

RESOLUTION NO. 3399-2010

RESOLUTION OF THE FORT BRAGG CITY COUNCIL APPROVING AMENDMENT NO. 4 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 Waste of Willits ("Contractor") for the construction and operation of the Willits Solid Waste Transfer Station and Recycling Center, hereinafter called "SWTS"; and

WHEREAS, the agreement limits the geographical area to be served by the SWTS to certain designated parts of Mendocino County; and

WHEREAS, Contractor and Agencies wish to expand the area served to encompass all of Mendocino County, provided that the governing local jurisdiction so directs and that the City of Willits conditional use permit allows it; 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 for an expanded service area.

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

1. The City's needs will continue to be met by the SWTS should the service area be expanded.
2. The City of Fort Bragg has no objection to expanding the service area of the SWTS.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Fort Bragg does hereby to approve Amendment No. 4 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 Turner, seconded by Councilmember Melo, and passed and adopted at a regular meeting of the City Council of the City of Fort Bragg held on the 13th day of September, 2010, by the following vote:

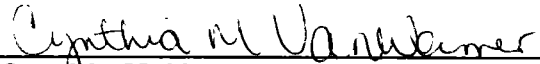
AYES: Councilmembers Turner, Courtney, Gjerde, Melo, and Mayor Hammerstrom.
NOES: None.
ABSENT: None.

ABSTAIN: None.



DOUG HAMMERSTROM,
Mayor

ATTEST:



Cynthia M. VanWormer, CMC
City Clerk

EXHIBIT A

AMENDMENT NO. 4 TO AGREEMENT FOR TRANSFER STATION OPERATION 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, INC.

This fourth amendment of BOS Agreement No. 00-040 is made this ____ day of August, 2010 at Ukiah, California 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 (hereinafter "SWTS"); and

Whereas, the agreement limits the geographical area to be served by the SWTS to certain designated parts of Mendocino County; and

Whereas, CONTRACTOR and AGENCIES wish to expand the area served to encompass all of Mendocino County, provided that the governing local jurisdiction so directs and that the City of Willits conditional use permit allows it.

NOW, THEREFORE, it is agreed as follows:

1. Section 1-JJ of the agreement shall be revised in its entirety as follows:

"JJ. 'Service Area' shall mean all the city limits of the City of Willits and the City of Fort Bragg, the unincorporated areas surrounding the City of Willits and the City of Fort Bragg, and the unincorporated area of the County of Mendocino, as depicted by the yellow shaded area in Exhibit F, Franchised Service Areas, and any other part of Mendocino County or transfer station facility in Mendocino County upon designation by the local government jurisdiction, subject to any limitations in the conditional use permit issued by the City of Willits."

2. Section 7 of the agreement shall be revised in its entirety as follows:

"7. Contractual Right to Construct and Operate SWTS. Contractor is obligated to construct, build and operate a SWTS within the City of Willits in conformance with the conditional use permit and the right to receive, transport, Recycle, and dispose of Solid Waste by transporting to a Landfill and/or any other appropriate disposal facility authorized by law to receive

such waste, all Refuse, Garbage, Rubbish and Recyclables **originating within the Service Area** and delivered to the SWTS by any Self-Hauler who is a resident of the County or by any collector, hauler or transporter of Solid Waste licensed or franchised as such by the Agencies. Contractor shall not receive, sort or collect any Solid Waste or otherwise transport to or from the SWTS any Solid Waste originating, generated or otherwise discarded or **collected outside the Service Area.**

“Should there be occasion to defend or to enforce the nature of Contractor’s rights granted herein, Agenices shall have the right at their option to defend or to enforce the nature of Contractor’s rights granted herein, and Contractor shall pay for the costs and expenses of such enforcement, including attorney’s fees and those costs and expenses that are reasonably incurred by the Agencies. Contractor shall, at its option, have the right to re-enter and direct litigation with attorneys of its choice.”

3. All other terms and conditions of the agreement (BOS Agreement No. 00-040) remain in effect.

IN WITNESS WHEREOF, CONTRACTOR and AGENCIES have executed this amendment in Mendocino County, State of California.

CONTRACTOR:

Solid Wastes of Willits, Inc.

By: _____
Gerald W. Ward, President

Date: _____

AGENCIES:

City of Fort Bragg

Attest:

Linda Ruffing, City Manager

Cynthia VanWormer, City Clerk

Date: _____

City of Willits

Attest:

Paul Cayler, City Manager

City Clerk

Date: _____

County of Mendocino

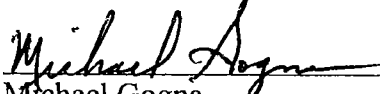
Attest:

Chair, Board of Supervisors

Clerk of the Board

Date: _____

APPROVED AS TO FORM:



Michael Gogna
Fort Bragg City Attorney

Date: 8/4/2010

James Lance
Willits City Attorney

Date: _____

Jeanine Nadel
County Counsel

Date: _____