

**MEMORANDUM OF AGREEMENT
BETWEEN
THE DEPARTMENT OF VETERANS ADMINISTRATION
AND
THE DEPARTMENT OF THE ARMY**

ARTICLE I - PURPOSE AND AUTHORITY

This Memorandum of Agreement ("MOA") is entered into by and between the U.S. Department of the Army ("DA") and the Veterans Administration Eastern Kansas Region (VA) ("the parties") for the purpose of establishing a mutual framework governing the respective responsibilities of the parties for the provision of DA assistance to include planning, project management, estimating, contractual, construction management, environmental restoration and/or design assistance goods and services for those facilities owned and are within the responsibility of VA. This MOA is entered into pursuant to the Economy in Government Act (31 U.S.C. § 1535).

ARTICLE II - SCOPE

Goods and services which the DA may provide under this MOA include contracting support, project management, engineering and design, estimating, environmental services and construction management support as depicted by individual scopes of work defining the specific goods or services the VA is requesting by a document that is acceptable between the parties and such other related goods or services as may be agreed upon in the future.

Nothing in this MOA shall be construed to require the VA to use the DA or to require the DA to provide any goods or services to the VA, except as may be set forth in Interagency Agreements (IAs).

ARTICLE III - INTERAGENCY COMMUNICATIONS

To provide for consistent and effective communication between the DA and the VA, each party shall appoint a Principal Representative to serve as its central point of contact on matters relating to this MOA. Additional representatives may also be appointed to serve as points of contact on IA's.

ARTICLE IV - INTERAGENCY AGREEMENTS

In response to requests from the VA for DA assistance under this MOA, the DA and the VA shall conclude mutually agreed upon written IA's. Those IA's must be on either Engineer Form 4914-R or similar document containing the same information as Department of Defense Form 1144. The IA's or acceptable document must include:

- a detailed scope of work statement;
- schedules;
- funding arrangements, including whether payment shall be in advance or by reimbursement;
- the amount of funds required and available to accomplish the scope of work as stated above; and
- the VA's fund citation and the date upon which the cited funds expire for obligation purposes;
- identification of individual project managers;
- identification of types of contracts to be used (if known);
- types and frequencies of reports;
- identification of which party is to be responsible for government-furnished equipment; contract administration; records maintenance; rights to data, software, and intellectual property; and contract audits;
- procedures for amending or modifying the IA; and
- such other particulars as are necessary to describe clearly the obligations of the parties with respect to the requested goods and services.

Goods or services shall be provided under this MOA only after an appropriate IA has been signed by a representative of each party authorized to execute that IA. Upon signature by each parties' representative, an IA shall constitute a valid Economy in Government Act order. In the case of conflict between this MOA and IA, this MOA shall control.

ARTICLE V - RESPONSIBILITIES OF THE PARTIES

A. Responsibilities of the Department of the Army:

1. The DA shall provide the VA with goods or services in accordance with the purpose, terms, and conditions of this MOA and with specific requirements set forth in IAs and implementing arrangements.
2. The DA shall identify authorized DA representatives to sign IAs.
3. The DA shall use its best efforts to provide goods or services either by contract or by in-house effort.

4. The DA shall provide detailed periodic progress, financial and other reports to the VA as agreed to in the IA. Financial reports shall include information on all funds received, obligated, and expended, and on forecast obligations and expenditures.

5. The DA shall inform the VA of all contracts entered into under each IA.

B. Responsibilities of the VA:

1. The VA shall certify, prior to the execution of each IA under this MOA that the IA complies with the requirements of the Economy in Government Act.

2. The VA shall pay all costs associated with the DA's provisions of goods or services under this MOA and shall certify, at the time of signature of an IA, the availability of funds necessary to accomplish that IA.

3. The VA shall ensure that only authorized VA contracting officers sign IAs.

4. The VA shall develop draft IAs to include scope of work statements.

5. The VA shall obtain for the DA all necessary real estate interests and access to all work sites and support facilities, and shall perform all coordination with and obtain any permits from state and local agencies, as necessary during the execution of each IA.

ARTICLE VI - FUNDING

VA will provide funding to US Army COE Kansas City in accordance with this MOA using a mutually agreeable reimbursable agreement, in advance of work being performed. The reimbursable agreement will include appropriation and accounting data and billing data for VA. VA will be billed on a monthly basis for all costs incurred during that month using the automated Intra-governmental Payment and Collections (IPAC) system. In accordance with the MOA, the VA shall pay all costs associated with the DA's provision of goods or services depicted in the IA.

If the DA forecasts its actual costs under an IA to exceed the amount of funds available under that IA, it shall promptly notify the VA of the amount of additional funds necessary to complete the work under that IA. The VA shall either provide the additional funds to the DA; require that the scope of work be limited to that which can be paid for by the then-available funds, or direct termination of the work under that IA.

Within 90 days of completing the work under an IA, the DA shall conduct an accounting to determine the actual costs of the work. Within 30 days of completion of this accounting, the DA shall return to the VA any funds advanced in excess of the actual costs as then known, or the VA shall provide any additional funds necessary to cover the actual costs as then known. Such an accounting shall in no way limit the VA's duty in accordance with Article X to pay for any costs, such as contract claims or other liability, which may become known after the final accounting.

ARTICLE VII - APPLICABLE LAWS

This MOA and all documents and actions pursuant to it shall be governed by the applicable statutes, regulations, directives, and procedures of the United States. Unless otherwise required by law, all contract work undertaken by the DA shall be governed by DA policies and procedures.

ARTICLE VIII - CONTRACT CLAIMS AND DISPUTES

All claims and disputes by contractors arising under or relating to contracts awarded by the DA shall be resolved in accordance with Federal law and the terms of the individual contract. The DA shall have dispute resolution authority for these claims. Any contracting officer's final decision may be appealed by the contractor pursuant to the Contract Disputes Act of 1978 (41 U.S.C. § 601-613). The Armed Services Board of Contract Appeals (ASBCA) is designated as the appropriate board of contract appeals. In lieu of appealing to the ASBCA or its successor, the contractor may bring an action directly to the United States Court of Federal Claims.

The DA shall be responsible for handling all litigation involving disputes and appeals, and for coordinating with the Department of Justice as appropriate. The DA shall notify the VA of any such litigation and afford the VA an opportunity to review and comment on the litigation proceedings and any resulting settlement negotiations.

ARTICLE IX - DISPUTE RESOLUTION

The parties agree that, in the event of a dispute between the parties, the VA and the DA shall use their best efforts to resolve that dispute in an informal fashion through consultation and communication, or other forms of non-binding alternative dispute resolution mutually acceptable to the parties. The parties agree that, in the event such measures fail to resolve the dispute, they shall refer it for resolution to the Office of Management and Budget.

ARTICLE X — RESPONSIBILITY FOR COSTS

If liability of any kind is imposed on the United States relating to the DA's provision of goods or services under this MOA, the DA will accept accountability for its actions, but the VA shall remain responsible as the program proponent for providing such funds as are necessary to discharge the liability, and all related costs. This obligation extends to all funds legally available to discharge this liability, including funds that may be made legally available through transfer, reprogramming or other means. Should the VA have insufficient funds legally available, including funds that may be made legally available through transfer, reprogramming or other means, they remain responsible for seeking additional funds from Congress for such purpose, although nothing in this MOA shall be construed to imply that Congress will appropriate funds sufficient to meet the liability.

Notwithstanding the above, this MOA does not confer any liability upon the VA for claims payable by the DA under the Federal Torts Claims Act. Provided further that nothing in this MOA is intended or will be construed to create any rights or remedies for any third party and no third party is intended to be a beneficiary of this MOA.

ARTICLE XI - PUBLIC INFORMATION

Justification and explanation of the VA's programs before Congress and other agencies, departments, and offices of the Federal Executive Branch shall be the responsibility of the VA. The DA may provide, upon request, any assistance necessary to support the VA's justification or explanations of the VA's programs conducted under this MOA. In general, the VA is responsible for all public information. The DA may make public announcements and respond to all inquiries relating to the ordinary procurement and contract award and administration process. The VA or the DA shall make its best efforts to give the other party advance notice before making any public statement regarding work contemplated, undertaken, or completed pursuant to IA's under this MOA.

ARTICLE XII - MISCELLANEOUS

A. Other Relationships or Obligations

This MOA shall not affect any pre-existing or independent relationships or obligations between the VA and the DA.

B. Survival

The provisions of this MOA which require performance after the expiration or termination of this MOA shall remain in force notwithstanding the expiration or termination of this MOA.

C. Severability

If any provision of this MOA is determined to be invalid or unenforceable, the remaining provisions shall remain in force and unaffected to the fullest extent permitted by law and regulation.

ARTICLE XIII - AMENDMENT, MODIFICATION AND TERMINATION

This MOA may be modified or amended only by written, mutual agreement of the parties. Either party may terminate this MOA by providing written notice to the other party. The termination shall be effective upon the sixtieth calendar day following notice, unless a later date is set forth. In the event of termination, the VA shall continue to be responsible for all costs incurred by the DA under this MOA and for the costs of closing out or transferring any on-going contracts.

ARTICLE XIV - EFFECTIVE DATE

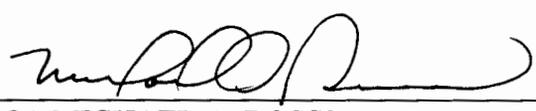
This MOA shall become effective when signed by both the VA and the DA.

U.S. Veterans Administration
Federal Region VII

U.S. Department of the Army
Corps of Engineers – Kansas City District



MR. KENT HILL
DIRECTOR



COL MICHAEL A. ROSSI,
COMMANDING

DATE: 4/24/07

DATE: 20 Apr 2007