

## **RESOLUTION NO. 3574-2012**

### **RESOLUTION OF THE FORT BRAGG CITY COUNCIL APPROVING AMENDMENT NO. 5 TO AGREEMENT FOR TRANSFER STATION OPERATION AND SOLID WASTE TRANSPORTATION AND DISPOSAL BETWEEN THE CITIES OF FORT BRAGG AND WILLITS, THE COUNTY OF MENDOCINO AND SOLID WASTES OF WILLITS, INC. AND AUTHORIZING CITY MANAGER TO EXECUTE SAME**

**WHEREAS**, in February and March 2000, the City of Fort Bragg, the County of Mendocino, and the City of Willits ("Agencies") executed an agreement with Solid Wastes of Willits ("Contractor") for the construction and operation of the Willits Solid Waste Transfer Station and Recycling Center; and

**WHEREAS**, Section 25 of the agreement was amended by Amendment No. 3 in 2008 to state that the Transport Fuel Cost component will be adjusted annually "...based on actual fuel receipts. SWOW shall submit, and the Contract Administrator shall review, actual fuel receipts for reasonableness"; and

**WHEREAS**, an accurate measure of the annual change in fuel costs can be obtained from the U.S. Energy Information Administration monthly report of California No. 2 Diesel Retail Sales by All Sellers; and

**WHEREAS**, use of the U.S. Energy Information Administration monthly report of California No. 2 Diesel Retail Sales by All Sellers avoids the expenditure of time and potential uncertainties involved with a review of Contractor's fuel bills; and

**WHEREAS**, the Mendocino County Board of Supervisors, the City of Fort Bragg and the City of Willits are the governing bodies with authority to grant an amendment to the agreement to allow a change in how operating, transportation, and landfill fee annual adjustments will be made; and

**WHEREAS**, based on all the evidence presented, the City Council finds as follows:


1. That using the energy information administration data provides a satisfactory estimate of annual percentage changes in diesel costs and avoids the necessity of auditing actual fuel receipts.
2. The City of Fort Bragg has no objection to changing the method of computing the annual adjustment.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Fort Bragg does hereby approve Amendment No. 5 to the agreement for Transfer Station Operation and Solid Waste Transportation and Disposal between the Cities of Fort Bragg and Willits, the County of Mendocino and Solid Wastes of Willits, Inc., attached to this resolution as "Exhibit A" and incorporated herein, and authorize City Manager to execute same.

**The above and foregoing Resolution was introduced by Councilmember Deitz, seconded by Councilmember Hammerstrom, and passed and adopted at a regular meeting of the City Council of the City of Fort Bragg held on the 9<sup>th</sup> day of October,**

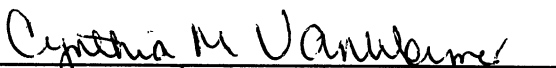
2012, by the following vote:

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



**DAVE TURNER,**  
Mayor

**ATTEST:**

  
**Cynthia M. VanWormer, CMC**  
City Clerk

## EXHIBIT A

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### AMENDMENT NO. 5 TO AGREEMENT FOR TRANSFER STATION OPERATIONS AND SOLID WASTE TRANSPORTATION AND DISPOSAL (BOS AGREEMENT NO. 00-040) BETWEEN THE CITIES OF FORT BRAGG AND WILLITS, THE COUNTY OF MENDOCINO, AND SOLID WASTES OF WILLITS

This fifth amendment of the Agreement for Transfer Station and Solid Waste Transportation and Disposal is made this \_\_\_ day of October, 2012, between Solid Wastes of Willits, Inc. (hereinafter, "CONTRACTOR") and the City of Fort Bragg, the City of Willits, and the County of Mendocino (hereinafter, "AGENCIES").

Whereas, in February and March, 2000, CONTRACTOR and AGENCIES executed an agreement for the construction and operation of the Willits Solid Waste Transfer Station and Recycling Center; and

Whereas, Section 25 of the Agreement was amended in 2008 and stipulates that the Transport Fuel Costs Component of the rate shall be adjusted annually based on the change in CONTRACTOR'S "actual per-gallon fuel prices"; and

Whereas, an accurate measure of the annual change in fuel costs can be obtained from the U.S. Energy Information Administration monthly report of California No. 2 Diesel Retail Sales by All Sellers, which avoids the expenditure of time and potential uncertainties involved with a review of CONTRACTOR'S fuel bills;

NOW, THEREFORE, it is agreed the following new subsection E is added to Section 25 of the Agreement: "E. Upon approval of the Contract Administrator, Contractor may substitute the percentage change of the U.S. Energy Information Administration report of California No. 2 Diesel Retail Sales by All Sellers for the percentage change in Contractor's actual fuel expenditures, in the calculation of the change in the Transport Fuel Costs component."

*[executed in duplicate originals]*

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**CONTRACTOR:**

\_\_\_\_\_

**Date:** \_\_\_\_\_

**Gerald Ward, President  
Solid Wastes of Willits, Inc.**

**AGENCIES:**

**City of Fort Bragg**

**Attest:**

\_\_\_\_\_

\_\_\_\_\_

**Linda Ruffing, City Manager**

**City Clerk**

**Date:** \_\_\_\_\_

**City of Willits**

**Attest:**

\_\_\_\_\_

\_\_\_\_\_

**Date:** \_\_\_\_\_

**City Clerk**

**County of Mendocino**

**Attest:**

**Chair, Board of Supervisors**

**Date:** \_\_\_\_\_

\_\_\_\_\_

**Clerk of the Board**