

**INTERGOVERNMENTAL AGREEMENT BETWEEN LUKE AIR FORCE BASE AND  
THE CITY OF GLENDALE FOR SOLID WASTE COLLECTION, CONTAINER MAINTENANCE, LANDFILL  
DISPOSAL AND RECYCLING SERVICES**

THIS INTERGOVERNMENTAL AGREEMENT FOR SOLID WASTE COLLECTION, CONTAINER MAINTENANCE, LANDFILL DISPOSAL AND RECYCLING SERVICES ("Agreement") is made and entered into between Luke Air Force Base, a Department of the Air Force Installation ("Luke Air Force Base") and the City of Glendale, an Arizona municipal corporation ("Glendale"). Luke Air Force Base and Glendale are referred to herein collectively as the "Parties" or individually as a "Party."

**RECITALS**

- A. Luke Air Force Base and Glendale agree to enter into this mutually beneficial Intergovernmental Agreement for Solid Waste Collection, Container Maintenance, Landfill Disposal and Recycling Services.
- B. Luke Air Force Base and Glendale are authorized and empowered by provisions of their respective charters and the Arizona Revised Statutes § 11-952 to enter into this agreement.

**AGREEMENT**

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated herein by reference, the mutual promises and covenants set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Luke Air Force Base and Glendale hereby agree as follows:

1. DEFINITIONS.

The capitalized terms contained in this Agreement and not otherwise defined shall have the meanings set forth below:

"ADEQ" means the Arizona Department of Environmental Quality or any successor department or agency.

"Applicable Laws, Rules, and Regulations" means the laws, statutes, regulations and rules enacted by the federal government or any agency thereof, and the state or any political subdivision thereof, affecting the activities conducted and the services provided under this Agreement, the Performance Work Statement, and Standard Form 1449 (Contract Documents), as such laws, statutes, regulations and rules are now in effect or as adopted subsequently.

"Contract Documents" means collectively the Performance Work Statement for Integrated Solid Waste Management, the Standard Form 1449, and this Intergovernmental Agreement (IGA).

- (i) household hazardous wastes;
- (ii) commercial waste (originating from entities such as restaurants, stores, markets, theaters, hotels, and warehouses);
- (iii) institutional waste material originating in schools, hospitals, research institutions, and public buildings;
- (iv) small amounts of remodeling, demolition, roofing materials and other construction debris;
- (v) water treatment plant or wastewater sludge, capable of passing the mandated paint filter test, and delivered with an acceptable lab report (sample analysis according to appropriate waste testing protocol established by the Landfill, as defined below); and
- (vi) Friable and non-friable asbestos containing waste material.

“Non-Recyclable Material” also includes Hazardous Waste, Special Waste, Medical Waste, including Biohazardous Medical Waste, and any Unpermitted Waste or any mixture, portion or fraction thereof as defined herein or applicable federal or state law.

“Performance Work Statement for Integrated Solid Waste Management” means the scope of work for the City’s performance of the tasks associated with this Intergovernmental Agreement (IGA). The Performance Work Statement generally describes the personnel, equipment, tools, materials, vehicles, supervision and other items and services the City will provide Luke Air Force to manage the collection, transportation, disposal and/or processing of Solid Waste and Recyclable Material under the IGA. The Performance Work Statement may also contain provision or citations to standards or requirements applicable to this contract under the Federal Acquisition Regulations. The Performance Work Statement is incorporated herein by reference and is an enforceable part of the Agreement. In the event any term, including, but not limited to, the requirements, specification or obligations, contained in the Performance Work Statement conflict with those contain in this IGA, the term of this IGA shall control.

“Recyclable Material” means post-consumer materials which may be collected, separated, cleansed, treated or reconstituted and returned to the stream of commerce. Recyclable Materials may include, but are not limited to: (1) paper, including all office paper, copy paper, envelopes, junk mail, newspaper, advertising inserts, magazines, catalogs, NCR forms, telephone books, and brown paper bags; (2) cardboard, excluding all packing material; (3) glass, such as consumer beverage bottles, and other glass containers (4) Plastic bottles and containers; such as, PET #1 plastics, such as water bottles and soda bottles, HDPE Natural #2 plastics, such as milk and water jugs, HDPE Colored #2 plastics, such as shampoo bottles and laundry detergent bottles, #4 LDPE plastics, such as squeezable bottles, #5 Polypropylene such as yogurt cups, water bottles, ketchup and syrup bottles (5) Used Beverage Containers (UBC), such as aluminum cans; and (6) other materials which may be pre-approved and processed by the Processing Facility.

“Recycling Fee” means the total rate charged per ton as adjusted by Glendale for Recycling Material collected from Luke Air Force Base, as more fully set forth in Section 3 of this Agreement. The Recycling Fee shall include the rate charged by the Processing Facility and any applicable taxes, fees, or levies, or other costs (including a fuel surcharge) that Glendale incurs to collect, transport and process the Recyclable Material.

"Solid Waste" Both parties agree that Solid Waste means any MSW or Food Waste as referenced in the Performance Standards, that Glendale is authorized to dispose of in the Landfill according to its ADEQ-approved Solid Waste Management Plan.

"Solid Waste Management Plan" shall have the meaning as set forth in A.R.S. § 49-701, as amended.

D. Glendale shall have the right to refuse to collect or accept any waste or load it suspects contains Unpermitted Waste for transport to and disposal.

E. In the event Glendale identifies any load that contains Unpermitted Waste and refuses to collect it at Luke Air Force Base, the City will notify Luke Air Force Base of its decision not to collect the Unpermitted Waste. In the alternative, Glendale may collect the Unpermitted Waste and arrange for its proper disposal at an acceptable facility other than the Glendale Landfill and notify Luke Air Force Base of any additional charges related to collection, transportation and disposal of the Unpermitted Waste in the acceptable receiving facility. Glendale will only proceed to collect, transport and dispose of such Unpermitted Waste once it has obtained Luke Air Force Base's approval to pay such additional charges in accordance with Section 3.3 H. Any additional charges for the collection, transportation and disposal of Unpermitted Waste will be reimbursed against the corresponding Contract Line-Item Number reflected in Section C and Appendix A listed as an attachment in Section J of the Standard Form 1449.

F. Luke Air Force Base and Glendale recognize that although Waste Tires constitute Unpermitted Waste, Waste Tires may, on occasion, despite its best efforts, be mixed with Solid Waste collected at Luke Air Force Base. In the event that Waste Tires are discovered in a Solid Waste load after it has been collected and transported to the Glendale Landfill for disposal, Glendale will manage and dispose of such Waste Tires in accordance with the Solid Waste Management Plan for the Landfill. However, should the receipt and disposal of Waste Tires become unduly burdensome for the Landfill, the Parties will meet to develop a strategy to address the problem. Although the Parties agree to meet to address this problem in good faith, nothing in this subsection prevents or interferes with Glendale's right to exercise its rights under subsection 2.1 G. below and/or Section 7 herein.

G. Appliances or other waste containing Freon cannot be serviced by the City. In the event an appliance or other waste containing Freon is discovered by the City after a load is transported to the Landfill for disposal, the City will dispose of the waste and charge Luke Air Force Base an additional fee for such disposal as provided in Section 3.3 F. This fee is subject to change at any time to reflect the market cost of Freon removal, material handling and disposal.

H. Discovery of Unpermitted Waste. If Glendale discovers or suspects that Unpermitted Waste is in a load collected from Luke Air Force Base after it has been transported to the Landfill for disposal, Glendale shall:

- i. Isolate, remove and set aside that portion of the load which it determines is or may be Unpermitted Waste.
- ii. Notify Luke Air Force Base of the discovery of Unpermitted Waste within one hour of that discovery, unless that discovery occurs after 4:00 p.m., in which case, notification shall be given by 9:00 a.m. of the next business day.
- iii. Gather, preserve, maintain and make available to Luke Air Force Base all evidence demonstrating that the Unpermitted Waste was collected from Luke Air Force Base.
- iv. Test or arrange to have the suspected Unpermitted Waste tested to ascertain whether that waste is Unpermitted Waste.
- v. Allow Luke Air Force Base to: (1) inspect such Unpermitted Waste within 8 hours of notice to Luke Air Force Base of the existence of such waste; and (2) test the waste

with a summary of all transactions on a monthly basis as specified in Section 3.1. Information on specific transactions or a daily report will be generated upon request.

### 2.3 RECYCLABLE MATERIALS.

A. Glendale shall provide equipment and supplies, including, but not limited to, containers, bins, and vehicles, sufficient to collect, transport and process Recyclable Material from Luke Air Force Base in accordance with the Contract Documents.

B. Luke Air Force Base will be charged the fees established in Appendix A to this Agreement for Glendale's collection, transportation, management, and recycling of all Recyclable Material.

C. Glendale shall have the right to refuse to collect and transport Recyclable Material mixed with Non-Recyclable Material. The Processing Facility shall also have the right to refuse to process any load of Recyclable Material if such a load would require the Processing facility to segregate, sort and process substantial amounts of Non-Recyclable Materials. The Parties agree that the Processing Facility may refuse to perform such services in its sole, unreviewable discretion.

D. Rejection of Non-Recyclable Material. Glendale and the Processing Facility shall have the right to reject any and all Non-Recyclable Material(s) after the load is unloaded at the Processing Facility by giving notice to Luke Air Force Base as set forth in Section 2.2 E. above. Non-Recyclable Material shall be sorted and processed at the Processing Facility if not rejected.

E. Disposal of Non-Recyclable Material. If Non-Recyclable Material is discovered at the Processing Facility and the City believes that the Non-Recyclable Material was collected at Luke Air Force Base, Luke Air Force Base shall: (a) to the extent practicable, promptly remove and properly dispose of the Non-Recyclable Material; or (b) pay Glendale the actual cost for proper disposal of the Non-Recyclable Material at the Landfill, except as provided in Section 3.3 H below. Luke Air Force Base shall also pay or reimburse Glendale for the actual cost of the inspecting, testing, characterizing and handling of the Non-Recyclable Material. The costs associated with inspecting, testing, characterizing and or disposing of Non-Recyclable Material will be reimbursed against the corresponding Contract Line-Item Number reflected in Section C and Appendix A in Section J of the Standard Form 1449.

F. Disposal of Recyclable Material After Examination. If, after inspecting and/or testing the material, Glendale discovers the material was Recyclable Material, or discovers that material determined to be Non-Recyclable Material was not collected from Luke Air Force Base, Glendale shall process and/or dispose of that material at the Landfill or other appropriate facility at no additional cost to Luke Air Force Base and will not charge Luke Air Force Base for the cost of inspecting, testing, characterizing and handling the material.

G. Luke Air Force Base will be charged the Tipping Fee for processing and disposing of any Non-Recyclable Material at the Landfill, except as provided in Section 3.3 H. below.

### 3.2 RECORDKEEPING, ACCOUNTING AND AUDITING.

A. Glendale shall keep and maintain complete and detailed records related to the delivery of Solid Waste, Recyclable Material and Unpermitted Waste and the basis for the invoicing under this Section including: (1) tonnage of Solid Waste and Recyclable Material collected from Luke Air Force Base, and transported to and disposed of at the Landfill and transported to and processed at the Processing Facility; and (2) quantities of Unpermitted Waste, and its ultimate disposition (*e.g.*, segregation, storage or removal for disposal in another facility) of such material, including activities undertaken to characterize the waste, and the date, time, and vehicle identification of each vehicle delivering and disposing of it. Glendale shall further keep and maintain accurate and complete accounting records and vouchers evidencing all costs, receipts, payments and any other matter of accounting associated with its performance under this Agreement in accordance with generally accepted accounting principles.

B. Luke Air Force Base, or its audit representative, shall have the right at any reasonable time to inspect, copy and audit the records, accounting records, vouchers, and any source documents which serve as the basis for charges for Solid Waste tonnage ("Accounting Records"). The Accounting Records shall be available for inspection and audit for a period of three years following the termination of this Agreement, or 5 years from the date such Accounting Records were first created, whichever comes first.

### 3.3 FEES.

A. Luke Air Force Base will be charged and pay the Fees for Glendale providing the Services under the Contract Documents as set forth in the fee schedule contained in Appendix A of this Agreement. The Contract Line-Item Numbers reflected in Section C of the Standard Form 1449 reflect applicable fees identified in Appendix A; Section C of the Standard Form 1449 is incorporated into and an enforceable part of this Agreement.

B. Glendale will not compensate for, and Luke Air Force Base shall not be entitled to, any revenues generated from the sale of the Recyclable Material. Luke Air Force Base retains ownership of any Recyclable Material not collected under this Agreement, which will be processed in accordance with its own Recycling Program.

C. Tonnage will be tracked as trucks pass through the weighing device and charged the appropriate fees, including any Tipping Fee, according to this Section.

D. All fees charged pursuant to Appendix A shall be reviewed prior to any extension of the term of this Agreement, as provided in Section 4.1 below. The fee schedule review will be conducted no later than 6 months prior to the termination of this Agreement. If the term of this Agreement is renewed or extended, any fee adjustments shall take effect on the date the renewal becomes effective.

E. Notwithstanding subsection D. above, any fee may be adjusted at any time to reflect any adjustments of, changes to, or additions to Federal, State, or County taxes, fees, or levies for any collecting, transporting, processing or disposing of any materials in accordance with this IGA. Said fee adjustments are subject to Glendale providing notice to Luke Air Force Base prior to the adjustment (to the extent Glendale receives

C. Should the Parties wish to terminate or modify one or more of the terms, conditions or obligations due under this Agreement, the Parties will enter into a written, signed Amendment to this IGA.

5. OPERATION AND INSPECTION.

5.1 OPERATION AND MAINTENANCE OF THE LANDFILL. Glendale shall operate and maintain the Landfill, and perform its obligations under this Agreement, in a manner that is consistent with the terms of the Contract Documents and all Applicable Laws, Rules, and Regulations, as replaced or amended. Glendale shall monitor and ensure the Processing Facility is being operated according to all applicable Federal and State laws.

5.2 Hours and Days of Operation. The Landfill must be operational to receive Solid Waste from 7:30 a.m. to 4:00 p.m., Monday through Friday, and on Saturday from 7:00 a.m. to 3:00 p.m. Hours of operation for the Processing Facility will be provided to Luke Air Force in accordance with the Notice provision of this Agreement as contained in Section 10.17. The Federal Holiday schedule will be provided by Luke Air Force Base in advance of or at the beginning of each fiscal year. Alternative holiday schedules and extended hours may be established by mutual agreement of the Parties.

5.3 Right to Inspect. Luke Air Force Base shall have the right to enter and inspect the Landfill and the Processing Facility to observe operations during operating hours as long as: (A) such visits are conducted in a manner that does not cause unreasonable interference with Landfill or Processing Facility operations; and (B) any person conducting such visits (i) complies with safety rules and regulations and (ii) is escorted by a designated Landfill or Processing Facility employee.

5.4 Glendale will provide roll off containers at locations identified by Luke Air Force Base. Luke Air Force Base will be charged for these containers as set forth in the fee schedule contained in Appendix A. Front load containers are owned by Luke Air Force Base but will be maintained by Glendale under the provisions of this Agreement at no extra charge. Glendale will also provide maintenance on all 90-gallon recycling containers at no extra charge. "Maintenance" includes front load container washing, container painting, numbering, decals, and other general repairs as needed.

5.5 Glendale and Luke Air Force Base will each maintain the personnel necessary to carry out the services set forth in the Contract Documents.

6. REPRESENTATIONS AND WARRANTIES.

6.1 Glendale hereby represents and warrants to Luke Air Force Base that:

A. Glendale has the full power and authority to execute and deliver this Agreement and carry out the transactions contemplated herein.

B. Glendale has taken all necessary action to execute and deliver this Agreement and perform its obligations in accordance with the Contract Documents.

9. IMMIGRATION LAW COMPLIANCE.

9.1 The City of Glendale may be the only Party under this Agreement that will be hiring or managing employees or contractors to carry out the services described herein. As such, Glendale and on behalf of any subcontracted party, warrants, to the extent applicable under Arizona Revised Statutes § 41-4401, compliance with all federal immigration laws and regulations that relate to its employees as well as compliance with Arizona Revised Statutes § 23-214(A) which requires registration and participation with the E-Verify Program. The United States warrants its compliance with all applicable federal immigration laws and regulation.

9.2 Any breach of warranty under Section 9.1 above as to federal immigration laws is considered a material breach of this Agreement and is subject to penalties up to and including termination of this Agreement.

9.3 Each Party retains the legal right to inspect the papers of any contracted party's or subcontracted party's employee who performs work under this Agreement to ensure each Party is compliant with the warranty under Section 9.1 above.

9.4 Each Party may conduct random inspections, and upon request or notice to other Party, either Party shall provide copies of papers and records demonstrating continued compliance with the warranty under Section 9.1 above. Each Party agrees to keep papers and records available for inspection during normal business hours and will cooperate in exercise of each Party's statutory duties and not deny access to business premises or applicable papers or records for the purposes of enforcement of this Section 9.

9.5 The City of Glendale agrees to incorporate into any subcontracts under this Agreement the same statutorily required obligations and expressly accrue those obligations directly to the benefit of either Party. The City of Glendale also agrees to require any subcontracted party to incorporate into each of its own subcontracts under this Agreement the same obligations above and expressly accrue those obligations to the benefit of the either Party.

9.6 The warranty and obligations under this section for each Party are continuing throughout the term of this Agreement or until such time as either Party determines, in its sole discretion, that federal immigration law or Arizona law has been modified in that compliance with this section is no longer a requirement.

9.7 The "E-Verify Program" above means the employment verification program administered by the United States Department of Homeland Security, the Social Security Administration, or any successor program.

10. GENERAL PROVISIONS.

10.1 NON-ASSIGNMENT. Neither Party shall assign, transfer, convey, subcontract, pledge or otherwise hypothecate this Agreement, its rights, duties or obligations hereunder nor any part thereof without prior written consent of the other Party, which may be withheld in a Party's reasonable discretion. Any assignment made in violation of this Section shall be void and of no force or effect and shall constitute a material breach of the Agreement.

10.10 DISPUTES AND PROTESTS. The Parties mutually agree to attempt to resolve issues at the lowest level possible, and to proceed diligently with performance to the degree unaffected by the dispute or pending dispute resolution. If the matter cannot be resolved and or is not resolved at the lowest level, then all disputes arising under or relating to this contract shall be resolved under Federal Acquisition Regulation clause 52.233-1 Disputes. All Protests will be resolved in accordance with Federal Acquisition Regulation clause 52.233-2 and 52.233-3.

10.11 NO ORAL MODIFICATION. No provision of this Agreement shall be amended, waived or modified except by an instrument in writing signed by the Parties hereto.

10.12 LUKE AIR FORCE BASE ENTRY COMPLIANCE. Glendale agrees that its personnel and agents will comply with applicable Air Force and Luke policies, regulations, and procedures concerning fire, safety, environmental, occupational and environmental health, security, entry access to Luke Air Force Base, traffic, parking, hands-free cell phone usage only, and possession of firearms or other lethal weapons. If any question arises as to Glendale personnel and behavior while on Luke Air Force Base property with regard to these matters, such personnel shall follow the direction of on-site Luke Air Force Base personnel. All applicable Federal Acquisition Regulation clauses are referenced in Section C of the Standard Form 1449.

10.13 LAWS AND REGULATIONS. The Parties shall, in the operation of the Landfill and the performance of their obligations under this Agreement, comply with any and all federal, state, and local laws and regulations now in effect, or hereafter enacted during the term of this Agreement, which are applicable to the Parties, their respective employees, agents, or subcontractors, if any.

10.14 CONTRACTING CLAUSE. This Agreement is governed by specific clauses found in the Federal Acquisition Regulation (FAR), the Defense Federal Acquisition Regulation Supplement (DFARS) and the Air Force FAR Supplement (AFFARA), which are either referenced within this Agreement and or are referenced or cited in full in Section C of Standard Form 1449.

10.15 ENVIRONMENTAL COMPLIANCE. The Parties agree to comply with all federal, state and local environmental laws, permits and regulations applicable to the generation, accumulation, storage, handling, management, collection, transportation, sorting, processing, recycling and disposal of Solid Waste, Recyclable Material, Non-Recyclable Material, Hazardous Waste, Special Waste, or Medical Waste in carrying out their obligations under this Agreement.

10.16 NO BOYCOTT OF ISRAEL. Glendale is not currently engaged in and agree that for the duration of the Agreement it will not engage in, a boycott of Israel, as that term is defined in A.R.S. § 35-393.

10.17 NOTICES. Any notice or other communication required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given if: (A) delivered to the party at the address set forth below; (B) deposited in the U.S. Mail, registered or certified, return receipt requested, to the address set forth below; (C) given to a recognized and reputable overnight delivery service, to the address set forth below; or (D) delivered by e-mail transmission to the address set forth below:

10.19 NON-EXCLUSIVE AGREEMENT. The Parties acknowledge that this is a non-exclusive Agreement and that Luke Air Force Base and Glendale may contract with others to provide for services similar to those in this Agreement with respect to the Landfill and the collection and delivery of Solid Waste.

10.20 CONTRACTUAL STATUS. Each Party is acting independent of the other Party under this Agreement and nothing herein is intended nor shall it be construed to create a joint venture or partnership between Luke Air Force Base and Glendale, or to render either Luke Air Force Base or Glendale liable for contractual or governmental obligations of the other including, without limitation, obligations to various agents and/ or subcontractors, in any manner whatsoever, it being expressly agreed between the Parties that neither of them have any intention of assuming any contractual or other liability of the other by reason of the execution of this Agreement.

10.21 REMEDIES. In the event of a material breach of any term of this Agreement, the Parties to this Agreement, in addition to the right of termination provided pursuant to Section 4.2 above, shall have available all remedies provided by law or in equity for such breach, including expressly the right to an award of reasonable attorney's fees and court costs to the prevailing Party in connection with any dispute respecting any term of this Agreement.

10.22 NON-DISCRIMINATION POLICIES. All Parties agree not to discriminate against any employee or applicant for employment on the basis of race, color, religion, sex, national origin, age, marital status, sexual orientation, gender identity or expression, genetic characteristics, familial status, U.S. military veteran status or any disability.