



DEPARTMENT OF THE ARMY
US ARMY INSTALLATION MANAGEMENT COMMAND
HEADQUARTERS UNITED STATES ARMY GARRISON, FORT LIBERTY
2175 ROCK MERRITT AVE
FORT LIBERTY, NC 28310-5000

INTERGOVERNMENTAL SUPPORT AGREEMENT (IGSA)

BETWEEN

UNITED STATES ARMY GARRISON, FORT LIBERTY, NC

AND

CITY OF FAYETTEVILLE, NC

FOR

SOLID WASTE MANAGEMENT SERVICES

IGSA NUMBER (IGSA-A60RB-24-DPW-008)

This is an Intergovernmental Support Agreement (hereafter referred to as the IGSA or Agreement) between United States Army Garrison-Fort Liberty (USAG-Fort Liberty) and the City of Fayetteville, NC (hereafter CITY), collectively "Parties" is entered into pursuant to federal law codified at 10 USC 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 receive installation support and services. The Secretary of the Army has delegated authority to [Garrison Commander] (hereafter GC) to execute agreements on behalf of the USAG-Fort Liberty.

The purpose of this IGSA is to outline the roles and responsibilities of the parties, identify the services to be furnished by the CITY, the prices to be paid by USAG-Fort Liberty, and the appropriate reimbursement and quality control procedures. The parties undertake this Agreement in order to provide services to USAG-Fort Liberty, to achieve cost savings for the Department of the Army, and to provide additional revenues to local governments and their workforces.

RESPONSIBILITIES OF THE PARTIES:

The CITY shall perform the installation support services as stated in this IGSA. The term "installation support services" only includes services, supplies, resources, and support typically provided by a local government for its own needs and without regard to whether such services, supplies, resources, and support are provided to its residents generally, except that the term does not include security guard or firefighting services. If the CITY subcontracts the service, it must be done on a competitive basis.

This is a non-personal services agreement. Each party is responsible for all costs of its personnel including pay, benefits, support and travel. Each party is responsible for supervision or management of its personnel.

The tasks, duties and responsibilities set forth in this IGSA may not be interpreted or implemented in any manner that results in CITY personnel creating or modifying federal policy, obligating appropriated funds of USAG-Fort Liberty, or overseeing the work of federal employees. Under no circumstances, shall CITY employees or contractors be deemed federal employees. If the CITY 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 CITY and its employees.) Employees of USAG-Fort Liberty may not perform services for or on behalf of the CITY without the approval of USAG-Fort Liberty IGSA Manager (IGSA-M).

SUMMARY OF SERVICES AND PRICE:

The Performance Work Statement (PWS) and Technical Exhibits (see attachments) detail the execution of the solid waste management partnership between CITY and USAG-Fort Liberty.

Base Year: \$6,008,250.78

Years Two – Ten: On each renewal anniversary date of the IGSA, CITY shall negotiate an increase or decrease of the rates in accordance with the Consumer Price Index Rate for Urban Consumers (CPI-U). The amount of the increase or decrease shall be equal to the percentage that the CPI-U has increased or decreased over the previous twelve (12) month period, as otherwise limited herein. The maximum increase or decrease to the Base Rate, to include any subsequent annual increase) in accordance with the CPI-U shall not exceed five (5) percent.

The CPI-U shall be the nearest available metropolitan area, based on the latest available data from the Department of Labor's Bureau of Labor Statistics. The CPI-U used will be the CPI-U published by the DOL during the month ninety (90) days preceding the adjustment.

TERM OF AGREEMENT:

The term of this Agreement shall be for one year from the execution of the Agreement by the GC and CITY representative, and renewable for successive one year periods for nine (9) additional years. USAG-Fort Liberty shall only be obligated for one year of performance under the agreement, as it has no authority to obligate additional periods of performance without appropriation of adequate funds by Congress. The parties shall only be obligated for an additional year of performance upon receipt of such funds, and only upon written notice by the IGSA-M of an intent to award the option for an additional year of performance. The IGSA-M shall provide notice of the renewal of the IGSA at least 10 days prior to the expiration of then current performance period.

The IGSA-M may condition the renewal upon availability of funds and may suspend performance of the renewed period at no additional cost to USAG-Fort Liberty until adequate funds have been received. If funds are not received, the parties agree that the Agreement can be unilaterally terminated by the IGSA-M without further liability to USAG-Fort Liberty.

PAYMENT:

USAG-Fort Liberty shall pay the CITY for services based upon satisfactory completion of services on a monthly basis. Payment shall be based on services provided as set forth in this Agreement. The CITY shall not include any State or Local taxes in the prices it charges USAG-Fort Liberty unless approved by the IGSA-M in advance. The CITY shall electronically submit invoices or payment requests to the Government's IGSA Technical Representative (IGSA-TR) and the IGSA-M. The IGSA-M will not authorize payment unless all billed services have been satisfactorily completed, and may reduce the amount(s) billed for unsatisfactory or partial performance, or for other reasons specified in this Agreement. After sufficient notification, CITY could withhold services if payments are not received timely.

CHANGE IN RATES:

Rates may only be adjusted by written request to the IGSA-TR and the IGSA-M. The CITY and the IGSA-M must be mutually agreeable to the changes. If the IGSA-TR or his/her representative disagree, the parties shall discuss the proposed rates, changes in the services, or other modifications to the Agreement. Modifications to prices in the Agreement must be reduced to writing, approved and incorporated into the Agreement by the IGSA-M, and signed by the GC and CITY representative.

OPEN COMMUNICATIONS AND QUALITY CONTROL:

The Parties shall identify and present any issues and concerns that could potentially impede successful performance of the IGSA in a timely and professional manner. The CITY shall maintain a quality control plan to ensure all work is completed within the specified timelines and quality standards specified in the Agreement. After its execution, an initial joint meeting of the Parties will be conducted to discuss the terms of the IGSA. The initial meeting shall also discuss orientation of the CITY and its employees to work areas on the installation as well a phase-in plan to permit the orderly transition of responsibilities for performance of the services by the CITY.

INSPECTION OF SERVICES:

The CITY will only tender services and goods in conformance with the IGSA. The Directorate of Public Works (DPW) will designate a requirements owner or subject matter expert as the IGSA-TR, and the IGSA-M shall appoint the IGSA-TR in writing. The IGSA-TR will be responsible for inspecting all services performed. The CITY will be notified of the identity of the IGSA-TR and his/her alternate, and of any changes in the future. If services are performed outside

the installation, the IGSA-TR shall be granted access to areas where services are performed.

The IGSA-TR shall have the right to inspect and test all services; inspections and tests to be conducted in a manner that will not unduly delay the performance of work. If the IGSA-TR determines that services do not conform to the requirements in the Agreement, the IGSA-TR can require the CITY to perform the services again, in whole or in part, at no additional cost to the government. Alternatively, if the services cannot be corrected by re-performance, the IGSA-TR can reduce the price to be paid for services to reflect the reduced value of the services performed. The IGSA-TR may also, in his/her sole discretion, waive price reductions or re-performance of services. Such waivers shall not constitute a waiver of requirements in the IGSA unless approved in writing by the IGSA-M.

If the CITY is unable to perform any of the services due to an occurrence beyond the reasonable control of the parties, such as Acts of God, unusually severe weather, or government activities on the installation which impede the CITY's performance, the CITY shall promptly notify the IGSA-TR.

In those rare instances in which the CITY fails to re-perform services or abandons performance, USAG-Fort Liberty may perform or contract for performance of the services and charge those costs to the CITY. Except in an emergency, USAG-Fort Liberty will not exercise this authority without providing prior notice to the POC designated by the CITY to allow for amicable resolution of issues between the parties. If services are deemed to be deficient and cannot be corrected to the satisfaction of the IGSA-TR, the IGSA-M may terminate the IGSA immediately. Such termination shall not become effective without prior notice and consultation with the CITY POC identified in this agreement.

TERMINATION:

The IGSA may be terminated by mutual written agreement at anytime. Except as otherwise specified in this agreement, either party can unilaterally terminate this IGSA upon a 180-day written notice to the POCs designated in this Agreement.

USAG-Fort Liberty reserves the right to terminate this agreement for its convenience at any time. When notified by the IGSA-M of the termination, the CITY shall immediately stop all work. The government will pay the CITY a percentage of the agreed price reflecting the percentage of work performed prior to the notice. The CITY shall not be paid for any work performed or costs incurred which reasonably could have been avoided.

SUSPENSION OF AGREEMENT:

USAG-Fort Liberty reserves the right to suspend performance of the agreement or access to the installation in the event of emergencies, mobilizations, national security reasons, or for other reasons outside the control of USAG-Fort Liberty.

APPLICABLE LAW:

The IGSA is subject to the laws and regulations of the United States, the United States Army, and USAG-Fort Liberty. 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.

CLAIMS AND DISPUTES:

The parties shall use their best efforts to resolve any disagreement or disputes they may have regarding this Agreement. To minimize disputes, the parties will meet periodically, preferably on a monthly basis, to discuss performance and any other issues they may have. The IGSA-TR shall represent the Government in such meetings.

If the parties are unable to resolve an issue, the IGSA-TR or the CITY may submit a claim arising out of the Agreement to the IGSA-M for a decision. The written submission must specify the nature and basis for the relief requested and include all data that supports the claim and may designate a CITY representative to discuss the claim and its resolution. The IGSA-M shall issue a decision within 90 days of receipt of each claim.

Appeals Authority: If the CITY is dissatisfied with the IGSA-M's decision, it may appeal the matter to the GC and must specify the basis of its disagreement. The GC, or his/her designee, shall issue a final determination on the matter within 60 days of receipt of the appeal. The final determination shall be reduced to writing and provided to the POCs specified in this agreement. All final determinations that result in the payment of additional funds to the CITY must be coordinated with the IGSA-M.

As part of its appeal, the CITY may request alternate dispute resolution (ADR) to resolve disputes; the Government may agree to the use of ADR in its sole discretion. If ADR procedures are employed, the GC shall consider the findings and recommendations of the third party mediator(s) in making his/her final determination.

The parties agree to exhaust the appeal process described above before bringing any civil action over disputes arising from this IGSA.

NOTICES, POINTS OF CONTACT (POCs), ANNUAL REVIEWS, AND AMENDMENTS TO THE IGSA:

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

For USAG-Fort Liberty -

a) IGSA-TR: Quality Assurance Specialist, Anthony Morris, 910-432-7781, anthony.b.morris4.civ@army.mil

b) IGSA-M: Deputy Director, Lawrence Pico, PE, 910-396-4009, lawrence.a.pico.civ@army.mil

For the CITY -

a) Assistant City Manager, Jodi Phelps, 910-703-4099,
jodi.phelps@fayettevillenc.gov
b) Project Manager, Brook Redding, 910-433-1475,
brookredding@fayettevillenc.gov

Unless otherwise specified, all notices under this Agreement shall be provided to the POCs specified above.

The POCs and a management official at least one level above the POCs as well as the IGSA-M and IGSA-TR shall meet annually to discuss the IGSA, and consider any amendment to the Agreement.

Any party can propose amendments at any time. All amendments must be reduced to writing and incorporated by amendment to Agreement by the IGSA-M and signed by the GC and CITY representative in order to be effective.

DUTY TO PROTECT GOVERNMENT PROPERTY ON THE INSTALLATION:

The CITY and their subcontractor shall conduct a visit of the installation with the IGSA-TR prior to performance to satisfy itself of the general and local conditions existing on the installation to include sites where services will be performed. The CITY shall prepare an accident avoidance plan to protect Government property on the installation. The CITY shall take measures to protect and not damage any property on USAG-Fort Liberty during performance of services. Should the CITY damage such property, the CITY may replace the item or restore it to its prior condition at its own cost or reimburse USAG-Fort Liberty for such costs. If the CITY does not take measures to replace or restore, USAG-Fort Liberty reserves the right to deduct replacement or restoration costs from amounts billed by the CITY each month. The IGSA-TR shall provide written notice of the Government's intent to offset costs against billings to allow the parties to resolve the matter amicably. Such resolution can include a schedule for payments to cover the loss or restoration of Government property over the term of the current period of performance.

CONTINUITY OF SERVICES:

The CITY recognizes that the services under this Agreement are vital to USAG-Fort Liberty and must be continued without interruption even in event of a dispute between the parties. Should USAG-Fort Liberty terminate this Agreement for any reason, the CITY agrees to furnish phase-in training to any successor contractor and exercise its best efforts and cooperation to affect an orderly and efficient transition of services.

HOLD HARMLESS:

Except as otherwise provided in this Agreement, the CITY shall indemnify and hold USAG-Fort Liberty harmless against any and all judgments, expenses, liabilities, claims and charges of whatever kind or nature that may arise as a result of the activities of the CITY, its employees, or its subcontractors in

performance of this Agreement. Likewise, except as otherwise provided in this Agreement, USAG-Fort Liberty shall hold CITY harmless against any and all judgments, expenses, liabilities, claims, and charges of whatever kind of nature that may arise as a result of the activities of USAG-Fort Liberty or its employees in the administration of this Agreement.

WAGES AND LABOR LAW PROVISIONS:

These provisions apply to the CITY and any contractor performing services under this IGSA on behalf of the CITY. The CITY shall be exempt from federal labor statutes, provided it pays its employees at wage grades or rates normally paid by the CITY and complies with all applicable CITY labor laws and standards. In no event, however, shall any employee be paid at wage rate below the minimum wage established in the Fair Labor Standards Act. The CITY shall comply with all applicable federal, state and local occupational safety and health requirements and standards. If the CITY has knowledge that any actual or potential labor dispute by its employees may delay or threaten to delay performance of the contract, the CITY shall immediately notify the IGSA-TR and the IGSA-M. The CITY shall provide timely updates until the dispute is resolved.

NON-DISCRIMINATION AND SEXUAL ASSAULT/HARASSMENT:

This provision applies to CITY and its subcontractors. The CITY agrees not to discriminate against any employee based upon race, color, religion, sex, national origin, or sexual orientation, or to allow any employee to engage in discriminatory practices or conduct while performing work under this IGSA. The CITY shall not permit employees which engage in sexual assault, sexual harassment or trafficking to perform services under this IGSA. The CITY shall not engage in age discrimination and shall comply with the Americans with Disabilities Act with respect to the hiring and accommodation of employees performing services under this IGSA.

INSTALLATION SECURITY AND ACCESS REQUIREMENTS:

The provisions in this section are applicable to CITY and subcontractor employees performing services under this Agreement. The CITY shall not permit employees who are not citizens or lawful immigrants to perform services under this IGSA. Employees who have been convicted of felonies, sex crimes, drug offenses, or violent crimes shall not perform services under this IGSA without receiving a favorable background investigation and the specific approval of the IGSA-TR. The CITY shall not permit any employee to perform work on this IGSA if such person is identified by the IGSA-TR as a potential threat to the health, safety, security, general well-being or operational mission of USAG-Fort Liberty. The IGSA-TR may deny the continued entry of an employee upon receipt of information that indicates that the individual's continued entry to the installation is not in the best interests of national security. See PWS for additional security information. All CITY/subcontractor vehicles will be identifiable and include the CITY/subcontractor's name.

INSURANCE:

The CITY's solid waste subcontractor shall at its own expense provide and maintain, during the entire period of this IGSA, the following insurance:

- a. General liability insurance with a minimum combined single limit of \$1,000,000 per occurrence and \$2,000,000 in the aggregate for all premises and operations.
- b. Comprehensive vehicular liability insurance in the combined single limit of \$1,000,000 per occurrence for bodily injury and property damage.
- c. Copies of insurance policies shall be furnished to the IGSA-TR and IGSA-M before providing services under this agreement.

LIABILITY FOR DAMAGE TO THIRD PARTIES:

The CITY shall be liable to the government for loss or damage to third parties in performance of the services, wherever performed, and for injury or death of persons resulting from the negligence or fault of the CITY, its employees, its subcontractors, or agents in performance of this Agreement. The CITY shall hold the USAG-Fort Liberty harmless from claims or litigation from third parties and shall indemnify the Government for all judgments against it as well as costs incurred in connection with defense of such litigation. USAG-Fort Liberty shall not be responsible for injuries and deaths to the CITY's employees or employees of its subcontractors unless caused by a Government employee and compensable pursuant to federal legislation authorizing recovery against USAG-Fort Liberty.

DUTY TO COOPERATE IN ACCIDENTS AND DAMAGE:

The CITY and USAG-Fort Liberty shall fully cooperate with each other in investigations involving accidents or damage to property or persons on property under federal control. The CITY and the IGSA-TR shall furnish timely reports to each other of investigations, on-going and completed, regarding such incidents.

ENVIRONMENTAL REQUIREMENTS: See PWS.

DRUG FREE WORKPLACE ON MILITARY INSTALLATIONS AND FACILITIES:

All property under the control of the Department of the Army are drug free areas. Notwithstanding any contrary State or Local law, the CITY shall notify all individuals performing services on the installation that no controlled substances as specified in the Controlled Substances Act and 21 Code of Federal Regulations shall be sold, distributed, used, or consumed on the installation. The IGSA-TR may direct the CITY to bar individuals who violate these laws and policies. Such individuals additionally may be barred from access to the installation by the GC.

CITY EMPLOYEE REQUIREMENTS:

All CITY and subcontractor employees shall comply with all installation security, health, and safety conditions. Employees who interface with government personnel shall be able to speak and understand English. All employees shall wear identification badges or distinctive clothing which clearly identifies that they are CITY or subcontractor employees. At the conclusion of the IGSA or whenever an employee no longer performs IGSA services, the CITY will provide the IGSA-TR all identification or other credentials furnished by the Government.

TRANSFERABILITY:

This Agreement is not transferable except with the written authorization of the IGSA-M.

ACTIONS OF DESIGNEES:

Any act described in the IGSA to be performed by an individual or official can be performed by the designee of such individual or official with the exception of the IGSA-M.

FOR THE USAG-Fort Liberty:

FOR THE CITY:

K. Chad Mixon
Colonel, U.S. Army
Garrison Commander

Douglas J. Hewett, ICMA-CM
City Manager, Fayetteville, NC

Date

Date

List all Attachments/Annexes:

- a. Attachment 1/Solid Waste Services – Performance Work Statement
- b. Attachment 2/TE-1 – Performance Requirements Summary
- c. Attachment 3/TE-2 – Deliverables Schedule
- d. Attachment 4/TE-3 – Estimated Workload Data
- e. Attachment 5/ TE-4 – Enterprise Municipal SWM Services Performance
- f. Attachment 6/TE-5 – Location Government Owned Equipment
- g. Attachment 7/TE-7/7a –Fort Liberty Map by Section / Map (s)/Layouts