

RESOLUTION NO. 3191-2008

RESOLUTION OF THE FORT BRAGG CITY COUNCIL APPROVING AN AMENDMENT TO THE JOINT POWERS AGREEMENT OF THE MENDOCINO COUNCIL OF GOVERNMENTS

WHEREAS, the Mendocino Council of Governments (MCOG) was formed by a Joint Powers Agreement (attached as Exhibit A) in 1972 and amended in 1978, 1993, and 1994, by the Cities of Fort Bragg, Point Arena, Willits, and Ukiah, and the County of Mendocino to serve as the Regional Transportation Planning Agency and other regional purposes; and

WHEREAS, MCOG's Board of Directors consists of seven members including one countywide elected official, for which position five elected local government officials qualify; and

WHEREAS, MCOG's Board of Directors proposes expanding eligibility for the countywide representative, so as to preclude any future difficulty in filling the position; and

WHEREAS, the Joint Powers Agreement states that it may be amended at any time by the parties to the agreement, and in order for such an amendment to take effect, it must be approved by resolutions adopted by the respective legislative bodies of each of the parties to this agreement; and

WHEREAS, upon full execution of an amendment, MCOG shall prepare and file a notice of amendment with the California Secretary of State in accord with California Government Code Section 6503.5.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Fort Bragg does hereby agree that MCOG's Joint Powers Agreement Section 4 shall be deleted in its entirety and shall read as follows:

"MCOG shall have a BOARD OF DIRECTORS consisting of seven members. The City Council of each of the four incorporated cities in Mendocino County (the cities of Fort Bragg, Point Arena, Willits and Ukiah) shall annually appoint one of its members to serve as a member of the MCOG Board of Directors. The Board of Supervisors of the County of Mendocino shall annually appoint two of its members plus one public appointee to serve as members of the MCOG Board of Directors. In selecting the public appointee, the Board of Supervisors shall give first preference to a countywide elected official. If a countywide elected official does not apply for the position, then the Board of Supervisors may appoint any registered voter of Mendocino County who has an interest in regional transportation issues. Each elected member of the MCOG Board of Directors shall serve only as long as he or she holds the appropriate elective office, and each member shall serve at the pleasure of their respective appointing authority.

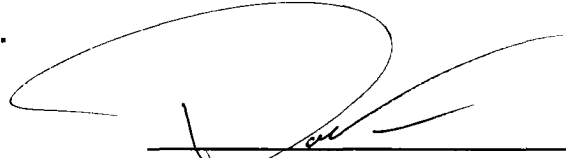
MCOG has adopted its own bylaws as allowed by the amendment of 1993.

The appointing authority, for each regular member it appoints, may appoint an alternate member to serve in place of the regular member when the regular member is absent or disqualified from participating in a meeting of the Council of Governments. Agency alternates must be an elected official."

BE IT FURTHER RESOLVED that the City Council of the City of Fort Bragg does hereby agree that all other terms and conditions set forth in MCOG's Joint Powers Agreement of 1972, as amended in 1978, 1993, and 1994, shall remain in full force and effect.


The above and foregoing Resolution was introduced by Councilmember Melo, seconded by Councilmember Gjerde, and passed and adopted at a regular meeting of the City Council of the City of Fort Bragg held on the 28th day of July, 2008, by the following vote:

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



DAVE TURNER,
Vice Mayor

ATTEST:



Cynthia M. VanWormer, CMC
City Clerk

JOINT POWERS AGREEMENTAMENDMENT CREATING THE
MENDOCINO COUNCIL OF GOVERNMENTS

This is an Amendment to a Joint Powers Agreement executed in 1972 by the CITIES OF FORT BRAGG, POINT ARENA, UKIAH, and WILLITS, and the COUNTY OF MENDOCINO, that Agreement being the legal basis for the Mendocino County and Cities Area Planning Council (MCCPC). This Amendment changes the name to MENDOCINO COUNCIL OF GOVERNMENTS (MCOG), clarifies the powers and purposes of the agency, and establishes a new BOARD OF DIRECTORS. By this Amendment, the above Agreement is changed to read in its entirety as follows:

This AGREEMENT is made by and among the incorporated CITIES OF FORT BRAGG, POINT ARENA, UKIAH, and WILLITS, municipal corporations of the State of California, acting through their respective City Councils, and the COUNTY OF MENDOCINO a body politic and corporate subdivision of the State of California, acting through the Board of Supervisors (hereinafter referred to as PARTIES), as follows:

WHEREAS, Sections 6500 et seq., of the California Government Code (Title 1, Division 7, Chapter 5, Article 1) provide for agreements between two or more public agencies to jointly exercise any power common to the contracting parties; and,

WHEREAS, the parties hereto recognize that Mendocino County is changing from an isolated, rural area to a developed area with continuing expansion of its incorporated cities and formerly underdeveloped areas; and,

WHEREAS, by reason of this growth, governmental problems affecting incorporated and unincorporated areas jointly are frequently arising and are expected to increase in the near future; and,

WHEREAS, it is necessary and desirable that a single regional agency be created with authority to (1) assist and advise on such problems, and (2) in specified functional areas, develop plans and approve or disapprove, in whole or in part, projects to which such plans apply; and,

WHEREAS, existence of such an agency, and action by it upon certain transportation matters, and economic development matters, appear necessary in order for the PARTIES to qualify for allocation of needed funds from the State and Federal Governments.

Joint Powers Agreement
Mendocino Council of Governments

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. The Mendocino County and Cities Area Planning Council (MCCPC) is hereby reconstituted as the MENDOCINO COUNCIL OF GOVERNMENTS (MCOG), which is hereby created and established pursuant to Sections 6500 et seq., of the California Government Code (Title 1, Division 7, Chapter 5, Article 1).
2. MCOG shall have the power to serve the following general purposes, which are advisory only:
 - a. provide a regular forum to facilitate discussion and the exchange of information on matters of mutual interest to the parties to this agreement,
 - b. serve as a vehicle for the joint sponsorship of informational workshops and training programs related to problems for local governments in Mendocino County, and
 - c. advise and assist the parties to this agreement in their efforts to deal with problems which they have in common, or which transcend jurisdictional boundaries.
3. MCOG shall have the power to serve the following specific purposes:
 - a. act as the transportation planning agency for Mendocino County, as designated by the Secretary of the Business and Transportation Agency of the State of California,
 - b. undertake economic development planning for Mendocino County, and
 - c. any other specific power, including regional planning in other functional areas besides transportation and economic development, which has been expressly authorized by Resolutions adopted by the respective bodies of each of the parties to this agreement.

Nothing contained herein shall be construed as limiting in any manner the power of any of the respective parties or other public entities in the County to initiate and complete a local project within their respective jurisdictions. It is understood, however, the recommendations of the MCOG may be considered by agencies of the State or Federal Government in providing financial or other assistance to such a project. The MCOG shall take no action to preclude or discourage any

Joint Powers Agreement
Mendocino Council of Governments

direct appeal by any entity to any State, or Federal Agency for financial or other assistance in that entity's program before, during or after consideration of the proposal by the MCOG.

4. MCOG shall have a BOARD OF DIRECTORS consisting of seven members. The City Council of each of the four incorporated cities in Mendocino County (the Cities of Fort Bragg, Point Arena, Ukiah and Willits) shall each appoint one of it's members to serve as a member of the MCOG Board of Directors. The Board of Supervisors of the County of Mendocino shall appoint two of it's members plus one other countywide elected official to serve as members of the MCOG Board of Directors. Each member of the MCOG Board of Directors shall serve only so long as he or she holds the appropriate elective office, and each shall serve at the pleasure of their respective appointing authority. The Board of Directors shall adopt its own by-laws as deemed necessary. The Chairman of the MCCPC at the time of reconstitution shall be the first Chairman of the MCOG Board of Directors.

5. In addition to the incorporated Cities mentioned in this Agreement, any other City which may hereafter be incorporated within the boundaries of Mendocino County, and which may desire to participate in the activities of this Council of Governments may do so by executing this agreement without prior approval or ratification of the named parties herein and shall thereafter be bound by all of the terms and conditions of this agreement as of the date of execution, and shall have all of the rights of the named Cities in relation to the provisions of this Agreement, including the right to appoint a member to the MCOG Board of Directors.

6. The undersigned parties to this agreement pledge full cooperation, and agree to appoint members to the MCOG Board of Directors as specified above and to assign individuals to serve as members of any MCOG committee(s) or sub-committee(s) who shall act for and on behalf of their Cities or the County in any or all matters which shall come before MCOG, subject to any necessary and legal approval of their acts by the legislative bodies of such Cities and the County.

7. There shall be no costs incurred by the parties to this agreement pursuant hereto, except; (a) costs for those transportation planning activities included in an approved work program, and (b) costs for those administrative activities related to the allocation of Transportation Development Act (SB 325) funds.

Joint Powers Agreement
Mendocino Council of Governments

8. The County Treasurer shall be the depository and shall have custody of all funds of MCOG from whatever source and shall hold and disburse such monies in accord with Section 6505.5. There shall be strict accountability by all parties and by MCOG of all funds. MCOG shall contract with a certified public accountant to make an annual audit. The minimum requirements of such an audit shall be those prescribed by the State Controller for special districts under Section 26909 of the Government Code and shall conform to generally accepted auditing standards. Where an audit is made, a report thereof shall be filed as public records with each of the contracting parties to the agreement and also with the County Auditor-Controller. The cost of the audit shall be borne by MCOG (Section 6505.)

9. This agreement shall be effective for a period of one year and shall be automatically renewed from year to year thereafter unless and until one of the parties hereto, by Resolution of its legislative body, terminates its consent to the exercise of these joint powers herein agreed upon, and gives written notice of such to MCOG at least ninety days prior to the end of the annual term. In the event of such notice of termination, MCOG shall have continuing authority to act upon all applications filed with it prior to receipt of said ninety day notice of termination and shall take such action in regard thereto as is required under the laws, regulations and policies established by the particular state or federal agency to whom such applications have been made. Upon the conclusion of such action and expiration of said ninety day notice period, following receipt of said notice, this agreement shall be automatically renewed for another annual term without the withdrawn entity as a party to the agreement, and without a member of the Board of Directors appointed by the withdrawn entity. Once any entity has filed proper notice of withdrawal, there shall be a single sixty day period, during which any remaining Party or Parties to the agreement may also file a ninety day notice of withdrawal, regardless of the expiration date of the annual term.

10. This agreement may be amended at any time by the parties to the agreement. In order for such an amendment to take effect, it must be approved by Resolutions adopted by the respective legislative bodies of each of the parties to this agreement.

11. This amendment shall take effect upon (1) its execution by the legislative body of each of the parties to the above Joint Powers Agreement, such execution occurring by Resolution of the respective legislative

Joint Powers Agreement
Mendocino Council of Governments

bodies, and (2) receipt of a letter from the Secretary of the Business and Transportation Agency of the State of California, officially designating the Mendocino Council of Governments as the transportation planning agency for Mendocino County according to Section 29532 (b) of the Government Code of the State of California.

12. MCOG shall prepare and file a notice of this agreement, or any amendment thereto, with the Office of the Secretary of State in accord with Section 6503.5.

CITY OF FORT BRAGG: Paul C. Delaguer 1/2/78
Mayor Date

Approved: John J. Rupert Attest: Narda Andress
City Attorney City Clerk

CITY OF POINT ARENA: Frank Johnson 6-December 1978
Mayor Date

Approved: [Signature] Attest: Rich Suter
City Attorney City Clerk

CITY OF UKIAH: [Signature] 12/22/78
Mayor Date

Approved: _____ Attest: Hattie Lillatson

CITY OF WILLITS: John W. Suter 1-2-79
Mayor Date

Approved: Alfred King Attest: George W. Gardner
City Attorney City Clerk

Joint Powers Agreement
Mendocino Council of Governments

COUNTY OF MENDOCINO: *Ted Garrett* 11/21/78
Chairman / Date
Board of Supervisors

Approved: *John D. [unclear]* Attest: *Jayce A. Beard*
County Counsel Asst. Clerk of the Board

jaj

revision II/1/93

AMENDMENT
JOINT POWERS AGREEMENT
OF THE MENDOCINO COUNCIL OF GOVERNMENTS

THIS is an Amendment to the Joint Powers Agreement (JPA) executed in 1972, as amended in 1978 by the CITIES OF FORT BRAGG, POINT ARENA, WILLITS AND UKIAH, and the COUNTY OF MENDOCINO for the MENDOCINO COUNCIL OF GOVERNMENTS (MCOG).

Section 4. shall be deleted in its entirety and shall read as follows:

MCOG shall have a BOARD OF DIRECTORS consisting of seven members. The City Council of each of the four incorporated cities in Mendocino County (the cities of Fort Bragg, Point Arena, Willits and Ukiah) shall each appoint one of it's members to serve as a member of the MCOG Board of Directors. The Board of Supervisors of the County of Mendocino shall appoint two of it's members plus one other countywide elected official to serve as members of the MCOG Board of Directors. Each member of the MCOG Board of Directors shall serve only so long as he or she holds the appropriate elective office, and each shall serve at the pleasure of their respective appointing authority. The Board of Directors shall adopt its own by-laws as deemed necessary.

Section 5. shall be amended to read as follows:

- b. In the event of conflict amongst the members to the MCOG relative to specific issues, individual resolutions may be requested from each of the member agencies to be directed back to the MCOG for review and final action.

Section 6. shall be amended to read as follows:

The undersigned parties to this agreement pledge full cooperation, and agree to appoint members to the MCOG Board of Directors as specified above. The MCOG shall assign individuals to serve as members of any MCOG committee (s) who shall act for and on behalf of their member agencies in any or all matters which shall come before MCOG, subject to any necessary and legal approval of their acts by the legislative bodies of said member agencies.

Section 7. shall be deleted in its entirety and shall read as follows:

The MCOG acting as the Regional Transportation Planning Agency for Mendocino County shall be administered in accordance with the Transportation Development Act. Funding for this function shall consist of Local Transportation Funds, State Transit Assistance Funds and any federal or state grants. Any other function(s) identified in Section 3 of this agreement must have a correlating funding source for administrative reimbursement.

Section 8. shall replace the position of County Treasurer with County Auditor.

All other terms and conditions set forth in the Agreement of 1972 as amended in 1978 shall remain in full force and effect.

CITY OF FORT BRAGG: John Cimolino DATE: 1/31/94
Mayor

Approved: [Signature] ATTEST: Will Lynn Flapent
City Attorney City Clerk

CITY OF POINT ARENA: Russ DATE: 2/9/94
Mayor

Approved: Joseph J. Bouchier ATTEST: Fred D. Patton
City Attorney City Clerk

CITY OF WILLITS: Suzanne Shanks DATE: January 24, 1994
Mayor

Approved: [Signature] ATTEST: [Signature]
City Attorney Deputy City Clerk

CITY OF UKIAH: Fred Hunter DATE: Jan 18, 1994
Mayor

Approved: [Signature] ATTEST: [Signature]
City Attorney City Clerk

COUNTY OF MENDOCINO: James Eddie DATE: 12/7/93
Chairman, Board of Supervisors

Approved: [Signature] ATTEST: Thomas J. Lewis
County Counsel Clerk of the Board

revision 8/29/94

AMENDMENT
JOINT POWERS AGREEMENT
OF THE MENDOCINO COUNCIL OF GOVERNMENTS

THIS is an Amendment to the Joint Powers Agreement (JPA) executed in 1972, as amended in 1978 and again in 1993 by the CITIES OF FORT BRAGG, POINT ARENA, WILLITS AND UKIAH, and the COUNTY OF MENDOCINO for the MENDOCINO COUNCIL OF GOVERNMENTS (MCOG).

Section 4. shall be amended to include the following paragraph:

The appointing authority, for each regular member it appoints, may appoint an alternate member to serve in place of the regular member when the regular member is absent or disqualified from participating in a meeting of the Council of Governments. Agency alternates must be an elected official.

All other terms and conditions set forth in the Agreement of 1972 as amended in 1978 and 1993 shall remain in full force and effect.

CITY OF FORT BRAGG: Patricia A Campbell DATE: 1/16/95
Mayor

Approved: [Signature] ATTEST: [Signature]
City Attorney City Clerk

CITY OF POINT ARENA: Raven DATE: 1/19/95
Mayor

Approved: [Signature] ATTEST: [Signature]
City Attorney City Clerk

CITY OF WILLITS: [Signature] DATE: 1-6-95
Mayor

Approved: [Signature] ATTEST: [Signature]
City Attorney City Clerk

CITY OF UKIAH: [Signature] DATE: 12/14/94
Mayor

Approved: [Signature] ATTEST: [Signature]
City Attorney City Clerk

COUNTY OF MENDOCINO: Seiji Sugawara DATE: 2-2-95
Chairman, Board of Supervisors

Approved: [Signature] ATTEST: [Signature]
County Counsel Clerk of the Board