepare the plans and specifications needed for the work. All work shall be done in accordance with Departmental standards, specifications, policies, and procedures.

3.7. All work will occur on Fort Bragg property and/or within the existing right of way.

3.8. USAG-FB shall be financially responsible for the relocation and/or adjustment of any and all utilities in conflict with the work.

3.9. The Department will perform the work in accordance with the plans and specifications of said work. The Department will administer any construction contract for the work.

3.10. During the course of work performed, the Department will advise USAG-FB of all overruns as soon as they are known.

3.11 The Department shall be exempt from federal labor statutes, provided it pays its employees at wage grades or rates normally paid by the Department, and complies with all applicable Department labor laws and standards. Existing wage scales of the Department apply to the Department employees rather than Davis-Bacon Act or Service Contract Act rates.

#### 4. PAYMENT:

4.1. The USAG-FB shall reimburse the Department 100% of actual costs for work performed as described below.

4.1.1. USAG-FB will provide advanced payment for all costs associated with the work prior to the Department pursuing the work. Based on the agreed cost of the identified work, USAG-FB will submit a check to the Department before the start of the agreed upon approved work.

4.1.2. The Department will track costs as work progresses and advise USAG-FB of the need for additional funding and obtain approval, and funding, before proceeding.

4.1.3. At the completion of the work, the Department will invoice USAG-FB for actual costs over the advanced payments made for the work and USAG-FB shall make prompt payment in accordance with the Prompt Payment Act (31 USC §3903) and implementing regulations. Payment will be made to the Department within thirty days of invoicing. The Department shall refund any amounts provided that are more than the actual costs of the work.

4.2. The payment method will be made via Miscellaneous Payment transactions processed through the General Fund Enterprise Business System (GFEBS). All IGSA's will be manually entered into GFEBS to commit and obligate funds. Payments will be processed within GFEBS by the garrison Resource Management office, who will submit payment documents to DFAS who will issue payment via check to the Department.

4.3. The obligation of funds by USAG-FB is subject to the availability of appropriated funds.

4.3.1. All terms and conditions of this Agreement are dependent upon, and subject to, the allocation of funds for the purposes set forth in this Agreement.

4.4. USAG-FB is solely responsible for all agreements, contracts, and work ordered entered into or issued by USAG-FB to meet the terms of this Agreement.

4.4.1. The Department is not responsible for any expenses or obligations incurred for the terms of this Agreement, except those specifically eligible for the funds and obligations as approved by the Department under the terms of this Agreement.

#### 5. ACCESS TO THE INSTALLATION:

5.1. USAG-FB agrees to allow the Department's employees, contractors, and other personnel needed for effective completion of the work access to the Installation and any area where work has been requested, in accordance with USAG-FB Installation access requirements.

#### 6. SUSPENSION OF AGREEMENT:

6.1. The United States reserves the right to suspend performance of the Agreement or access to the installation in event of emergencies, mobilizations, national security reasons, or for other reasons outside the control of the United States. The Parties recognize that a suspension may cause additional costs which are the responsibility of the USAG-FB.

#### 7. TERM OF AGREEMENT:

7.1 This IGSA is being entered into for a term not to exceed (NTE) ten (10) years. This IGSA automatically terminates after ten (10) years from the effective date. A new IGSA may be executed for subsequent periods, NTE ten (10) years.

#### 8. TERMINATION:

8.1 This Agreement may be terminated by mutual written agreement at any time. Except as otherwise specified in this Agreement, either party can unilaterally terminate this Agreement upon 60 days written notice to the other Party.

#### 9. MODIFICATIONS:

9.1. Any Party can propose amendments at any time. All amendments must be produced in writing and incorporated by amendment into the Agreement. The amendment shall be signed by both Parties in order to be effective.

10. APPLICABLE LAW: The IGSA is subject to the law and regulations of the United States. If any federal statute expressly prescribes policies or requirements that differ from the terms and conditions of this IGSA, the provisions of the statute shall govern.

#### 11. POINTS OF CONTACT (POCs)

11.1. The POCs for issues pertaining to this IGSA are as follows:

11.1.1. For USAG-FB, Directorate of Public Works, 910-432-4790

11.1.2. For the Department, Division 6 and Division 8 Engineers, 910-364-0600 and 910-773-8003, respectively.

#### 12. HOLD HARMLESS:

12.1. Nothing in this Agreement is intended, nor may be construed to create any rights, confer any benefits, or relive any liability, of any kind whatsoever in any third

person not a party to this IGSA, nor does this Agreement limit the application of the Federal Tort Claims Act.

12.1.1. The Department shall not be liable and shall be held harmless from any and all third-party claims that might arise on the account of USAG-FB's negligence and/or responsibilities under the terms of this Agreement.

12.1.2. USAG-FB shall not be liable and shall be held harmless from any and all third-party claims that might arise on the account of the Department's negligence and/or responsibilities under the terms of this Agreement.

12.2. To the extent authorized by federal claims statutes, USAG-FB shall be responsible for its actions under the terms of this Agreement and save harmless the Department, and the state of North Carolina, their respective officers, directors, principals, employees, agents, successors, and assigns from and against all claims for payment, damages, and or/liabilities of any nature, asserted against the Department in connection with this Agreement.

12.3. To the extend authorized by state and federal claims statutes, the Department shall be responsible for its actions under the terms of this Agreement and save harmless USAG-FB and its respective officers, directors, principals, employees, and agents from and against all claims for payment, damages, and/or liabilities of any nature, asserted against USAG-FB in connection with this Agreement.

### 13. PUBLIC DISCLOSURE:

13.1. Requests for information received from the general public related to this IGSA directed to Fort Bragg shall be complied with pursuant to the Freedom of Information Act (FOIA) (5 U.S.C. §552), and requests for information directed to the Department shall be complied with pursuant to State law and the Department policies.

13.2. Each Party agrees to notify the other of any such requests for information made.

### 14. RECORDS:

14.1. The Department shall maintain books, records, documents, or other evidence pertaining to costs and expenses for a period of three (3) years after final payment of all work for each requested element of work. At the expiration of the Department's retention of records term, the Department will turn over records to the USAG-FB for continued retention under this IGSA for a minimum of six years, three months after the expiration of the IGSA. To the extent permitted under applicable Federal laws and regulations, the Parties shall each allow the other to inspect such books, records, documents, or other evidence.

### 15. TRANSFERABILITY:

15.1. This Agreement is not transferable except with the written authorization of the both Parties.

### 16. GIFT BAN:

16.1. By Executive Order 24, issued by Governor Perdue, and NCGS 133-32, it

is unlawful for any vendor or contractor (i.e. architect, bidder, contractor, construction manager, design professional, engineer, landlord, offeror, seller, subcontractor, supplier, or vendor), to make gifts or to give favors to any State employee of the Governor's Cabinet Agencies (i.e. Administration, Commerce, Correction, Crime Control and Public Safety, Cultural Resources, Environment and Natural Resources, Health and Human Services, Juvenile Justice and Delinquency Prevention, Revenue, Transportation, and the Office of the Governor).

17. ENTIRE IGSA AND AUTHORITY TO EXECUTE:

17.1. It is understood and agreed that this IGSA embodies the entire Agreement between the Parties.

17.2. The Parties acknowledge that the individual executing this Agreement has read this agreement, conferred with legal counsel, fully understands its contents, and is authorized to execute this Agreement and to bind the respective Parties to the terms contained herein.

18. EFFECTIVE DATE:

18.1. This IGSA takes effect beginning on the first day after the last Party signs.

19. Expiration Date:

19.1. This IGSA is effective for a period NTE ten (10) years.

19.2. A follow-on IGSA may be entered into by the Parties.

20. SIGNATURES AND DATES OF SIGNATURES OF THE PARTIES:

FOR THE UNITED STATES:



KYLE A. REED  
COLONEL, U.S. ARMY  
GARRISON COMMANDER

5-2-19

Date

FOR THE NORTH CAROLINA  
DEPARTMENT OF TRANSPORTATION:



JAMES H. TROGDON III, PE  
SECRETARY

5-2-19

Date

Approved by the NC Board of Transportation on 5-2-19  
Date