

RESOLUTION NO. 3594-2013

RESOLUTION OF THE FORT BRAGG CITY COUNCIL APPROVING THIRD AMENDMENT TO CASPAR TRANSFER STATION OPERATIONS AGREEMENT & LEASE BETWEEN COUNTY OF MENDOCINO AND SOLID WASTES OF WILLITS, INC. AND AUTHORIZING CITY MANAGER TO EXECUTE THE SAME

WHEREAS, Mendocino County ("County") and the City of Fort Bragg ("City") jointly own approximately 60 acres of property upon which the Caspar Landfill and Solid Waste Transfer Station are located in the Caspar area at the terminus of Prairie Way, also known as Assessor's Parcel Numbers 118-50-010 and 118-50-011 (hereinafter "Caspar property"); and

WHEREAS, the Joint Powers Agreement approved by the Fort Bragg City Council per Resolution No. 3420-2011 on January 10, 2011 and amended per Resolution No. 3423-2011 on January 24, 2011, specifies that County shall enter into a "Caspar Transfer Station Operations Agreement and Lease" (hereinafter, "Caspar Operations Agreement") with Solid Wastes of Willits, Inc. ("SWOW") to convert the existing Caspar Transfer Station, from County operation to operation by SWOW and requires that the City review and approve the Caspar Operations Agreement and consent to it in all respects that affect City's rights, powers, ownership, interests and liabilities; and

WHEREAS, County and SWOW entered into an agreement on January 25, 2011, with the consent and concurrence of the City of Fort Bragg, providing for operation of the Caspar Transfer Station by SWOW; and

WHEREAS, on November 28, 2011, the City approved the First Amendment to the agreement, amending Section 14(D) of the Caspar Operations Agreement to allow County to determine how future recycling commodity value adjustments, positive or negative, will be apportioned between solid waste, yard waste, metal and wood; and

WHEREAS, on January 9, 2012, the City approved the Second Amendment to the agreement, to further modify the Caspar Operations Agreement to allow for relocation of SWOW facilities in the event that development of a new commercial transfer station at the Caspar property occurs; and

WHEREAS, the County and SWOW wish to further modify the Caspar Operations Agreement to amend Section 14, Subsection C of the Agreement to amend the fuel cost adjustment mechanism to provide a more accurate method to adjust rates which is based on a year to year comparison of a 12-month average of the California index for #2 diesel fuel, compiled and published by the U.S. Energy Information Administration or its successor.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Fort Bragg does hereby approve the Third Amendment to Caspar Transfer Station Operations Agreement & Lease between County of Mendocino and Solid Wastes of Willits, Inc. as shown in "Exhibit A" and authorizes the City Manager to execute the same.

The above and foregoing Resolution was introduced by Councilmember Hammerstrom, seconded by Councilmember Deitz, and passed and adopted at a regular


meeting of the City Council of the City of Fort Bragg held on the 25th day of February, 2013, by the following vote:

AYES: Councilmembers Courtney, Deitz, Hammerstrom, and Mayor Turner.
NOES: None.
ABSENT: None.
ABSTAIN: None.



DAVE TURNER,
Mayor

ATTEST:



Cynthia M. VanWormer, MMC
City Clerk

THIRD AMENDMENT TO CASPAR TRANSFER STATION OPERATIONS
AGREEMENT & LEASE BETWEEN COUNTY OF MENDOCINO AND SOLID
WASTES OF WILLITS, INC. [BOS AGREEMENT #11-008]

This 3rd amendment to the Caspar Transfer Station Operations Agreement & Lease is made this 22nd day of JANUARY, 2013, at Ukiah, California between the County of Mendocino [hereinafter, "County"] and Solid Wastes of Willits, Inc.[hereinafter, "SWOW"].

WHEREAS, County and SWOW entered into an Agreement on January 25, 2011, with the consent and concurrence of the City of Fort Bragg, providing for operation of the Caspar Transfer Station by SWOW; and

WHEREAS, COUNTY and GRANTEE wish to amend the fuel cost adjustment mechanism to provide a more accurate method to adjust rates to reflect changes in GRANTEE'S fuel cost; and

WHEREAS, pursuant to the Joint Powers Agreement between the County of Mendocino and City of Fort Bragg for Caspar Landfill and Solid Waste Transfer Station [BOS Agreement #11-007], this amendment requires the consent of the City of Fort Bragg;

NOW, THEREFORE, it is agreed that Section 14, Subsection C of the Agreement is amended to read as follows:

Cost-of-Living & Fuel Rate Adjustments

Two to four months prior to the end of a Rate Period, Grantee may apply for cost-of-living (COLA) and a fuel rate adjustment to become effective on January 1, 2012, and annually thereafter subject to approval by the County. The rate adjustments shall be based on: 1) 90% of the change in the value of the most recently published All Urban Consumers Index (CPI-U), all items, for the San Francisco-Oakland-San Jose, CA, Base Period 1982 - 1984 = 100, not seasonally adjusted, compiled and published by the U.S. Department of Labor, Bureau of Labor Statistics or its successor and its value twelve months before, and 2) 100% of the change in the average monthly value over the last 12 months, compared to the average monthly value for the preceding 12 month period, of the most recently published California index for #2 diesel fuel, compiled and published by the U.S. Energy Information Administration or its successor. Grantee shall notify the County of the adjustments to take place and shall provide the County with its computations and documentation therefore.

For calculation of adjustments, the rates would be divided into three components – Fuel, Pass-through and All Other. The Fuel Component would equal 2% of the first year rate. The Pass-through Component would equal 29%. The All Other Component would equal 69% of the rate. When the first adjustment to rates occurs, it will be done in the following manner:

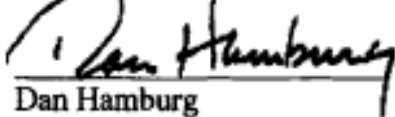
Fuel Component: Existing Billed Rate x 2% x Diesel Fuel Index

Pass-through Component: None, since pass-through increases, if any, will be made pursuant to Section 15(A) above.

All Other Component: Existing Billed Rate x 69% x CPI Index

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have affixed their hands.

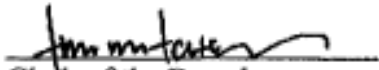
COUNTY OF MENDOCINO



Dan Hamburg
Chair, Board of Supervisors

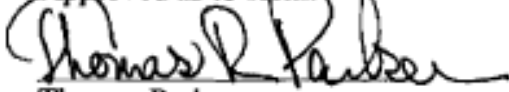
JAN 22 2013

Attest:



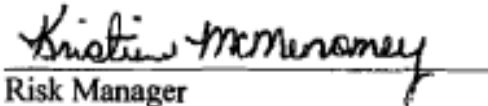
Clerk of the Board

Approved as to form:



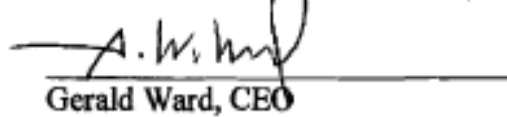
Thomas Parker
County Counsel

Approved as to Insurance Requirements:



Risk Manager

SOLID WASTES OF WILLITS, INC.



Gerald Ward, CEO

I hereby certify that according to the provisions of Government Code sections 25103, delivery of this document has been made.

CARMEL J ANGELO
Clerk of the Board

By: 
Deputy

Recommended:
Michael E. Sweeney
Solid Waste Director



The City of Fort Bragg consents to the foregoing amendment.

Date: _____