

RESOLUTION NO. 3420-2011

RESOLUTION OF THE FORT BRAGG CITY COUNCIL APPROVING NEW JOINT POWERS AGREEMENT FOR CASPAR LANDFILL AND TRANSFER STATION, CASPAR TRANSFER STATION OPERATIONS AGREEMENT & LEASE BETWEEN COUNTY OF MENDOCINO AND SOLID WASTES OF WILLITS, AND OPTION AGREEMENT FOR THE WILLITS TRANSFER STATION CONTRACT EXTENSION AND AUTHORIZING CITY MANAGER TO EXECUTE THESE DOCUMENTS ON BEHALF OF THE CITY

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, County and City first entered into a joint powers agreement for use of the Caspar property for solid waste disposal purposes on or about October 31, 1967, amended the agreement on August 25, 1970, enacted a new joint powers agreement on August 16, 1977, and amended it on October 10, 1978, April 24, 1989, and February 4, 1993; all of which are collectively referred to hereinafter as the "Original Joint Powers Agreement;" and

WHEREAS, pursuant to the Original Joint Powers Agreement, County and City used the Caspar property for solid waste landfill purposes from 1968 to 1992, and thereafter have used the Caspar property for a solid waste transfer station; and

WHEREAS, County and City wish to terminate the Original Joint Powers Agreement and adopt a new Joint Powers Agreement, as shown in "Exhibit A," for clarity and to respond to new circumstances; and

WHEREAS, the new Joint Powers Agreement specifies that County shall enter into a "Caspar Transfer Station Operations Agreement and Lease"(hereinafter, "Caspar Operations Agreement") with Solid Wastes of Willits, Inc. to convert the existing Caspar Transfer Station, from County operation to operation by Solid Wastes of Willits, Inc. 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, in February and March, 2000, Solid Waste of Willits and City and other parties executed the Agreement for Transfer Station Operation and Solid Wastes Transportation and Disposal (hereinafter, "Willits Transfer Station Agreement") for the Willits Solid Waste Transfer Station and Recycling Center and the Willits Transfer Station Agreement is set to expire on December 3, 2015; and

WHEREAS, in consideration for, and contingent upon, the Caspar Operations Agreement being formally approved and executed by both City and County, and approval and execution by both City and County of a new Joint Powers Agreement allowing Solid Wastes of Willits to operate the Caspar Transfer Station under the aforementioned contract, Solid Wastes of Willits is willing to grant City an option at City's discretion to enter into a new Willits Transfer Station Agreement with an expiration date of December 3, 2024 as set forth in "Exhibit B" (hereinafter, "Option Agreement"); and

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

1. The Original Joint Powers Agreement is a fragmented document dating back to the 1970's which needs to be revised to address changed circumstances and to allow for operation of the Caspar Transfer Station by a private contractor; and
2. The Caspar Operations Agreement between the County of Mendocino and Solid Wastes of Willits provides rate stabilization for the public and incentives for recycling. It relieves the County and City of any need to subsidize Caspar operations. It will provide funding for planning and permitting of a new central coast transfer station, thereby relieving the City and County of the expense, and it resolves outstanding issues between the City and County and reaffirms the cooperative relationship that is required by the joint ownership of the Caspar property.
3. The City's contract for terms and conditions for the Willits Transfer Station will expire in 2015 and the Option Agreement will give the City an ability to extend the existing contract to 2024 at a reduced tip fee at the City's sole discretion.

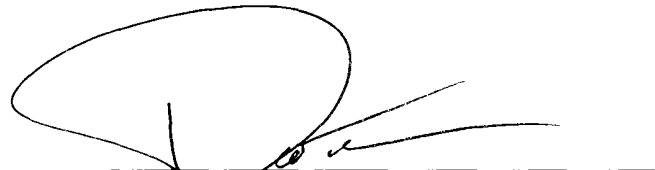
NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Fort Bragg does hereby approve the new Joint Powers Agreement for Caspar Landfill and Transfer Station and authorizes the City Manager to execute this document on behalf of the City;

BE IT FURTHER RESOLVED that the City Council of the City of Fort Bragg has reviewed the proposed Caspar Transfer Station Operations Agreement & Lease Between County of Mendocino and Solid Wastes of Willits and approves and consents to it in all respects that affect the City's rights powers, ownership, interests and liabilities;

BE IT FURTHER RESOLVED that the City Council of the City of Fort Bragg does hereby approve the Option Agreement for the Willits Transfer Station contract extension and authorizes the City Manager to execute this document on behalf of the City.


The above and foregoing Resolution was introduced by Councilmember Hammerstrom, seconded by Councilmember Courtney, and passed and adopted at a regular meeting of the City Council of the City of Fort Bragg held on the 10th day of January 2011, by the following vote:

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



**DAVE TURNER,
Mayor**

ATTEST:


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

“EXHIBIT A”

**JOINT POWERS AGREEMENT BETWEEN THE COUNTY OF MENDOCINO AND
CITY OF FORT BRAGG FOR CASPAR LANDFILL AND SOLID WASTE TRANSFER
STATION**

This Joint Powers Agreement (hereinafter, “Agreement”) is made and entered into on this _____ day of January, 2011, between the County of Mendocino (hereinafter, “County”) and the City of Fort Bragg (hereinafter “City”):

WHEREAS, County and City are authorized to enter into an agreement for joint exercise of any common power under Sections 6500 et. seq. of the California Government Code; and

WHEREAS, County and City are each authorized to provide for solid waste disposal services to their residents and businesses; and

WHEREAS, County and City jointly own 60 acres, more or less, 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, County and City first entered into a joint powers agreement for use of the Caspar property for solid waste disposal purposes on or about October 31, 1967, amended the agreement on August 25, 1970, enacted a new joint powers agreement on August 16, 1977, and amended it on October 10, 1978, April 24, 1989, and February 4, 1993; all of which are collectively referred to hereinafter as the “Original Agreement,” and

WHEREAS, pursuant to the Original Agreement, County and City used the Caspar property for solid waste landfill purposes from 1968 to 1992, and thereafter have used the Caspar property for a solid waste transfer station; and

WHEREAS, County and City wish to terminate the Original Agreement and adopt a new joint powers agreement for clarity and to respond to new circumstances.

NOW THEREFORE BE IT RESOLVED, that County and City, for and in consideration of the mutual agreements herein stated and the performance thereof, and for other valuable and adequate consideration, do hereby agree for and on behalf of themselves and their successors in interest as follows:

1. The Original Agreement is hereby terminated and replaced by this Agreement.
2. Costs for the continuing post-closure management, maintenance and repair of the closed Caspar solid waste landfill are the joint responsibility of County and City. Any costs for corrective action which are mandated by federal, state or local regulatory authorities, which exceed the financial resources already dedicated by County and City for post-closure functions, shall be paid equally by County and City.
3. County shall manage all post-closure maintenance, monitoring and reporting requirements for the closed Caspar solid waste landfill (California Solid Waste Information System #23-AA-0003). County shall prepare an annual fiscal year budget for post-closure and submit it by May 1 of each year to City for comment and review. If City disagrees with the proposed budget, City shall request a meeting with County to resolve any disagreements. County shall submit to City and City shall pay an annual invoice that shall provide detailed documentation of all expenditures and City and County shall each be responsible for 50% of the previous fiscal year's post-closure expenditures. Both parties acknowledge that unforeseen events, such as winter storm damage, slide or collapse, can occur to closed landfills and that emergency expenditures may be required that cannot be accurately anticipated in an annual budget.
4. County shall enter into a "Caspar Transfer Station Operations Agreement and Lease"(hereinafter, "Operations Agreement") with Solid Wastes of Willits, Inc. to convert the existing Caspar Transfer Station, from County operation to operation by Solid Wastes of Willits, Inc. City has reviewed and approved the Operations Agreement and consents to it in all respects that affect City's rights, powers, ownership, interests and liabilities. The Operations Agreement is attached hereto as Exhibit A. Any amendments to the Operations Agreement that pertain to the Caspar Transfer Station will require the prior written consent of City and County, including, but not limited to, changes in destinations of materials received at the transfer station.
5. The Operations Agreement specifies that the operator shall pay a specified amount of money to County per cubic yard of solid waste and recyclables entering Caspar Transfer Station as rent for the use of the property. The amount of the rent, and any change thereto, must be mutually agreed to by City and County. The proceeds from rent will be held in a dedicated account by the County to be used for site improvements at Caspar Transfer Station or development of a new transfer station facility in the greater Fort Bragg area, and disbursements from this account shall be made with mutual consent of City and County.
6. Replacement or expansion of the Caspar Transfer Station is necessary to accommodate commercial solid waste collection trucks and allow long-haul direct transfer to a destination landfill. County and City shall cooperate in a siting and development project to provide such

an expanded facility, either at the Caspar property or another site, and shall amend this Agreement as necessary to implement the expansion.

7. Any future change in use of the Caspar property, change in management or disposition of the closed landfill, or sale of the property or portions thereof shall require consent of both City and County.
8. A Joint Coordinating Committee consisting of two City Council members appointed by the City Council and two County Supervisors appointed by the County Board of Supervisors, augmented by staff from County and City, shall meet as necessary to discuss any issues that arise under this Joint Powers Agreement. The Joint Coordinating Committee shall serve in an advisory capacity to the Board of Supervisors and City Council and shall comply with the provisions of the Brown Act.
9. This Agreement shall continue in effect unless written notice of withdrawal shall have been served by one party upon the other not less than one year in advance of the termination date. In case of termination:
 - (A) County and City responsibility for post-closure maintenance, repair and monitoring of the closed Caspar Landfill, as stated herein, shall continue to be managed and assigned in accordance with section 3, above.
 - (B) The Operations Agreement shall be unaffected regarding Caspar Transfer Station, for any remaining term of the Operations Agreement.
 - (C) Except for the activities described in subsections 9(A) and 9(B) above, neither party will make any use of the Caspar property that is not approved in writing by the other party, except that neither party shall unreasonably deny the other party authorization to continue operation of a self-haul transfer station at the Caspar site if no other self-haul disposal site exists in the greater Fort Bragg coastal area.

IN WITNESS WHEREOF, County and City, by their duly authorized representatives, have executed this Joint Powers Agreement on the day and year first above written.

COUNTY OF MENDOCINO

CITY OF FORT BRAGG

Kendall Smith
Chair, Board of Supervisors

Linda Ruffing
City Manager

Date: _____

Date: _____

ATTEST:

Clerk of the Board

APPROVED AS TO FORM:

Jeanine Nadel
County Counsel

ATTEST:

Cynthia M. VanWormer, CMC
City Clerk

APPROVED AS TO FORM:

Michael Gogna
City Attorney

“EXHIBIT B”

**OPTION AGREEMENT TO ENTER INTO A NEW AGREEMENT FOR
TRANSFER STATION OPERATION AND SOLID WASTE TRANSPORTATION AND
DISPOSAL BETWEEN THE CITY OF FORT BRAGG AND SOLID WASTES OF WILLITS,
INC.**

This Option Agreement to enter into a new Agreement for the Transfer Station Operation and Solid Waste Transportation and Disposal is made this ____ day of January, 2011 at Fort Bragg, California by Solid Wastes of Willits, Inc., (hereinafter “CONTRACTOR”) and the City of Fort Bragg (hereinafter “CITY”).

WHEREAS, in February and March, 2000, CONTRACTOR and CITY and other parties executed the Agreement for Transfer Station Operation and Solid Waste Transportation and Disposal (hereinafter, “Transfer Station Agreement”) for the Willits Solid Waste Transfer Station and Recycling Center (hereinafter “SWTS”); and

WHEREAS, the Transfer Station Agreement will expire on December 3, 2015; and

WHEREAS, CONTRACTOR has separately negotiated and reached agreement with the County of Mendocino (hereinafter “COUNTY”) and CITY to assume operation of the Caspar transfer station co-owned by COUNTY and CITY; and

WHEREAS, in consideration for, and contingent upon, the aforementioned operating agreement for the existing publicly owned Caspar Transfer Station being formally approved and executed by both CITY and COUNTY, and approval and execution by both CITY and COUNTY of a new, or revised Joint Powers Agreement (JPA) allowing CONTRACTOR to operate the Caspar Transfer Station under the aforementioned contract, CONTRACTOR is willing to grant CITY an option at CITY’S discretion to enter into a new Transfer Station Agreement with an expiration date of December 3, 2024, as set forth herein.

NOW, THEREFORE, for valuable and mutual consideration, it is agreed as follows:

1. CONTRACTOR grants CITY an option, at CITY’s sole discretion, to enter into a new agreement with CONTRACTOR setting forth the terms and conditions under which CONTRACTOR shall operate the SWTS (hereinafter, “New Transfer Station Agreement.”).
2. The New Transfer Station Agreement shall have a term of December 3, 2015 to December 3, 2024.
3. The CITY’s option to extend the SWTS agreement to December 3, 2024 will expire on December 3, 2014 unless the CITY exercises this option by written notice to CONTRACTOR on or before that date at the address of record in the SWTS agreement; and

4. If CITY option is timely exercised, the terms and conditions of the New Transfer Station Agreement shall be identical to the existing Transfer Station Agreement, as it has been amended through December 2, 2015, except as follows:
 - A. "Agencies" shall generally be replaced by "CITY," insofar as the New Transfer Station Agreement shall be between only CONTRACTOR and CITY, and shall not include COUNTY and City of Willits as parties. Any reference to the County of Mendocino and the City of Willits shall be inoperable.
 - B. Article 4, "Waste Flow to Transfer Station" shall be amended to include, and defined as "only the incorporated area of the City of Fort Bragg collected by CITY Franchise curbside hauler."
 - C. If, during the period December 4, 2015 to December 3, 2024, a publicly owned commercial transfer station is permitted, constructed and becomes operational in the greater Fort Bragg coastal area, at the CITY's option, upon six (6) months written notice to CONTRACTOR at the address of record, CITY may exercise its rights, after the six (6) month notice period, to direct solid waste from within the City of Fort Bragg to a newly established publicly owned transfer station and will have no contractual obligation to direct solid waste to the SWTS.
 - D. Article 6, "Competing Facilities Owned or Operated by Contractor" shall not apply to any newly established publically owned commercial transfer station which becomes operational in the greater Fort Bragg coastal area after December 3, 2015.
 - E. The Construction Cost Component of the gate fee, currently \$2.55 per ton, shall expire and the gate fee reduced by this amount on December 3, 2015.

CONTRACTOR:

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

Date: _____

CITY OF FORT BRAGG:

 Linda Ruffing
 City Manager

Date: _____

Attest:

 Cynthia M. VanWormer, CMC
 City Clerk

Date: _____

Approved as to Form:

Michael Gogna
City Attorney

Date: _____