

RESOLUTION NO. 2936-2006

RESOLUTION OF THE FORT BRAGG CITY COUNCIL AUTHORIZING CITY MANAGER TO EXECUTE AMENDMENT NO. 2 TO THE WILLITS SOLID WASTE TRANSFER STATION AGREEMENT

WHEREAS, in February and March 2000, Solid Waste of Willits, Inc., hereinafter called "CONTRACTOR" and the City of Fort Bragg, the City of Willits, and the County of Mendocino, hereinafter called 'AGENCIES" executed an agreement for the construction and operation of the Willits Solid Waste Transfer Station and Recycling Center, hereinafter called "SWTS"; and

WHEREAS, Section 40(A) of the aforementioned agreement requires that the CONTRACTOR provide and continue in force throughout the life of the agreement a cash bond or surety bond issued by a corporate surety company in the amount of \$100,000 conditioned upon the faithful performance by the CONTRACTOR; and

WHEREAS, the surety company issuing the CONTRACTOR'S previous surety bond ceased doing business, and will not renew the bond; and

WHEREAS, the CONTRACTOR sought out and found a new surety company to issue the required performance bond, yet this new company requires that Section 40(A) be amended so that the insurance company may have the option on non-renewal of said bond annually; and

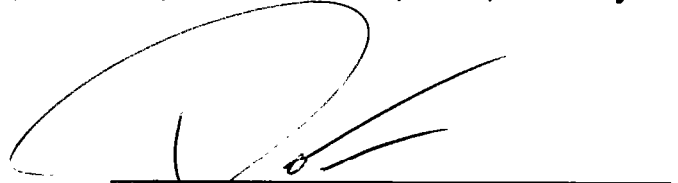
WHEREAS, the County of Mendocino has prepared Amendment No. 2 to the aforementioned agreement (attached hereto and incorporated herein as Exhibit "A"); and

WHEREAS, the Board of Supervisors and the Willits City Council have acted on this matter and executed Amendment No. 2.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Fort Bragg does hereby authorize the City Manager to execute Amendment No. 2 to the Willits Solid Waste Transfer Station Agreement.

The above and foregoing Resolution was introduced by Councilmember Baltierra, 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 27th day of February, 2006, by the following vote:

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



DAVE TURNER,
Mayor

ATTEST:

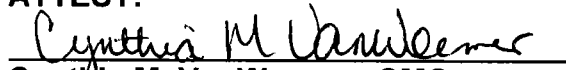

Cynthia M. VanWormer, CMC
City Clerk

EXHIBIT "A"

BOS AGREEMENT # ~~05-297A~~

AMENDMENT NO. 2 TO AGREEMENT FOR TRANSFER STATION OPERATION AND
SOLID WASTE TRANSPORTATION AND DISPOSAL (also known as BOS
AGREEMENT NO. 00-040) BETWEEN THE CITIES OF FORT BRAGG AND
WILLITS, THE COUNTY OF MENDOCINO AND SOLID WASTE OF WILLITS, INC.
FOR THE OPERATION OF THE WILLITS TRANSFER STATION

This second amendment of ^{al} BOS Agreement No. 00-040 is made this
13th day of December, ~~2006~~²⁰⁰⁵ at Ukiah, California, between Solid
Waste of Willits, Inc., hereinafter called "CONTRACTOR" and the
City of Fort Bragg, the City of Willits and the County of
Mendocino, hereinafter called "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 called "SWTS"; and

WHEREAS, Section 40(A) of the aforementioned agreement requires
that the CONTRACTOR provide and continue in force throughout the
life of the agreement a cash bond or surety bond issued by a
corporate surety company in the amount of \$100,000 conditioned
upon the faithful performance by the CONTRACTOR; and

WHEREAS, the surety company issuing the CONTRACTOR'S previous
surety bond ceased doing business, and will not renew the bond;
and

WHEREAS, the CONTRACTOR sought out and found a new surety
company to issue the required performance bond, yet this new
company requires that Section 40(A) be amended so that the
insurance company may have the option annually to the non-
renewal said bond.

NOW, THEREFORE, it is agreed that:

1) Section 40(A) is hereby amended as follows:

"A. 'Performance Bond'. The CONTRACTOR shall provide and
continue in force throughout the life of this Agreement a
cash bond or surety bond payable to the AGENCIES, securing
the CONTRACTOR'S faithful performance of its obligation
under this Agreement. The AGENCIES shall be named
individually as the City of Willits, the City of Fort Bragg
and the County of Mendocino. The principal sum of the bond
shall be equal to One Hundred Thousand Dollars (\$100,000)
conditioned upon the faithful performance of each and every
term and condition of this Agreement. The bond shall be

executed as surety by a corporation authorized to issue surety bonds in the State of California and approved by the Contract Administrator. The bond shall be in the form attached. The original term of the bond shall be December 1, 2005 to November 30, 2006. Renewal of the bond for any additional one (1) year period shall be at the sole option of the surety. Notice of non-renewal or cancellation is subject to notice as provided in Section 57 (Notice.), and shall be given by the surety to the CONTRACTOR and AGENCIES at a minimum 30 days prior to expiration of the bond term. Non-renewal of the bond by the surety shall not constitute any rights of action or claim against the bond by the AGENCIES. It is the obligation of the CONTRACTOR to provide replacement security, as required under this Agreement, should the bond not be renewed."

2) Section 57 is hereby amended as follows:

"57. Notice. Whenever notice to a party is required by this Agreement, it shall be deemed given when deposited with proper address and postage in the U.S. Mail or when personally delivered as follows:

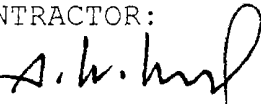
AGENCIES: County of Mendocino
Department of Transportation
Solid Waste Division
340 Lake Mendocino Drive
Ukiah, CA 95482

CONTRACTOR: Solid Wastes of Willits, Inc.
P.O. Box 1425
Willits, CA 95490"

3) All other terms and conditions of BOS Agreement No. 00-040 shall remain effective and enforceable.

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CONTRACTOR:


Gerald Ward, President
Solid Wastes of Willits

Date: 11-30-05

AGENCIES:

City of Fort Bragg

Attest:


Linda C. Ruffing,
City Manager

Cynthia VanWormer, City Clerk


Date: _____

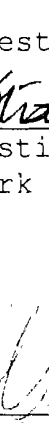
City of Willits


Ross Walker, City Manager

Attest:

Marilyn Harden,
Deputy City Clerk

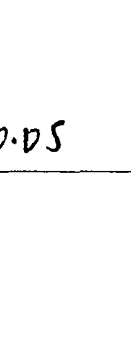
Date: 1-12-06


County of Mendocino

Michael Delbar,
Chairman, Bd. of Supervisors

Attest:

Kristi Furman,
Clerk of the Board

Date: 12-13-05

APPROVED AS TO FORM:


James Lance,
Willits City Attorney


Jeanine B. Nadel,
Mendocino County Counsel

Date: 1-12-06

Date: 11-7-05

Michael Gogna,
Fort Bragg City Attorney

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

Date: _____

KRISTI FURMAN
Clerk of the Board

By: 

(SURETY) COMPANY

BOND NO.
PREMIUM: \$

KNOW ALL MEN BY THESE PRESENTS THAT WE,

as Principal, and (Surety), a corporation duly organized and doing business under and by the virtue of the laws of the State of _____, and duly licensed for the purpose of making, guaranteeing or becoming sole surety upon bonds or undertakings required or authorized by the laws of the said State, as Surety, are held and firmly bound unto the

City of Willits, City of Fort Bragg, and the County of Mendocino

(Hereinafter called the Obligee)

in the sum of One Hundred Thousand and no/100ths Dollars (\$100,000.00) for the payment whereof well and truly to be made we and each of us bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH THAT, WHEREAS, the above bounden PRINCIPAL entered into BOS Agreement #00-040 in February and March of 2000, (a copy of which Agreement is or may be attached hereto, and is hereby referred to and made a part hereof), with the said Obligee to do and perform the following work, to wit:

Transfer Station Operation and Solid Waste Transportation and Disposal

1. This bond shall have the term beginning _____ and ending _____, but may be continued by certificate at the option of the Surety. Failure of the Surety to continue this bond shall not be considered a default hereof. Surety shall provide Obligee and Principal with a written notice of its intent not to continue this bond at least thirty (30) days prior to its anniversary date.
2. In the event of default by the Principal in the performance of the Agreement during the term of this bond, the Surety shall be liable only for damages incurred by Obligee up to termination date of this bond.
3. No claim shall be had or maintained against the Surety on this instrument unless such be brought or instituted and process served upon the Surety prior to expiration date of the bond; no suit shall be maintained against the Surety unless it be brought within thirty days after the expiration date of the bond.

NOW, THEREFORE, if the above bounden Principal shall well and truly perform the work contracted to be performed under said Agreement, then this obligation to be null and void, otherwise to remain in full force and effect. No right of action shall accrue under this bond to or for the use of any person other than the said Obligee.

SIGNED AND SEALED THIS _____ day of _____ 20_____.

(Principal)

By: _____

(Surety)

By: _____

/ Attorney-in-Fact