

**JOINT MEETING
CITY OF MORRO BAY AND CAYUCOS SANITARY DISTRICT
WASTEWATER TREATMENT PLANT
(UNDER JOINT POWERS AGREEMENT)**

Cayucos Sanitary District Board of Directors:

Robert Enns, President
Bud McHale, Vice-President
Harold Fones, Director
Shirley Lyon, Director
Michael Foster, Director

City of Morro Bay City Council:

Janice Peters, Mayor
Betty Winholtz, Vice-Mayor
Noah Smukler, Councilmember
Carla Borchard, Councilmember
Rick Grantham, Councilmember

AGENDA

MEETING DATE:

6:00 p.m., Thursday, May 13, 2010

HOSTED BY:

Cayucos Sanitary District

MEETING PLACE:

Cayucos Veterans Hall
10 Cayucos Drive
Cayucos, CA 93430

CALL TO ORDER AND ROLL CALL

PUBLIC COMMENT PERIOD

Members of the audience wishing to address the governing bodies on Morro Bay-Cayucos Wastewater Treatment Plant (WWTP) business matters may do so at this time. By the conditions of the Brown Act, the governing bodies may not discuss issues not on the agenda, but may set items for future agendas. When recognized by the Chair, please come forward to the podium and state your name and address for the record. Comments should be limited to three minutes.

A. CONSENT CALENDAR

1. Minutes of April 8, 2010 JPA Meeting – Recommend approve.
2. Status Report on Design Process – Recommend receive and file

B. OLD BUSINESS

1. Ratification of Decision between the City of Morro Bay and Cayucos Sanitary District to Pursue a Single Loan from the State Revolving Fund (SRF) for both Agencies to Finance the Construction of a New WWTP
2. Approval of Request for Proposal (RFP) for Project Management for the WWTP Upgrade Project - Recommend Approve

C. NEW BUSINESS

1. Consideration to Pay for Capital Costs Associated with the New Morro Bay-Cayucos (MBCSD) WWTP Based on Adopted Capacity Rights for the New MBCSD WWTP
2. Schedule Next Joint Meeting and Agenda Items

ADJOURNMENT - (Next meeting will be hosted by the City of Morro Bay)

Copies of staff reports and other public documentation relating to each item of business for this meeting are available for inspection at Morro Bay City Hall at 595 Harbor Street and the Cayucos Sanitary District at 200 Ash Ave. A copy of this packet is available from the City of Morro Bay for copying at Mills Copy Center and from the Cayucos Sanitary District for a copy and duplication charge. Any person having questions regarding any agenda items may contact Bruce Keogh, Wastewater Division Manager (City of Morro Bay) at 772-6261 or Bill Callahan, District Manager (Cayucos Sanitary District) at 995-3290.

Materials related to an item on this Agenda submitted to the Morro Bay/Cayucos Wastewater Treatment Plant Joint Powers Authority after distribution of the agenda packet are available for public inspection at; Public Services Office at 955 Shasta Avenue, Morro Bay, CA 93442; Morro Bay Library at 625 Harbor Street, Morro Bay, Ca 93442; Mills/ASAP Reprographics at 495 Morro Bay Boulevard, Morro Bay, CA 93442 during normal business hours.

**JOINT MEETING
CITY OF MORRO BAY AND CAYUCOS SANITARY DISTRICT
WASTEWATER TREATMENT PLANT
(UNDER JOINT POWERS AGREEMENT)**

**CAYUCOS SANITARY DISTRICT
BOARD OF DIRECTORS:**

Robert Enns, President
R.H. Bud McHale, Vice-President
Harold Fones, Director
Michael Foster, Director
Shirley Lyon, Director

**CITY OF MORRO BAY CITY COUNCIL:
MEMBERS PRESENT:**

Janice Peters, Mayor
Betty Winholtz, Vice-Mayor
Noah Smukler, Councilmember
Carla Borchard, Councilmember
Rick Grantham, Councilmember

MINUTES

MEETING DATE:

6:00 p.m., Thursday, April 8, 2010

HOSTED BY:

City of Morro Bay

MEETING PLACE:

Multi-Purpose Room
Community Center
1001 Kennedy Way
Morro Bay, CA 93442

CALL TO ORDER AND ROLL CALL

Mayor Peters called the meeting to order at 6:05 p.m. and asked that the record show all Council members are present. President Enns stated all members of the Cayucos Board are present.

Morro Bay Staff members present were Bruce Keogh, Rob Livick, Dylan Wade, Susan Slayton and Cindy Jacinth.

Cayucos Staff members present were Bill Callahan, District Counsel Tim Carmel and Lewis Brookins.

Mayor Peters announced that Item 3 will be moved up to the beginning of New Business.

PUBLIC COMMENT PERIOD

Members of the audience wishing to address the governing bodies on Morro Bay-Cayucos Wastewater Treatment Plant (WWTP) business matters may do so at this time. By the conditions of the Brown Act, the governing bodies may not discuss issues not on the agenda, but may set items for future agendas. When recognized by the Chair, please come forward to the podium and state your name and address for the record. Comments should be limited to three minutes.

Mayor Peters opened the Public Comment period.

Robert Staller, a farmer, spoke about his concern that water be appropriate for the agricultural use in Chorro Canyon and Morro Creek.

Correspondence was received during Public Comment period from Patrick Sparks, Morro Bay attorney, for entry into the public record.

The following persons spoke in favor of allowing PERC to make a formal presentation:

Jack McCurdy, Morro Bay resident,
Dorothy Cutter
Daniel Crazek
Andrew Christie, Director of Sierra Club and resident of Los Osos
Al Barrow, Coalition for Low Income Housing, and resident of Los Osos
Taylor Newton, Morro Bay resident and business owner
Jane Heath, Morro Bay resident
Melody Demeritt, Morro Bay resident and former City Council member
Walter Yate, Morro Bay resident,
Jenny Brantlee, Morro Bay resident
Steven Haidi, Cayucos resident and business owner
Steve Owen, Vice President of Business Development and Infrastructure at PERC, stated that it is not too late to consider PERC and knows they would have to enter into a competitive process

The following persons spoke against allowing PERC to make a formal presentation:

Bill Yates, Morro Bay resident and former Mayor of Morro Bay
Keith Taylor, Morro Bay resident, encouraged the Board to think about their decision and stated he is worried about their liability. He stated he supports the Board in whatever their decision is.

Hearing no further comment, Mayor Peters closed the public comment period and brought it back to the Board.

A. CONSENT CALENDAR

1. Minutes of February 16, 2010 JPA Meeting – Recommend approve.
2. Wastewater Treatment Plant (WWTP) Operations Report through February, 2010– Recommend receive and file
3. Status Report on Design Process – Recommend receive and file
4. Status Report on the Environmental Review Process – Recommend receive and file

Winholtz asked to have item # 4 pulled from the Consent Calendar.

MORRO BAY MOTION: Grantham, Smukler 2nd to approve Consent Calendar Items 1-3. VOTE: 5-0.

CAYUCOS MOTION: McHale, Fones 2nd to approve Consent Calendar Items 1-3. VOTE: 5-0.

Item 4: Status Report on the Environmental Review Process – Recommend receive and file

Winholz asked if the EIR has been taken over by ESA or is that being performed by City staff. Keogh clarified the ESA is performing the EIR but the City is the lead agency in the environmental process.

MORRO BAY MOTION: Winholtz, Grantham 2nd to receive and file this report. VOTE: 5-0

CAYUCOS MOTION: McHale, Foster 2nd, to receive and file this report. VOTE: 5-0

B. NEW BUSINESS

3. Discussion to Determine Whether to Have a Presentation from PERC Water at a Future JPA Meeting.

Keogh presented the staff report.

Board members had discussion with staff about the following:

- The existing contract in place with Montgomery Watson Harza (MWH): Wade clarified the contract process noting that contracts are written to have some flexibility.

- The consequences of delaying the project: Wade explained that due to the adopted time schedule there could be penalties if project is delayed. Tim Carmel agreed with this and said that the suspension clause is linked directly to cause. Susan Slayton, Administrative Services Director, explained the \$425,000 planning and design grant would be jeopardized if the process slows down.
- The differences between the design build process and the design bid build process. Wade clarified for Board members these different project delivery methods as it related to PERC. Wade stated he recommends the Board to continue with the design bid process.
- The procurement process used by the Board that led to MWH. Wade clarified the different phases of the project and discussed the RFQ and RFP processes.

Enns noted the departure of Hal Fones.

Board members continued discussion regarding the pros and cons of the design build process versus the design bid build as it relates to cost, quality control and risk.

Winholz noted that PERC could not apply because of the way the Request for Qualifications (RFQ) was written. She stressed that hearing a presentation from PERC does not commit the Board and should not preclude the Board from missing project timeframe deadlines.

Smukler noted that regarding the project timeframe, the members of the NRDC, Surfrider and Sierra Club want us to pick the best method. Smukler stressed the importance of authentically evaluating the best project and wanted to make sure that is noted.

Board members further discussed whether presentations should be allowed by just PERC or opened up to other companies.

MORRO BAY MOTION: Winholz, Smukler 2nd to put on the agenda to ask PERC to make a presentation at the May 13, 2010 JPA meeting. VOTE: 3-2 Motion failed.

CAYUCOS MOTION: No motion put forth from Cayucos

Enns asked Callahan if the Board evaluated other technologies. Callahan clarified yes. Facilities Master Plan was completed in 2006. Keogh clarified costs were updated in Facilities Master Plan amendment that was presented at the September meeting.

Smukler moved to modify the motion to not specifically PERC but any agency.

MORRO BAY MOTION: Smukler, Winholz 2nd that we open the opportunity for firms that offer design build finance operate delivery model to make presentations to the Board. VOTE: 3-2. Motion fails.

CAYUCOS MOTION: No motion put forth from Cayucos.

Board members then discussed the design build finance operate and other different methodologies of finance.

Peters announced a short break and the meeting resumed at 8:22p.m.

1. Discussion and Consideration to Contract for a Project Manager for the Upgrade Process

Keogh gave the staff presentation on hiring a project manager for the Wastewater Treatment Plant upgrade.

Board members had discussion with staff regarding the following:

- The Project Manager's importance to be a neutral third party with no conflicts of interest. Keogh clarified the project manager would be required to follow the direction of the Board and the general guidelines of the City.
- The type of skill set needed for this job. The new hire would be someone who has experience with this process with a multiple skill set. This position would be 20 hours a week for about 15-18 months.
- The possibility of the Project Manager position being a City of Morro Bay staff person versus an independent. Wade clarified this was discussed at the City due to the concern by Cayucos to have work managed by a City of Morro Bay employee.
- The high cost of hiring an engineer. Wade clarified the project budget includes funding for administration/engineering/legal fees. This project cost was anticipated.

Borchard asked if the JPA will know the cost when it is brought back. Wade said no, not until it is brought back for award, then you will see the cost. Keogh clarified the Board can summarily reject proposals if cost is out of line.

MORRO BAY MOTION: Peters, Grantham 2nd, to prepare a RFP to hire a Project Manager under option two and bring the RFP back to JPA for review. VOTE: 3-2. Motion carries.

CAYUCOS MOTION: McHale/Lyon 2nd, to prepare a RFP to hire a Project Manager under option two and bring the RFP back to JPA for review. VOTE: 4-0.

Foster also made a 2nd motion at the same time.

CAYUCOS MOTION: Foster, Enns 2nd, that at the same time an RFP is prepared under option 2 that staff bring back an evaluation of the possibility of hiring an employee to meet those same responsibilities. VOTE: 3-1.

Peters asked for clarification regarding the difference between hiring an employee for the City or hiring someone for the JPA. Wade responded the functions are the same and the employment contract would clarify these issues.

MORRO BAY MOTION: Winholz, Grantham 2nd, that at the same time an RFP is prepared under option 2 that staff bring back an evaluation of the possibility of hiring an employee to meet those same responsibilities. VOTE: 4-1.

2. Discussion on State Revolving Fund (SRF) Loan for WWTP upgrade

Slayton presented the staff report.

Smukler asked Slayton since SRF is competitive, what happens if we do not receive the funding. Slayton said other funding option would be explored.

Brookins spoke to clarify the financing process which includes financing a portion during the early stages and then progress payments during construction.

Slayton clarified with private financing certificates of participation could be issued, but there is a higher cost associated.

Winholz asked if we could apply for just ourselves and not Cayucos. Slayton clarified that there could be higher costs and lenders would look at the application as one project.

Carmel clarified for the Board that a motion would need to be passed adding this as an action item to the agenda.

CAYUCOS MOTION: Foster, Lyon 2nd to add an action item to the agenda. VOTE: 4-0

CAYUCOS MOTION: Foster, Lyon 2nd to accept option 1 in Agenda item B 2. VOTE: 4-0

MORRO BAY MOTION: Borchard, Grantham 2nd to add an action item to the agenda. VOTE: 4-1

MORRO BAY MOTION: Borchard, Grantham 2nd to accept option 1 in Agenda item B 2. VOTE: 4-1

4. Schedule Next Joint Meeting and Agenda Items

Enns asked to add item to be put on the agenda which is Cayucos is requesting for action the matter of paying for new treatment plant cost based on the capacity that we are each requesting.

Carmel recommended action just taken on the SRF be ratified.

Smukler wants update on expenditures for design process. Keogh said he will bring back status report.

ADJOURNMENT

Peters noted the next JPA meeting is May 13, 2010 in Cayucos.

Peters adjourned at 9:27pm.

STAFF REPORT

**MORRO BAY-CAYUCOS J.P.A.
WASTEWATER TREATMENT PLANT**

To: Honorable Mayor and City Council, City of Morro Bay
Honorable President and Board of Directors, Cayucos Sanitary District

From: Bruce Keogh, Wastewater Division Manager

Date: May 6, 2010

Subject:
Status Report on the Design Process for the WWTP Upgrade Process

Recommendation:
This Department recommends that this report be received and filed.

Fiscal Impact:
None

Summary:
This staff report is intended to provide an update on the design process for the WWTP upgrade process.

Background:
The Council and District awarded a contract to MWH for Engineering Design Services for the WWTP upgrade project at their February 16, 2010 meeting. Staff worked with MWH to execute the contract and a Notice to Proceed was issued on March 12, 2010.

Discussion:
There have been several coordination meetings between City and District staff with MWH staff to discuss the tasks outlined in the scope of work required to complete the design process. MWH and City and District staff have agreed on a short term work plan. The primary focus at this time has been on gathering information and options required to develop Amendment #2 to the Facility Master Plan. Amendment #2 will serve as the document from which the design process will proceed. The Amendment will include the project description that the environmental consultants, Environmental Scientific Associates, will use to complete the draft EIR. Discussions with MWH have included flows and loading parameters; coordination with other required studies such as the EIR, geotechnical, and the flood study; discussion of overall plant design; and process and equipment selection.

Staff has spent a significant amount of time in the last month collecting, preparing, and reviewing data to be used in the design process. City and District staff have also met on at least two occasions to discuss and review flow data to the plant. Plant staff has worked with MWH to finalize an influent sampling program that will better characterize the

influent loadings to the plant. Plant staff will begin the influent sampling program during the second week of May.

City and District staff anticipates bringing a draft of Amendment #2 to the FMP to the JPA Technical Advisory Committee for review prior to bringing it to the JPA for review and adoption.

Expenditures to Date

The expenditures for the design process through the end of March are \$23,689. Staff has not received an invoice to date from MWH, but were told that an invoice for the amount noted above will be forthcoming.

Conclusion:

City and District staff will continue to work with staff from MWH and the City and District on the design process. Staff will continue to update the City Council and District Board on the design process as information becomes available.

Agenda No. B-1

Date: May 13, 2010

STAFF REPORT

MORRO BAY/CAYUCOS J.P.A. WASTEWATER TREATMENT PLANT

To: Honorable Mayor and City Council, City of Morro Bay
Honorable President and Board of Directors, Cayucos Sanitary District

From: Bruce Keogh, Wastewater Division Manager

Date: May 6, 2010

Subject:

Ratification of Decision Between the City of Morro Bay and Cayucos Sanitary District to Pursue a Single Loan from the State Revolving Fund (SRF) for Both Agencies to Finance the Construction of a New WWTP

Recommendation:

The Council and Board are asked to ratify their decision to pursue a single loan from the State Revolving Fund with a legal financial agreement between the City and District.

Summary:

At the April 8, 2010 JPA meeting, staff presented item C-2, Discussion on State Revolving Fund (SRF) Loan for WWTP upgrade. A copy of that staff report is attached. Staff requested the Council and District Board take action on this item. During the ensuing discussion, Mr. Carmel, the legal counsel for the District informed the group that the title for the agenda item did not allow the Council and District Board to take formal action on this item. The Council and District Board did vote to allow action to be taken on this agenda item and subsequently the Council and District Board did vote to pursue the concept of a single loan from SRF for the WWTP upgrade project.

Mr. Carmel advised the Council and District Board to reagendaize this item at the May JPA meeting so that they could ratify their decision to pursue a single loan from the state revolving fund (SRF) for both agencies to finance the construction of a new WWTP

Conclusion:

The Council and Board are asked to ratify their decision to pursue a single loan from the State Revolving Fund with a legal financial agreement between the City and District.

STAFF REPORT

MORRO BAY-CAYUCOS J.P.A. WASTEWATER TREATMENT PLANT

To: Honorable Mayor and City Council, City of Morro Bay
Honorable President and Board of Directors, Cayucos Sanitary District

From: Bruce Keogh, Wastewater Division Manager

Date: May 6, 2010

Subject:

Approval of the Request for Proposal for Project Management Services for the WWTP Upgrade Project

Recommendation:

This Department recommends that following discussion and consideration of this item that the City Council and District Board approve the Request for Proposal for Project Management Services (PM) and direct staff to public notice the RFP for project management services.

Fiscal Impact:

The costs of the project manager will be an additional project expense. However, this cost will offset staffing efforts that would have to be increased to perform project management duties required to keep these critical tasks moving forward. Total costs for project management during the design phase will range between \$150,000 to over \$250,000 varying with the exact scope of work and staff availability.

Summary:

At the April 8, 2010 JPA meeting the Council and District Board directed staff to prepare an RFP for project management of the upgrade project and bring the RFP back for consideration at the next JPA meeting.

City and District staff has prepared an RFP for PM. The RFP is attached to this staff report. The RFP reflects input from both City and District staff, and the legal counsels for both agencies.

As outlined in the staff report for the April 8, 2010 meeting, the primary role of the PM will be overall management and coordination of the upgrade project up through the completion of the design phase. In addition the PM will serve as the owner's representative during the environmental review and permitting process. The anticipated roles and responsibilities are outlined in the scope of work in the RFP.

Discussion:

During the discussion concerning project management at the April 8, 2010 JPA meeting, there was also a discussion concerning hiring an "In House" employee vs hiring an independent contractor. Staff was directed to perform an evaluation of these two options and bring it back to the next JPA meeting for discussion. The following table outlines that evaluation process.

EVALUATION OF HIRING AN “IN HOUSE” EMPLOYEE VS. AN INDEPENDENT CONTRACTOR

	Independent Contractor	City Employee
Cost/Salary	Approximately \$13,000 per month for average of 20 hours per week	\$9,750 - \$12,150 per month with benefits for a 40 hr per week employee, based on survey of employment publications and other local agencies
Reporting	Reports Jointly to City and JPA	Reports to Public Services Director
Office Space and Materials	Provided in Cost of Contractor	Additional Costs
Length of Term/Stability	Provides service until project complete, per contract terms	At will employee, either party may terminate with or without notice
Liability	Per Contract Terms, City and District held harmless for errors, omissions and other acts of negligence	City and District responsible
Post Employment/Contract	No obligation to Contractor	Liability of Unemployment Benefits

Based upon the analysis in the table above it appears that while the cost could be lower on a month to month basis for an employee, the other aspects such as liability and post contract costs make the independent contractor a much more viable option for the project management of the WWTP upgrade project.

Conclusion:

This Department recommends that following discussion and consideration of this item that the City Council and District Board approve the Request for Proposal for Project Management Services (PM) and direct staff to public notice the RFP for project management services.

CITY OF MORRO BAY & CAYUCOS SANITARY DISTRICT



REQUEST FOR PROPOSALS

PROJECT MANAGEMENT SERVICES

Waste Water Treatment Plant Upgrade Project

Issued: May 18, 2010

Due: June 9, 2009

Approved:

Rob Livick, PE/PLS – Interim Director/City Engineer
Department of Public Services
955 Shasta Avenue
Morro Bay, California 93442

Bill Callahan, District Manager
Cayucos Sanitary District

CITY OF MORRO BAY- CAYUCOS SANITARY DISTRICT WASTEWATER TREATMENT PLANT

PROJECT MANAGEMENT SERVICES

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REQUEST FOR PROPOSAL

CITY OF MORRO BAY/CAYUCOS

WASTEWATER TREATMENT PLANT UPGRADE

The City of Morro Bay and the Cayucos Sanitary District (MBCSD), operate a wastewater treatment plant under a Joint Powers Agreement, are inviting the submittal of proposals for Project Management for the upgrade of the Wastewater Treatment Plant.

SCOPE OF POTENTIAL PROJECT MANAGEMENT SERVICES

Scope of Work

A consultant will be selected to provide a wide range of PM services to be provided on an as-needed and as-requested basis by MBCSD. **It is the intent of the City and District to enter to a contract with a consultant on a time and materials basis for the services described below.**

The selected consultant may be required to provide services in the following areas. Each proposal must address each task, specifically identifying response to each. The consultant is encouraged to propose changes or additions to the draft scope work if the consultant believes that these changes will provide added benefit to the project.

Potential Scope Summary

- Advise and represent the City and District in the replacement of their treatment plant
- Provide Project Management
- Coordinate project activities and consultants
- Assist and coordinate in the preparation of environmental and permit documents
- Assist in the preparation of the SRF Application and SRF loan process
- Assist in and coordinate activities associated in with the design process
- Assist the City and District in hiring consultants for Value Engineering, Construction Management Services, and other services as required, may include the development and evaluation of RFPs and RFQs
- Public outreach and education concerning the upgrade project
- Schedule review
- Budget and financial review

Advise and Represent the City and District:

The PM will assist and advise the City and District to ensure the successful completion of the upgrade project through the design phase and up to the beginning of construction (through completion of the bid phase). The PM will ensure that the contracting process for a complex

project of this nature is properly solicited and awarded through a competitive bid process. The PM will ensure delivery of the project within the time constraints set forth in the 8 – Year Time Schedule using the expertise necessary to assist City and District staff in the oversight and management of this process.

Project Management:

Perform the following subtasks and any required additional tasks to develop a plant upgrade project required for the successful completion for the City and Districts WWTP upgrade, consistent with SRF requirements.

The PM will manage all sub-consultants on the team, directing the flow of information between the consultant team members and the City and District’s staff. Monthly billing and status reports should be clearly presented to the City and District in an organized manner, with costs distributed among tasks and funding sources.

The PM shall assist City and District staff in the preparation of applications to obtain necessary permits to complete the project. Permit applications shall be submitted in a timely manner, and the PM will be responsible for monitoring the issuance of permits for the proposed project. The PM will be responsible for coordination with outside agencies and sub consultants.

The PM shall coordinate and ensure that all necessary studies, surveys, documentation, studies, and all other services required for the complete development of project plans and specifications for design of the plant upgrades are successfully completed per the project design schedule.

Coordinate Project Activities:

The PM will participate in the coordination of efforts between City and District staff and the City Council and District Board. The PM will also coordinate the services of the consultants to help ensure delivery milestones are met and work products are complete and technically sound.

This task includes program management, directing public meetings and general administration. Project Development meetings will be held at monthly intervals or as needed between the City and District and the Consultant Project Development Team. A Project Development Team will be established and will be comprised of the City and District, City and District Consultants, and other representatives, as deemed necessary.

Environmental Review and Permitting:

The PM shall assist City and District staff and act as the owners’ representative in the preparation of applications to obtain necessary permits to complete the project. Permit applications shall be submitted in a timely manner, and the PM will be responsible for monitoring the issuance of permits for the proposed project. The PM will be responsible for coordination with outside agencies and sub consultants. The PM will assist in the preparation of any required permits and assist City and District staff in obtaining said permits. The City will serve as both the lead agency for the local permitting process (Conditional Use Permit and Coastal Development Permit) as well as the applicant. The PM will be assisting the City in its role as the applicant only. The City and District have retained ESA as its environmental

consultant. The PM will help to coordinate the design consultants with the environmental review process.

Tasks will include attendance at meetings and hearings, and the preparation of staff reports.

Prepare SRF Application and Supporting Documents:

The PM will also be required to assist the City and District in obtaining such funds. The PM will ensure the project complies with the SRF program requirements in constructing the upgraded plant. The PM should be familiar with and will ensure the project complies with the SRF program requirements in constructing the upgraded plant. The PM should be familiar with the requirements summarized in the STATE WATER RESOURCES CONTROL BOARD's publication entitled "POLICY FOR IMPLEMENTING THE STATE REVOLVING FUND FOR CONSTRUCTION OF WASTEWATER TREATMENT FACILITIES".

The PM will serve as the point of contact for the SRF process and will be responsible to ensure complete accurate and timely execution of the SRF applications, as well as providing support once the applications are complete.

Assist and Coordinate in the Preparation of the Design Process

Coordinate with the design team and other consultants to ensure that all critical tasks are coordinated with the appropriate consultants and/or City and District staff.

Develop RFQs and assist the City and District in Hiring Consultants for Value Engineering, Construction Management Services, or Other Services as Required.

Ensure that value engineering is conducted in a timely fashion and that it is in accordance with the SRF requirements for value engineering. The PM will develop the RFQs for Construction Management and will assist City and District staff in the evaluation of RFQs for Construction Management Services. The PM will provide a recommendation to the Council and District Board for award of contract.

Public Outreach and Education Concerning the Upgrade Project

The PM will assist staff in keeping the Council, District Board, staff, and the public apprised of the project status. This task may require conducting and coordinating public workshops and project meetings, and will require attendance and participation in JPA, City, and CSD meetings.

Schedule Review

The PM will be responsible for the overall tracking and management of the project schedule. The PM will coordinate the work of the design professional, as well as participate in the permit preparation process to ensure that the various work tasks completed support the overall project schedule. The project schedule will be tracked against the adopted 8 Year Time Schedule to help ensure that the adopted Time Schedule is met and completed ahead of schedule if possible.

Budget and Financial Review

The PM will review the design consultant's as well as other consultant's progress payments for completeness and compliance with their respective contracts. The PM will focus on ensuring that payments made to the consultants match the deliverables received.

Deliverables

The PM will be responsible for submittal of monthly progress reports to the JPA describing the status of the project including but not limited to deliverables received from consultants, funds expended to date by project task, status of the project, updating of the project schedule, and upcoming or outstanding tasks or items.

Intended Use of Consultant's Work

The Project Management related services produced by the consultant are a necessary component of the process required for the City and the District for the upgrade and rehabilitation of the existing wastewater treatment process. After review and approval of the design, engineering, and pre-construction related services, the City and the District will proceed with the next phases of the project to construct the improvements contained within the design for improvements to and rehabilitation of facilities at the Morro Bay-Cayucos Wastewater Treatment Plant.

PROPOSAL REQUIREMENTS

GENERAL TERMS AND CONDITIONS

1. **Requirement to Meet All Provisions.** Each individual or firm submitting a proposal shall meet all of the terms and conditions of the Request for Proposals (RFP) specifications package. By virtue of its proposal submittal, proposing consultant acknowledges agreement with and acceptance of all provisions of the RFP specifications.
2. **Proposal Submittal.** Each proposal must be submitted on the form(s) provided in the specifications and accompanied by any other required submittals or supplemental materials. Enclose proposal documents in a sealed envelope addressed to the City of Morro Bay Department of Public Services, 955 Shasta Avenue, Morro Bay, California, 93442. In order to guard against premature opening, clearly label the proposal with the proposal title, name of consultant, and date and time of proposal deadline. The City and District will not accept FAX submittals.
3. **Insurance Certificate.** Each proposal must include a current certificate of insurance showing:
 - a. The insurance carrier and its A.M. Best rating.
 - b. Scope of coverage and limits.
 - c. Deductibles and self-insured retention.The purpose of this submittal is to generally assess the adequacy of the proposing consultant's insurance coverage during proposal evaluation; as discussed under paragraph 10 below, endorsements are not required until contract award.
4. **Proposal Withdrawal and Opening.** A proposing consultant may withdraw its proposal, without prejudice, prior to the time specified for the proposal opening, by submitting a written request to the Director of Public Services for its withdrawal, in which event the proposal will be returned to the consultant unopened. The City and District will not consider proposals received after the time specified or at any place other than that stated in the "Notice Requesting Proposals." The City and District will open and declare all proposals in public. Proposing consultants or their representatives are invited to be present at the opening of the proposals.
5. **Submittal of One Proposal Only.** No individual or business entity of any kind shall be allowed to make or file, or to be interested in more than one proposal.
6. **Communications.** All timely requests for information submitted in writing to **Bruce Keogh**, mbwwtp@yahoo.com, will receive a written response from the City and District. The City and District do not encourage telephone communications with City and District staff but will allow them. However, any such oral communication shall not be binding on the City and District.

CONTRACT AWARD AND EXECUTION

7. **Proposal Retention and Award.** The City and District reserve the right to retain all proposals for a period of 90 days for examination and comparison. The City and District also reserve the right to waive non-substantial irregularities in any proposal, to reject any or all proposals, to reject or delete one part of a proposal and accept the other, except to the extent that proposals are qualified by specific limitations. The special terms and conditions of these specifications include proposal evaluation and contract award criteria.

8. **Competency and Responsibility of Proposing Consultant.** The City and District reserve full discretion to determine the competence and responsibility, professionally and/or financially, of proposing consultants. Proposing consultants will provide, in a timely manner, all information that the City and District deems necessary to make such a decision.

9. **Contract Requirement.** The proposing consultant to whom award is made (Consultant) shall negotiate and execute a written contract with the City and District within thirty (30) calendar days after notice of the award has been sent by mail to it at the address given in its proposal. The contract shall be made in substantially the form adopted by the City and District and incorporated in these specifications.

10. **Insurance Requirements.** The Consultant shall provide insurance policies and endorsements of insurance policies in the form, coverages, and amounts specified in the Consultant Services Agreement within 10 (ten) calendar days after notice of contract award as a precondition to contract execution.

11. **Business License.** The Consultant must have a valid City of Morro Bay business license prior to execution of the contract. Additional information regarding the City's business license program is available at the City of Morro Bay City Hall at 595 Harbor Street, Morro Bay, CA, 93442, (805) 772-6200.

CONTRACT PERFORMANCE

12. **Ability to Perform.** The Consultant warrants that it possesses, or has arranged through subcontracts, all capital and other equipment, labor, materials, and licenses necessary to carry out and complete the work hereunder in compliance with any and all federal, state, county, city, and special district laws, ordinances, and regulations.

13. **Laws to be observed.** The Consultant shall keep itself fully informed of and shall observe and comply with all applicable state and federal laws and county and City of Morro Bay ordinances, regulations and adopted codes during its performance of the work.

14. **Payment of Taxes.** The contract prices shall include full compensation for all taxes that the Consultant is required to pay.

15. **Safety Provisions.** The Consultant shall conform to the rules and regulations pertaining to safety established by OSHA and the California Division of Industrial Safety.
16. **Public and Employee Safety.** Whenever the Consultant's operations create a condition hazardous to the public or City and District employees, it shall immediately correct such conditions at its expense and without cost to the City and District.
17. **Consultant Non-Discrimination.** In the performance of this work, the Consultant agrees that it will not engage in, nor permit such subconsultants as it may employ, to engage in discrimination in employment of persons because of age, race, color, sex, national origin or ancestry, sexual orientation, or religion of such persons.
18. **Terms and Conditions of Contract:** The City and District's standard general consultant contract form is attached to this Request for Proposals. The successful consultant will be required to enter into a contract substantially in the form attached and abide by all of its terms and conditions. .

SPECIAL TERMS AND CONDITIONS - REQUEST FOR PROPOSALS

Submission of Proposal

To be considered by the selection committee, the Proposal for Project Management Services for the Morro Bay/Cayucos Wastewater Treatment Plant upgrade project must be submitted by no later than **3:00 p.m. on Wednesday, June 9, 2009.**

The City-District will not consider proposals received after said time. Submit proposals to the City of Morro Bay Public Services Department in a sealed envelope plainly marked with the proposal title, consultant name and address, and time and date of the proposal submittal deadline.

Ten (10) copies of the proposal should be submitted in a sealed envelope or box. Proposals shall be mailed to: City of Morro Bay, Department of Public Services, 595 Harbor St., Morro Bay, 93442; or hand delivered to the Department at 955 Shasta Avenue, Morro Bay, 93442.

PROPOSAL CONTENT: Your proposal must include the following information:

Proposal Length and Copies

The consultant is encouraged to prepare a straightforward, concise proposal that specifically relates to the project. The following is a list of the maximum number of pages for various components of the proposal.

Letter of Transmittal	1 page
Scope of Services Discussion	6 pages maximum
• Figures and Illustrations	2 pages maximum
• Appendices (no page limit)	
a. Resumes of Key Personnel, limited to two pages each (as needed)	
b. The Consultant shall provide a statement that confirms review of the Agreement of Services.	
c. Proposers must identify any provisions they disagree with, and changes which they wish to have considered by the City and District.	
d. Consultant's Detailed Scope of Services (as needed)	
e. Provide hourly rate schedule	

EVALUATION CRITERIA AND SELECTION PROCESS

Selection of the consultant or contracting entity will be based on an overall assessment of qualifications, capability, adaptability, and plan to accomplish the project on schedule. Selection of the consultant shall be based on all submitted documents and subsequent interview.

Written proposals will be ranked by the City and District based on established ranking criteria. The request for proposals for Project Management Services will be evaluated utilizing the following qualifications-based criteria:

Criteria	Points
Approach to Work	30
Relevant Project Experience	30
Project Team	30
Responsiveness to the RFP	5
Ability to Conform to City and District Contract	5
Oral Presentation	50
Total	150

The Proposal shall include the following items.

Transmittal Letter

The proposer may use this section to introduce the Proposal and/or to summarize the key provisions of the proposal. The letter of transmittal shall contain the names of the Project Manager(s) that will perform the project. The office location(s) where the work will be performed shall be stated.

Section 1 – Approach to Work (Score 30)

Outline your team’s approach to complete the scope of work outlined in the RFP.

This section relates to the project understanding and approach of the requested services. This should include a clear and concise understanding of the requested services based on existing information and the chief issues to be addressed. The consultant should be knowledgeable of standard solutions applicable to project issues as well as being able to offer innovative ideas. It is also important that the consultant demonstrate an ability to synthesize technical information and communicate this information in verbal, written and graphic form.

This section should also outline the approach to the project and how key issues identified in the requested services will be addressed. It should include major tasks to be completed as well as the resources proposed to complete each task, identifying the consultant's ability to ensure expeditious completion of the work.

Section 1 may include:

- Describe the overall approach to the project.
- Provide a general work plan that describes how the consultant will organize and conduct the project by task, as defined in the Scope of Services. Identify any critical milestones for the project.
- Provide a description of the consultant's approach and methodology of managing work tasks and coordination used to accomplish the work in a timely manner. Describe how you would propose to use City and District staff, if at all, to assist you during the project and indicate the approximate time requirement.
- Provide a description of how the consultant will ensure project progress and quality control.
- Describe how your work plan addresses contingencies that may arise during the project.
- Describe your process/concept for managing scope, schedule, and budget.
- Describe your process and experience interacting with City Councils and District Boards, City and District Staffs, and the public.
- Describe the proposed management approach, which will cover: communications and coordination approach, methods and techniques among project team members, with the City and District and outside parties, and quality control and management program.

Section 2 – Relevant Project Experience (Score 30)

Briefly highlight the Project Manager(s) professional work history of relevant projects as it relates to the capabilities to provide the requested services listed in the Scope of Services. Identify any unique approaches or strengths that your firm may have related to this project.

Identify recent experience with PM services on WWTP projects, specifically highlighting schedule compliance.

Describe specific experience with understanding operations, design and construction oversight of Wastewater Treatment Plants.

Describe recent experience with the SWRCB SRF Loan process.

Describe recent experience with the environmental review and permitting process for projects in the Coastal Zone.

Methods, techniques and approach to resolving project conflicts or problems among the owner and consultants during the design phase.

Identify experience with public relations and outreach with a controversial public works project, identify ideas or approaches to communication with Councils, Boards, and the public.

Section 3 – Project Team (Score 30)

With respect to the tasks listed in the Scope of Services, indicate staff organization and describe the specific role of key staff members, including sub-consultants, and how the City and District will be involved. Indicate the portion of the time key staff will be available to work on the project, and discuss the availability of the project team to complete the project on schedule. Describe major projects where key team members have worked together previously. Emphasize the experience of the specific individuals proposed to do the work. Include resumes for the key team members in the appendix of your proposal. Substitutions of key personnel will only be allowed with written approval of the City and District.

Section 4 – Responsiveness to the RFP (Score 5)

Completeness of responses in accordance with the RFP instructions; exceptions to or deviations from the RFP requirements.

Section 5 - Ability to Conform to City and District Contract (Score 5)

Ability to enter a design contract quickly; a copy of the City and District's standard agreement for consultant services is attached. Proposers are asked to identify in their proposals any language therein which would not be accepted, and suggest in their proposal any changes in that language that would be required prior to entering an agreement with the City and District.

Section 6 - Submittal Forms

- a. Certificate of insurance.
- b. At least three references from agencies you have provided similar services for (use form in proposal package).
- c. Statement and explanation of any instances regarding past governmental agency bidding or contract disqualifications or removal from a project.

Selection Procedure

The selection procedure is designed to provide each competing consultant a fair and objective assessment of their qualifications. It is intended to allow each consultant the opportunity to have access to the same information on the project and to submit information on its qualifications and approach that will be judged on its merit in terms of how well it meets the City and District's objectives. No consultant has an acknowledged advantage in this procurement, nor does the City and District intend during the selection process to confer any advantage to any consultant.

The following procedures will be followed in selecting the PM.

- A. Proposals received by the City and District will be reviewed by a selection committee. The selection committee is made up of members from the City and District. The top three consultants may be invited for interviews. The City and District reserve the right to request clarification of information submitted, and to request additional information of one or more applicants prior to the selection for interviews. Based on the results of the initial review and ranking process, utilizing the stated evaluation criteria, the top consultants may be invited to the City of Morro Bay (at no cost to the City or District) for interviews.
- B. Presentations and interviews will be before the selection committee who will evaluate and score the presentations and proposals. Each interview will last approximately 1 hour. The presentation will be an informal question and answer meeting; no power point presentations are expected or desired. The City and District will schedule the times and locations for this meeting.
- C. Upon completion of all interviews, the selection committee will evaluate and develop an overall ranking of the competing consultants after giving full and fair consideration to each consultant's proposal and presentation, and designate the most qualified consultant for award of contract. The most qualified consultant will have the highest combined score based on the evaluation criteria used to evaluate the proposals for PM services as well as the interview process.
- D. The City and District will notify the first-ranked consultant of its selection shortly after the committee has made its decision. The other consultants will be notified, and if negotiations are not successful with the top-ranked consultant, or if that consultant does not execute a contract agreeable to the City and District within 30 days of the notification, the City and District will cease discussions, and begin negotiations with the second highest ranked consultant, etc., until a satisfactory contract is agreed upon; or the City and District may decide to reject all proposals and re-advertise the RFP.

After an acceptable agreement is negotiated with the City and District, the agreement will be presented to the Morro Bay City Council and Cayucos Sanitary District Board of Directors for approval and execution by the City and District. Upon receipt of a properly executed agreement, notification to start services will be issued. It is expected that the consultant will commence services within one week after the agreement is executed.

1. **Contract Award.** Subject to these Request for Proposal requirements, the City and District will award the contract to the most qualified, responsible, responsive proposing consultant, using the proposal evaluation and selection criteria.

After an acceptable agreement is negotiated with the City and District, the agreement will be presented to the Morro Bay City Council and Cayucos Sanitary District Board of Directors for award of contract and execution by the City and District. The Consultant shall monitor costs throughout the project. Any increase in fees for additional consulting services must be confirmed in writing by the City and District **prior** to undertaking extra work.

2. **Failure to Accept Contract.** The following will occur if the Consultant whose proposal is accepted fails or refuses to enter into the contract: the City and District may negotiate with the next most qualified proposing consultant.

3. **Proposal Review and Award Schedule.** The following is an outline of the anticipated schedule for proposal review and contract award:

a. Issue RFP	Tuesday, May 18, 2010
b. Receive proposals	Wednesday, June 9, 2010
c. Evaluate proposals	Friday, June 29, 2009
d. Negotiate Contract	Thursday, July 29, 2010
e. Award Contract	Thursday, August 12, 2010
f. Execute contract	Friday, August 20, 2010
g. Start work	Monday, August 23, 2010

4. **Questions.** Direct questions or information requests concerning this project to **Bruce Keogh**, Wastewater Division Manager, City of Morro Bay Public Services Department, 955 Shasta, Morro Bay, CA, 93442, mbwwtp@yahoo.com no **later than 4 p.m. on Thursday, June 2, 2010** and the City will forward all questions and responses to all proposal holders to assure no one consultant gains a competitive advantage or suffers a competitive disadvantage. The Wastewater Division Manager will attempt to respond to questions within three working days of their receipt.

5. **Ownership of Materials.** All original drawings, plan documents, and other materials prepared by or in possession of the Consultant as part of the work or services under these specifications shall become the permanent property of the City and District. The Consultant shall deliver any or all of these materials and documents to the City and District upon demand.

6. **Release of Reports and Information.** Any reports, information, data, or other material given to, prepared by or assembled by the Consultant as part of the work or services under these specifications shall be the property of City and District and shall not be made available to any individual or organization by the Consultant without the prior written approval of the City and District.

7. **Copies of Reports and Information.** If the City and District request additional copies of reports, drawings, specifications, or any other material in addition to what the Consultant is required to furnish in limited quantities as part of the work or services under these specifications, the Consultant shall provide such additional copies as are requested, and City and District shall compensate the Consultant for the costs of duplicating of such copies at the Consultant's direct expense.
8. **Accuracy of Scope of Consultant Services.** The City and District find the Scope of Consultant Services for this project to be accurate and to contain no affirmative misrepresentation or any concealment of fact. Although the effect of ambiguities or defects in the Scope will be as determined by law, any patent ambiguity or defect shall give rise to a duty of proposing consultant to inquire prior to proposal submittal.

To the extent that the Scope of Consultant Services constitute performance parameters, the City and District shall not be liable for costs incurred by the successful proposing consultant to achieve the project's objectives or standards beyond the amounts provided therefore in the proposal.

PROPOSAL SUBMITTAL FORM - SUBCONSULTANT LISTING

Describe briefly the work scope of each sub-consultant. Attach additional pages if required.

Sub-consultant

Company Name	
Contact Individual	
Telephone & FAX number	
Street Address	
City, State, Zip Code	
Description of services to be provided.	

Sub-consultant

Company Name	
Contact Individual	
Telephone & FAX number	
Street Address	
City, State, Zip Code	
Description of services to be provided	

REFERENCES

Number of years engaged in providing the services included within the scope of the consultant services under the present business name:_____.

Describe fully the last three contracts performed by your firm that demonstrate your ability to provide the services included with the scope of the consultant services. Attach additional pages if required. The City and District reserve the right to contact each of the references listed for additional information regarding your firm's qualifications.

Reference No. 1

Client's Name	
Contact Individual	
Telephone & FAX number	
Street Address	
City, State, Zip Code	
Description of services provided including contract amount, when provided and project outcome	

Reference No. 2

Client's Name	
Contact Individual	
Telephone & FAX number	
Street Address	
City, State, Zip Code	
Description of services provided including contract amount, when provided and project outcome	

Reference No. 3

Client's Name	
Contact Individual	
Telephone & FAX number	
Street Address	
City, State, Zip Code	
Description of services provided including contract amount, when provided and project outcome	

STATEMENT OF PAST CONTRACT DISQUALIFICATIONS

The consultant shall state whether it or any of its officers or employees who have a proprietary interest in it, has ever been disqualified, removed, or otherwise prevented from proposing on, or completing a federal, state, or local government project because of the violation of law, a safety regulation, or for any other reason, including but not limited to financial difficulties, project delays, or disputes regarding work or product quality, and if so to explain the circumstances.

- ***Do you have any disqualification as described in the above paragraph to declare?***

Yes No

- ***If Yes, explain the circumstances.***

Executed on _____ at _____
under penalty of perjury of the laws of the State of California, that the foregoing is true and
correct.

Signature of Authorized Consultant Representative

CONSULTANT SERVICES AGREEMENT

This Consultant Services Agreement (“Agreement”) is made upon the date of execution, as set forth below, by and between **Consultants Name Here** a California Corporation, (hereinafter referred to as **CONSULTANT**), and the **CITY OF MORRO BAY**, a California Municipal Corporation (hereinafter referred to as "**CITY**") and the **CAYUCOS SANITARY DISTRICT**, a California Special District (hereinafter referred to as "**DISTRICT**") (**CITY** and **DISTRICT** may be hereinafter collectively referred to as "**CITY/DISTRICT**").

- A. **CITY** and **DISTRICT** jointly own and operate a wastewater treatment plant located within the City of Morro Bay; and
- B. **CITY** and **DISTRICT** desire to engage **CONSULTANT** to perform the services described herein below; and
- C. **CONSULTANT** represents that it possesses the skill, education and licenses necessary to satisfactorily perform, and desires to perform said services.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties hereto agree as follows:

1.00 GENERAL PROVISIONS

1.01 **TERMS**. This Agreement will become effective on the date of execution set forth below, and will continue in effect until terminated as provided herein.

1.02 CONTRACT COORDINATION

a. **CITY/DISTRICT**. **CITY's** Wastewater Division Manager shall be the representative of **CITY/DISTRICT** for all purposes under this Agreement. **CITY's** Wastewater Division Manager, or his designated representative, hereby is designated as the Contract Manager for the **CITY/DISTRICT**. He shall supervise the progress and execution of this Agreement.

b. **CONSULTANT.** **CONSULTANT** shall assign a single Contract Manager to have overall responsibility for the progress and execution of this Agreement for **CONSULTANT**. Contract/Project Manager Name here is hereby designated as the Contract Manager for **CONSULTANT**. Should circumstances or conditions subsequent to the execution of this Agreement require a substitute Contract Manager for any reason, the Contract Manager designee shall be subject to the prior written acceptance and approval of the **CITY/DISTRICT's** Contract Manager.

1.03 **SERVICES TO BE PERFORMED BY CONSULTANT.** **CONSULTANT** agrees to perform or provide the services specified in "Scope of Work" attached hereto as Exhibit "A" and incorporated herein by this reference.

CONSULTANT shall determine the method, details and means of performing the above-referenced services.

CONSULTANT may, at **CONSULTANT's** own expense, employ such assistants as **CONSULTANT** deems necessary to perform the services required of **CONSULTANT** by this Agreement. **CITY/DISTRICT** may not control, direct or supervise **CONSULTANT's** assistants or employees in the performance of those services.

1.04 **COMPENSATION.** In consideration for the services to be performed by **CONSULTANT**, **CITY/DISTRICT** agrees to pay **CONSULTANT** the consideration set forth in the amounts and under the terms provided in Exhibit "B" attached hereto and incorporated herein by this reference.

2.00 **OBLIGATIONS OF CONSULTANT**

2.01 **MINIMUM AMOUNT OF SERVICE BY CONSULTANT.** **CONSULTANT** agrees to devote the hours necessary to perform the services set forth in this Agreement in an efficient and effective manner. **CONSULTANT** may represent, perform services for and be employed by additional individuals or entities, in **CONSULTANT's** sole discretion, as long as the performance of these extra-contractual services does not interfere with or present a conflict with **CITY/DISTRICT's** business.

2.02 **TOOLS AND INSTRUMENTALITIES.** **CONSULTANT** shall provide all tools and instrumentalities necessary to perform the services under this Agreement.

2.03 **LAWS TO BE OBSERVED.** **CONSULTANT** shall:

a. Procure all permits and licenses, pay all charges and fees, and give all notices which may be necessary and incidental to the due and lawful prosecution of the services to be performed by **CONSULTANT** under this Agreement;

b. Keep itself fully informed of all existing federal, state and local laws, ordinances, regulations, orders, and decrees which may affect those engaged or employed under this Agreement, any materials used in **CONSULTANT**'s performance under this Agreement, or the conduct of the services under this Agreement;

c. At all times observe and comply with, and cause all of its employees to observe and comply with all of said laws, ordinances, regulations, orders, and decrees mentioned above;

d. Immediately report to the **CITY/DISTRICT**'s Contract Manager in writing any discrepancy or inconsistency it discovers in said laws, ordinances, regulations, orders, and decrees mentioned above in relation to any plans, drawings, specifications, or provisions of this Agreement.

2.04 **RELEASE OF REPORTS AND INFORMATION.** Any video tape, reports, information, data, or other material given to, or prepared or assembled by, **CONSULTANT** under this Agreement shall be the property of **CITY/DISTRICT** and shall not be made available to any individual or organization by **CONSULTANT** without the prior written approval of **CITY** and **DISTRICT**, respectively. This provision shall not apply to information in whatever form that comes into the public domain, nor shall it restrict **CONSULTANT** from giving notices required by law or complying with an order to provide information or data when such order is issued by a court, administrative agency or other authority with proper jurisdiction.

2.05 **COPIES OF VIDEO TAPES, REPORTS AND INFORMATION.** If **CITY/DISTRICT** requests additional copies of videotapes, reports, drawings, specifications, or any other material in addition to what the **CONSULTANT** is required to furnish in limited quantities as part of the services under this Agreement,

CONSULTANT shall provide such additional copies as are requested, and **CITY/DISTRICT** shall compensate **CONSULTANT** for the costs of duplicating of such copies at **CONSULTANT**'s direct expense.

2.06 **QUALIFICATIONS OF CONSULTANT.** **CONSULTANT** represents that it is qualified to furnish the services described under this Agreement.

2.07 **WORKERS COMPENSATION AND OTHER EMPLOYEE BENEFITS.** **CITY/DISTRICT** and **CONSULTANT** intend and agree that **CONSULTANT** is an independent contractor of **CITY/DISTRICT** and agrees that **CONSULTANT** and **CONSULTANT**'s employees and agents have no right to Workers Compensation and other employee benefits. If any worker insurance protection is desired, **CONSULTANT** agrees to provide Workers Compensation and other employee benefits, where required by law, for **CONSULTANT**'s employees and agents. **CONSULTANT** agrees to hold harmless, defend and indemnify **CITY** and **DISTRICT**, respectively, from any and all claims for injury, disability, or death of **CONSULTANT** and **CONSULTANT**'s employees or agents.

2.08 INDEMNIFICATION

(a) Indemnification for Professional Liability. When the law establishes a professional standard of care for **CONSULTANT**'s Services, to the fullest extent permitted by law, **CONSULTANT** shall indemnify, protect, defend and hold harmless District and any and all of its Directors, officials, employees and agents ("Indemnified Parties") from and against any and all losses, liabilities, damages, costs and expenses, including attorney's fees and costs to the extent same are caused in whole or in part by any negligent or wrongful act, error or omission of **CONSULTANT**, its officers, agents, employees or subcontractors (or any entity or individual that **CONSULTANT** shall bear the legal liability thereof) in the performance of professional services under this agreement.

(b) Indemnification for Other Than Professional Liability. Other than in the performance of professional services and to the full extent permitted by law, **CONSULTANT** shall indemnify, defend and hold harmless District, and any and all of its employees, officials and agents from and against any liability (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory

proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including attorneys fees and costs, court costs, interest, defense costs, and expert witness fees), where the same arise out of, are a consequence of, or are in any way attributable to, in whole or in part, the performance of this Agreement by **CONSULTANT** or by any individual or entity for which **CONSULTANT** is legally liable, including but not limited to officers, agents, employees or subcontractors of **CONSULTANT**.

(c) General Indemnification Provisions. **CONSULTANT** agrees to obtain executed indemnity agreements with provisions identical to those set forth here in this section from each and every subcontractor or any other person or entity involved by, for, with or on behalf of **CONSULTANT** in the performance of this agreement. In the event **CONSULTANT** fails to obtain such indemnity obligations from others as required here, **CONSULTANT** agrees to be fully responsible according to the terms of this section. Failure of District to monitor compliance with these requirements imposes no additional obligations on District and will in no way act as a waiver of any rights hereunder. This obligation to indemnify and defend District as set forth here is binding on the successors, assigns or heirs of **CONSULTANT** and shall survive the termination of this agreement or this section.

(d) Indemnity Provisions for Contracts Related to Construction. Without affecting the rights of District under any provision of this Agreement, **CONSULTANT** shall not be required to indemnify and hold harmless District for liability attributable to the active negligence of District, provided such active negligence is determined by agreement between the parties or by the findings of a court of competent jurisdiction. In instances where District is shown to have been actively negligent and where District's active negligence accounts for only a percentage of the liability involved, the obligation of **CONSULTANT** will be for that entire portion or percentage of liability not attributable to the active negligence of District.

2.09 **INSURANCE**. Consultant shall maintain prior to the beginning of and for the duration of this Agreement insurance coverage as specified in Exhibit "C" attached hereto and incorporated herein as though set forth in full.

3.00 TIME FOR COMPLETION OF THE WORK

Program scheduling shall be as described in Exhibit "A" unless revisions to the exhibit are approved by **CONSULTANT's** Contract Manager and both the **CITY's City Manager** and the **DISTRICT's** General Manager .

Time extensions may be allowed for delays caused by **CITY/DISTRICT**, other governmental agencies, or factors not directly brought about by the negligence or lack of due care on the part of the **CONSULTANT**.

4.00 TEMPORARY SUSPENSION

The **CITY/DISTRICT's** Contract Manager shall have the authority to suspend this Agreement wholly or in part, for such period as he deems necessary due to unfavorable conditions or to the failure on the part of the **CONSULTANT** to perform any provision of this Agreement. **CONSULTANT** will be paid the compensation due and payable to the date of temporary suspension.

5.00 INSPECTION

CONSULTANT shall furnish **CITY/DISTRICT** with every reasonable opportunity for **CITY/DISTRICT** to ascertain that the services of **CONSULTANT** are being performed in accordance with the requirements and intentions of this Agreement. All work done and all materials furnished, if any, shall be subject to the **CITY/DISTRICT's** Contract Manager's inspection and approval. The inspection of such work shall not relieve **CONSULTANT** of any of its obligations to fulfill its Agreement as prescribed.

6.00 OWNERSHIP OF MATERIALS

All original drawings, videotapes and other materials prepared by or in possession of **CONSULTANT** pursuant to this Agreement shall become the permanent property of the **CITY/DISTRICT**, and shall be delivered to the **CITY/DISTRICT** upon demand. All such

documents, plans and specifications prepared under this Agreement shall become the property of the **CITY/DISTRICT** upon completion of the work and payment of monies earned and due to the **CONSULTANT**. Any unauthorized use of the materials shall be at the **CITY/DISTRICT's** sole risk and without liability to the Consultant.

7.00 **OBLIGATIONS OF CITY/DISTRICT**

7.01 **COOPERATION**. **CITY/DISTRICT** agrees to comply with all reasonable requests of **CONSULTANT** necessary to the performance of **CONSULTANT's** duties under this Agreement.

7.02 **CITY** shall also be responsible for providing such staff production assistance as is specified in Exhibit "A".

8.00 **TERMINATION OF AGREEMENT**

8.01 **TERMINATION ON OCCURRENCE OF STATED EVENTS.** This Agreement shall terminate automatically on the occurrence of any of the following events:

- a. Bankruptcy or insolvency of any party;
- b. Sale of the business of any party without the prior approval of the other party;
- c. End of the Agreement to which **CONSULTANT**'s services were necessary: or
- d. Assignment of this Agreement by **CONSULTANT** without the prior written consent of **CITY/DISTRICT**.

8.02 **TERMINATION BY ANY PARTY FOR DEFAULT OF CONSULTANT.** Should any party default in the performance of this Agreement or materially breach any of its provisions, a non-breaching party, at its option, may terminate this Agreement, immediately, by giving written notice of termination to the breaching party.

8.03 **RETURN OF MATERIALS.**

Upon such termination, **CONSULTANT** shall turn over to the **CITY/DISTRICT** immediately any and all copies of videotapes, studies, sketches, drawings, computations, and other data, whether or not completed, prepared by **CONSULTANT**, and for which **CONSULTANT** has received reasonable compensation, or given to **CONSULTANT** in connection with this Agreement. Such materials shall become the permanent property of **CITY/DISTRICT**. **CONSULTANT**, however, shall not be liable for **CITY/DISTRICT**'s use of incomplete materials.

9.00 **SPECIAL PROVISIONS**

9.01 **INTEREST OF CONSULTANT.**

CONSULTANT covenants that it presently has no interest, and shall not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any

manner or degree with the performance of the services hereunder. **CONSULTANT** further covenants that, in the performance of this Agreement, no subcontractor or person having such an interest shall be employed. **CONSULTANT** certifies that no one who has or will have any financial interest under this Agreement is an officer or employee of **CITY** or **DISTRICT**, respectively. It is expressly agreed that, in the performance of the services hereunder, **CONSULTANT** shall at all times be deemed an independent contractor and not an agent or employee of **CITY** or **DISTRICT**, respectively.

9.02 **DISCRIMINATION.**

No discrimination shall be made in the employment of persons under this Agreement because of the race, color, national origin, ancestry, religion or sex of such person.

If **CONSULTANT** is found in violation of the nondiscrimination provisions of the State of California Fair Employment Practices Act or similar provisions of federal law or executive order in the performance of this Agreement, it shall thereby be found in material breach of this Agreement. Thereupon, **CITY/DISTRICT** shall have the power to cancel or suspend this Agreement, in whole or in part, or to deduct from the amount payable to **CONSULTANT** the sum of Fifty Dollars (\$50) for each person for each calendar day during which such person was discriminated against, as damages for said breach of contract, or both. Only a finding of the State of California Fair Employment Practices Commission or the equivalent federal agency or officer shall constitute evidence of a violation of contract under this paragraph.

If **CONSULTANT** is found in violation of the nondiscrimination provisions of this Agreement or the applicable affirmative action guidelines pertaining to this Agreement, **CONSULTANT** shall be found in material breach of the Agreement. Thereupon, **CITY/DISTRICT** shall have the power to cancel or suspend this Agreement, in whole or in part, or to deduct from the amount payable to **CONSULTANT** the sum of Five Hundred Dollars (\$500) for each calendar day during which **CONSULTANT** is found to have been in such noncompliance as damages for said breach of contract, or both.

10.00 **MISCELLANEOUS**

10.01 **REMEDIES**. The remedies set forth in this Agreement shall not be exclusive but shall be cumulative with, and in addition to, all remedies now or hereafter allowed by law or equity.

10.02 **NO WAIVER**. The waiver of any breach by any party of any provision of this Agreement shall not constitute a continuing waiver or a waiver of any subsequent breach of this Agreement.

10.03 **ASSIGNMENT**. This Agreement is specifically not assignable by **CONSULTANT** to any person or entity. Any assignment or attempt to assign by **CONSULTANT**, whether it be voluntary or involuntary, by operation of law or otherwise, is void and is a material breach of this Agreement giving rise to a right to terminate as set forth in Section 8.03.

10.04 **ATTORNEY FEES**. In the event of any controversy, claim or dispute between the parties hereto, arising out of or relating to this Agreement, or the breach thereof, the prevailing party shall be entitled, in addition to other such relief as may be granted, to a reasonable sum as and for attorney fees.

10.05 **TIME FOR PERFORMANCE**. Except as otherwise expressly provided for in this Agreement, should the performance of any act required by this Agreement to be performed by either party be prevented or delayed by reason by any act of God, strike, lockout, labor trouble, inability to secure materials, or any other cause except financial inability not the fault of the party required to perform the act, the time for performance of the act will be extended for a period of time equivalent to the period of delay and performance of the act during the period of delay will be excused; provided, however, that nothing contained in this section shall exclude the prompt payment by either party as required by this Agreement or the performance of any act rendered difficult or impossible solely because of the financial condition of the party required to perform the act.

10.06 **NOTICES**. Except as otherwise expressly provided by law, any and all notices or other communications required or permitted by this Agreement or by law to be served on or given to any party to this Agreement shall be in writing and shall be deemed duly served and given when personally delivered or in lieu of such personal service when deposited in the United States mail, first-class postage prepaid to the following address for each respective party:

CITY/DISTRICT: City of Morro Bay
595 Harbor Street
Morro Bay, CA 93442

CITY/DISTRICT: Cayucos Sanitary District
P.O. Box 333
Cayucos, CA 93430

CONSULTANT: _____

WITH COPY TO: Timothy J, Carmel, Esq.
Carmel & Naccasha, LLP
P.O. Box 15729
San Luis Obispo, CA 93406

10.07 **GOVERNING LAW.** This Agreement and all matters relating to this Agreement shall be governed by the laws of the State of California in force at the time any need for the interpretation of this Agreement or any decision or holding concerning this Agreement arises. Any litigation concerning or arising from this Agreement shall take place in the Superior Court for San Luis Obispo County.

10.08 **BINDING EFFECT**. This Agreement shall be binding on and shall inure to the benefit of the heirs, executors, administrators, successors and assigns of the parties hereto, but nothing in this section shall be construed as a consent by **CITY/DISTRICT** to any assignment of this Agreement or any interest in this Agreement.

10.09 **SEVERABILITY**. Should any provision of this Agreement be held by a court of competent jurisdiction or by a legislative or rule making act to be either invalid, void or unenforceable, the remaining provisions of this Agreement shall remain in full force and effect, unimpaired by the holding, legislation or rule.

10.10 **SOLE AND ENTIRE AGREEMENT**. This Agreement constitutes the sole and entire agreement between the parties with respect to the subject matter hereof. This Agreement correctly sets forth the obligations of the parties hereto to each other as of the date of this Agreement. All agreements or representations respecting the subject matter of this Agreement not expressly set forth or referred to in this Agreement are null and void.

10.11 **TIME**. City/District and Consultant agree that time is of the essence in this Agreement. City/District and Consultant further agree that Consultant's failure to perform on or at the times set forth in this Agreement will damage and injure City/District, but the extent of such damage and injury is difficult or speculative to ascertain. Consequently, City/District and Consultant agree that any failure to perform by Consultant at or within the times set forth herein shall result in liquidated damages of one thousand dollars (\$1,000.00) per day for each and every day such performance is late. City/District and Consultant agree that such sum is reasonable and fair. Furthermore, City/District and Consultant agree that this Agreement is subject to Government Code Section 53069.85 and that each party hereto is familiar with and understands the obligations of said Section of the Government Code.

10.12 **DUE AUTHORITY**. The parties hereby represent that the individuals executing this Agreement are expressly authorized to do so on and in behalf of the parties.

10.13 **CONSTRUCTION**. The parties agree that each has had an opportunity to have their counsel review this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement or any amendments or exhibits thereto. The captions of

the sections are for convenience and reference only, and are not intended to be construed to define or limit the provisions to which they relate.

10.14 **AMENDMENTS**. Amendments to this Agreement shall be in writing and shall be made only with the mutual written consent of all of the parties to this Agreement.

Executed on _____, 2009, at _____, California.

By _____
Janice Peters, Mayor

By: _____
Consultant

Attest:

Bridgett Bauer, City Clerk

By _____
Robert Enns, President

Attest:

By _____

Lewis Brookings, Clerk to the Board

APPROVED AS TO CONTENT:

By: _____

Bruce Keogh

Wastewater Division Manager

Bill Callahan

General Manager

APPROVED AS TO FORM:

By: _____

Robert Schultz

City Attorney

Tim Carmel

District Attorney

EXHIBIT A
SCOPE OF WORK

EXHIBIT B
PAYMENT SCHEDULE

EXHIBIT C

INSURANCE REQUIREMENTS

Prior to the beginning of and throughout the duration of the Work, Consultant will maintain insurance in conformance with the requirements set forth below. Consultant will use existing coverage to comply with these requirements. If that existing coverage does not meet the requirements set forth here, Consultant agrees to amend, supplement or endorse the existing coverage to do so. Consultant acknowledges that the insurance coverage and policy limits set forth in this section constitute the minimum amount of coverage required. Any insurance proceeds available to City/District in excess of the limits and coverage required in this agreement and which is applicable to a given loss, will be available to City/District.

Consultant shall provide the following types and amounts of insurance:

Commercial General Liability Insurance using Insurance Services Office “Commercial General Liability” policy from CG 00 01 or the exact equivalent. Defense costs must be paid in addition to limits. There shall be no cross liability exclusion for claims or suits by one insured against another. Limits are subject to review but in no event less than \$2,000,000 per occurrence.

Business Auto Coverage on ISO Business Auto Coverage from CA 00 01 including symbol 1 (Any Auto) or the exact equivalent. Limits are subject to review, but in no event to be less than \$2,000,000 per accident. If Consultant owns no vehicles, this requirement may be satisfied by a non-owned auto endorsement to the general liability policy described above. If Consultant or Consultant’s employees will use personal autos in any way on this project, Consultant shall provide evidence of personal auto liability coverage for each such person.

Property Damage Insurance in an amount of not less than \$1,000,000 for damage to the property of each person on account of any one occurrence.

Workers Compensation on a state-approved policy form providing statutory benefits as required by law with employer's liability limits no less than \$2,000,000 per accident or disease.

Excess or Umbrella Liability Insurance (Over Primary) if used to meet limit requirements, shall provide coverage at least as broad as specified for the underlying coverages. Any such coverage provided under an umbrella liability policy shall include a drop down provision providing primary coverage above a maximum \$25,000 self-insured retention for liability not covered by primary but covered by the umbrella. Coverage shall be provided on a "pay on behalf" basis, with defense costs payable in addition to policy limits. Policy shall contain a provision obligating insurer at the time insured's liability is determined, not requiring actual payment by the insured first. There shall be no cross liability exclusion precluding coverage for claims or suits by one insured against another. Coverage shall be applicable to City/District for injury to employees of Consultant, subContractors or others involved in the Work. The scope of coverage provided is subject to approval of City/District following receipt of proof of insurance as required herein. Limits are subject to review but in no event less than \$1,000,000 per occurrence.

Professional Liability or Errors and Omissions Insurance as appropriate shall be written on a policy form coverage specifically designated to protect against acts, errors or omissions of the Consultant and "Covered Professional Services" as designated in the policy must specifically include work performed under this agreement. The policy limit shall be no less than \$2,000,000 per claim and in the aggregate. The policy must "pay on behalf of" the insured and must include a provision establishing the insurer's duty to defend. The policy retroactive date shall be on or before the effective date of this agreement.

Insurance procured pursuant to these requirements shall be written by insurer that are admitted carriers in the state California and with an A.M. Bests rating of A- or better and a minimum financial size VII.

General conditions pertaining to provision of insurance coverage by Consultant. Consultant and City/District agree to the following with respect to insurance provided by Consultant:

1. Consultant agrees to have its insurer endorse the third party general liability coverage required herein to include as additional insureds the City of Morro Bay and the Cayucos Sanitary District, and their officials employees and agents, using standard ISO endorsement No. CG 2010 with an edition prior to 1992. Consultant also agrees to require all Consultants, and subContractors to do likewise.
2. No liability insurance coverage provided to comply with this Agreement shall prohibit Consultant, or Consultant's employees, or agents, from waiving the right of subrogation prior to a loss. Consultant agrees to waive subrogation rights against City/District regardless of the applicability of any insurance proceeds, and to require all Consultants and subContractors to do likewise.
3. All insurance coverage and limits provided by Consultant and available or applicable to this agreement are intended to apply to the full extent of the policies. Nothing contained in this Agreement or any other agreement relating to the City/District or its operations limits the application of such insurance coverage.

4. None of the coverages required herein will be in compliance with these requirements if they include any limiting endorsement of any kind that has not been first submitted to City/District and approved of in writing.
5. No liability policy shall contain any provision or definition that would serve to eliminate so-called "third party action over" claims, including any exclusion for bodily injury to an employee of the insured or of any Consultant or subcontractor.
6. All coverage types and limits required are subject to approval, modification and additional requirements by the City/District, as the need arises. Consultant shall not make any reductions in scope of coverage (e.g. elimination of contractual liability or reduction of discovery period) that may affect City/District's protection without City/District's prior written consent.
7. Proof of compliance with these insurance requirements, consisting of certificates of insurance evidencing all of the coverages required and an additional insured endorsement to Consultant's general liability policy, shall be delivered to City/District at or prior to the execution of this Agreement. In the event such proof of any insurance is not delivered as required, or in the event such insurance is canceled at any time and no replacement coverage is provided, City/District has the right, but not the duty, to obtain any insurance it deems necessary to protect its interests under this or any other agreement and to pay the premium. Any premium so paid by City/District shall be charged to and promptly paid by Consultant or deducted from sums due Consultant, at City/District's option.
8. Certificate(s) are to reflect that the insurer will provide 30 days notice to City/District of any cancellation of coverage. Consultant agrees to require its insurer to modify such certificates to delete any exculpatory wording stating that failure of the insurer to mail written notice of cancellation imposes no obligation, or that any party will "endeavor" (as opposed to being required) to comply with the requirements of the certificate.
9. It is acknowledged by the parties of this agreement that all insurance coverage required to be provided by Consultant or any subContractor, is intended to apply first and on a primary, noncontributing basis in relation to any other insurance or self insurance available to City/District.

10. Consultant agrees to ensure that subContractors, and any other party involved with the project who is brought onto or involved in the project by Consultant, provide the same minimum insurance coverage required of Consultant. Consultant agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this section. Consultant agrees that upon request, all agreements with subContractors and others engaged in the project will be submitted to City/District for review.
11. Consultant agrees not to self-insure or to use any self-insured retentions or deductibles on any portion of the insurance required herein and further agrees that it will not allow any Consultant, subContractor, Architect, Engineer or other entity or person in any way involved in the performance of work on the project contemplated by this agreement to self-insure its obligations to City/District. If Consultant's existing coverage includes a deductible or self-insured retention, the deductible or self-insured retention must be declared to the City/District. At the time the City/District shall review options with the Consultant, which may include reduction or elimination of the deductible or self-insured retention, substitution of other coverage, or other solutions.
12. The City/District reserves the right at any time during the term of the contract to change the amounts and types of insurance required by giving the Consultant ninety (90) days advance written notice of such change. If such change results in substantial additional cost to the Consultant, the City will negotiate additional compensation proportional to the increase benefit to City/District.

13. For purposes of applying insurance coverage only, this Agreement will be deemed to have been executed immediately upon any party hereto taking any steps that can be deemed to be in furtherance of or towards performance of this Agreement.
14. Consultant acknowledges and agrees that any actual or alleged failure on the part of City/District to inform Consultant of non-compliance with any insurance requirements in no way imposes any additional obligations on City/District nor does it waive any rights hereunder in this or any other regard.
15. Consultant will renew the required coverage annually as long as City/District, or its employees or agents face an exposure from operations of any type pursuant to this agreement. This obligation applies whether or not the agreement is canceled or terminated for any reason. Termination of this obligation is not effective until City/District executes a written statement to that effect.
16. Consultant shall provide proof that policies of insurance required herein expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. Proof that such coverage has been ordered shall be submitted prior to expiration. A coverage binder or letter from Consultant's insurance agent to this effect is acceptable. A certificate of insurance and/or additional insured endorsement as required in these specifications applicable to the renewing or new coverage must be provided to City/District within five days of the expiration of the coverages.
17. The provisions of any workers' compensation or similar act will not limit the obligations of Consultant under this agreement. Consultant expressly agrees not to use any statutory immunity defenses under such laws with respect to City/District, its employees, officials and agents.
18. Requirements of specific coverage features or limits contained in this section are not intended as limitations on coverage, limits or other requirements nor as a waiver of any coverage normally provided by any given policy. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue, and is not intended by any party or insured to be limiting or all-inclusive.
19. These insurance requirements are intended to be separate and distinct from any other provision in this agreement and are intended by the parties here to be interpreted as such.

20. The requirements in this Section supersede all other sections and provisions of this Agreement to the extent that any other section or provision conflicts with or impairs the provisions of this Section.
21. Consultant agrees to be responsible for ensuring that no contract used by any party involved in any way with the project reserves the right to charge City/District or Consultant for the cost of additional insurance coverage required by this agreement. Any such provisions are to be deleted with reference to City/District. It is not the intent of City/District to reimburse any third party for the cost of complying with these requirements. There shall be no recourse against City/District for payment of premiums or other amounts with respect thereto.
22. Consultant agrees to provide immediate notice to City/District of any claim or loss against Consultant arising out of the work performed under this agreement. City/District assumes no obligation or liability by such notice, but has the right (but not the duty) to monitor the handling of any such claim or claims if they are likely to involve City/District.

EXHIBIT D

CITY'S REQUEST FOR PROPOSAL

EXHIBIT E
CONSULTANT'S PROPOSAL

APPENDIX A

BACKGROUND INFORMATION

The Morro Bay - Cayucos Wastewater Treatment Plant (WWTP) is owned by the City of Morro Bay and the Cayucos Sanitary District and operated by the City under a Joint Powers Agreement ("JPA"). Under the terms of the JPA, the WWTP property is owned 60% by the City, and 40% by the District, and the City has rights to 65% of the WWTP capacity, the District 35 % of the capacity rights. The plant is located at 160 Atascadero Road in Morro Bay.

Service Area & Existing WWTP

The WWTP serves a population base of approximately 14,000 people. The WWTP treated an average measured daily flow of 1.1 MGD during the calendar year 2009. The WWTP was designed to accommodate an average dry-weather flow of 2.06 MGD and presently contains a secondary treatment process with a design capacity of 1.0 MGD, consisting of trickling filters, a solids-contact chamber, and a secondary clarifier. All wastewater is treated through a primary treatment process, which includes screening, grit removal, and primary sedimentation. Typically, the majority of the flow (often more than 1 MGD) is diverted through the secondary treatment process. Secondary treated effluent is subsequently blended with small amounts of primary effluent. The entire blend is chlorinated for disinfection and then dechlorinated. The disinfected effluent is discharged into Estero Bay (Pacific Ocean) through a 27-inch diameter outfall that extends a distance of approximately 4400-feet in a northwesterly direction. The outfall terminates in a multiport diffuser situated approximately 2,900 feet from shore. The diffuser lies in 50 feet of water referenced to Mean Lower Low Water.

NPDES Permit

The WWTP is operated under a modified National Pollutant Elimination Discharge Permit (NPDES) No. CA007881 issued by the United States Environmental Protection Agency (USEPA) and the Central Coast Regional Water Quality Control Board (RWQCB). The WWTP has operated under a Clean Water Act Section 301(h) Modified Discharge Permit NPDES permit CA0047881 since its last upgrade in 1984. The permit renewal process was successfully completed in January 2009, and the plant is currently operating under a 301(h) Modified Discharge Permit, Waste Discharge Requirements Order No. R3-2008-0065.

It is the intent of the City and the District to develop and implement this project to upgrade the WWTP. The completed upgrade project will allow the City-District to phase out the need for a 301(h) Modified Discharge Permit.

8-Year WWTP Upgrade Time Schedule

On April 27, 2006 the Morro Bay City Council and the Cayucos Sanitary District Board of Directors adopted an 8-Year Full Secondary Compliance Schedule (the “Schedule”) for the Morro Bay – Cayucos Wastewater Treatment Plant. The Schedule, developed by Carollo Engineers (Carollo), outlines the required steps necessary to develop, perform and complete upgrades to the WWTP. The JPA is currently behind schedule and must complete the project ahead of schedule. The following are the compliance dates for the remaining tasks on the adopted schedule:

- | | |
|-------------------------------------|----------------|
| ○ Complete EIR | December 2010 |
| ○ Award Contract for Design | September 2010 |
| ○ Begin Bidding Process | January 2012 |
| ○ Award Contract for Construction | February 2012 |
| ○ New Plant Start Up | February 2014 |
| ○ Full Compliance Achieved | April 2014 |
| ○ 1 st Year of Operation | February 2015 |

This Schedule is included in a Settlement Agreement within the NPDES Permit that assigns monetary damages for not meeting project milestones and completion of the upgrade project by March 31, 2014.

Facility Master Plan

On September 12, 2007, the City Council and District Board adopted the *Facility Master Plan* (“FMP”) prepared by Carollo for upgrade of the Morro Bay/Cayucos Wastewater Treatment Plant (WWTP) through the twenty-year planning period ending in 2026. A copy of the FMP is available on the City web site (www.morro-bay.ca.us) under Public Services Department, Wastewater Treatment Plant Operations. Based on the various treatment alternatives contained in the FMP, the City and District voted to upgrade the treatment plant to tertiary treatment using an oxidation ditch and filtration (Recommendation #1A in the FMP). In addition, partial composting was included in the recommended alternatives for solids handling.

As a component of the environmental review process, an extensive Flood Hazard Analysis was conducted by the Wallace Group. That study identified flood hazards from a 100-year flood event, and recommended construction of all or part of the new facilities on land to the south of the current site that is already elevated. Based on this recommendation, the City and District authorized Carollo to develop Amendment No 1 to the Facility Master Plan. Amendment No 1 analyzed construction of an entire new treatment facility in an area currently occupied by the sludge drying beds, the City Corp yard, a portion of the concrete plant, and a portion of the area currently used for trailer storage. Please see Figure 1. The analysis included the demolition and hardscaping of the existing treatment site to allow for a flood path during major flooding events.

At the September 8, 2009 JPA meeting the Council and District Board authorized staff to conduct the environmental analysis on the area highlighted in Figure 1, and reaffirmed their commitment to tertiary treatment using an oxidation ditch with filtration as the preferred

treatment technology. It is the intent of the City and District to minimize impacts to the concrete plant and the trailer storage area while designing a fully operational treatment facility.

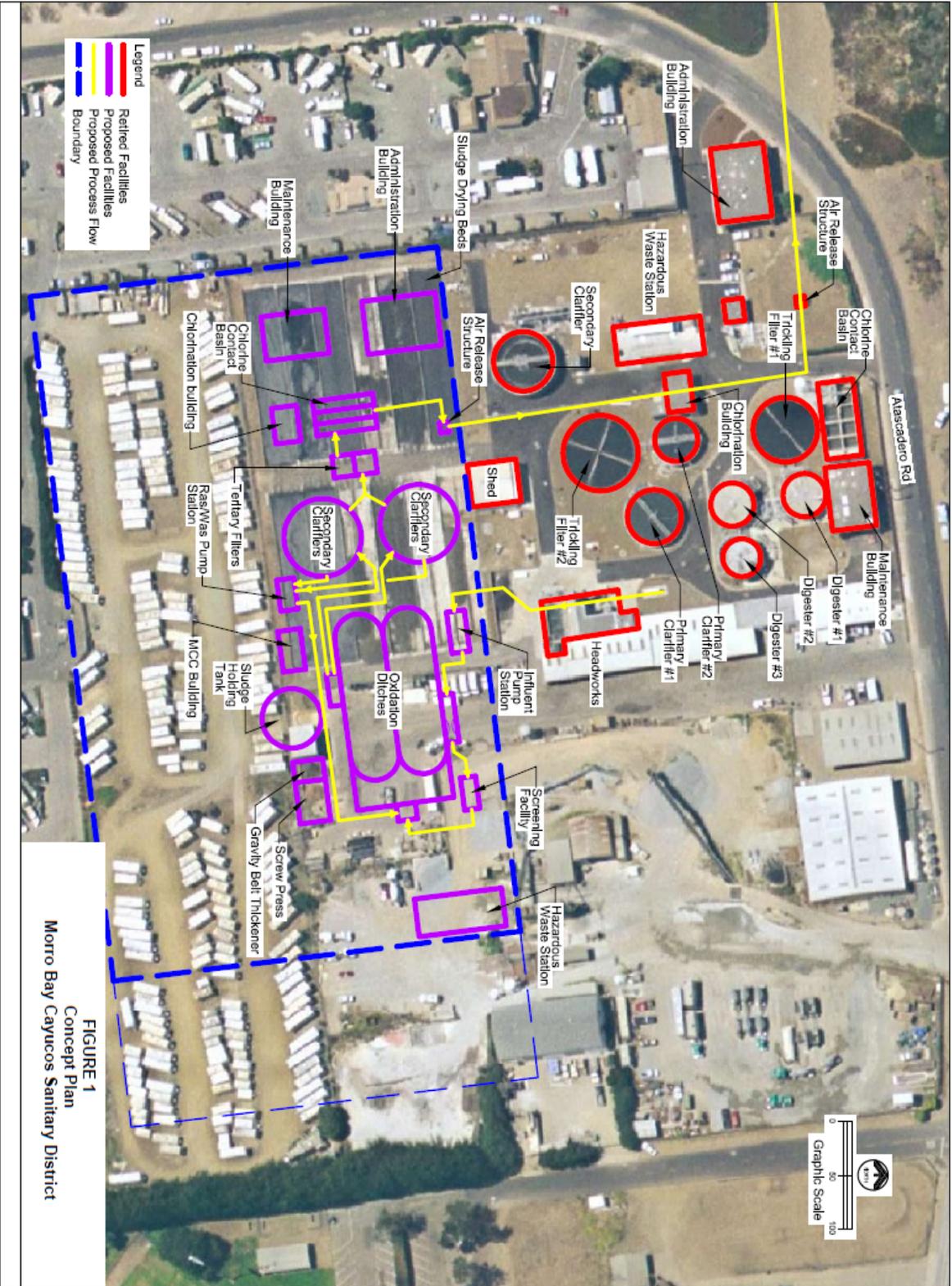
Movement of the treatment facility to the area immediately to the south also has impacts on the solids handling process. As outlined in the FMP Amendment No 1, solids would be dewatered for offsite processing and disposal, eliminating the concept of partial composting at the plant.

Budget

The recommended alternative has an estimated project cost of \$28.1M (in June 2006 dollars).

Regulatory Setting

The entire City of Morro Bay is in the coastal zone. The existing Wastewater Treatment Plant is sited on industrial zoned property (M-1). The existing plant is also located in the California Coastal Commission's appeals jurisdiction, which means the Coastal Development Permit, will be issued by the City of Morro Bay. However it is appealable to the California Coastal Commission.



Funding

Funding for the project is expected to come from the State Revolving Fund Loan (SRF) program and any available grant funding. The consultant is expected to be familiar with and identify all SRF loan requirements in the scope of services and in the project schedule. In December 2006, the City and District contracted with Carollo to develop Draft Revenue Programs for the two communities. The Programs were developed independently to reflect the unique financial, infrastructure, and regulatory requirements of each community. Both communities have issues within their respective collection systems that will require separate and independent evaluation and influence the revised rate structures of the communities.

The Revenue Programs conservatively assume a worst-case scenario, in which no grant funding is available, and the ratepayers of the respective communities have to fund the entire expense of the upgraded plant. The Revenue Programs estimate the monthly sewer charges and connection fees for the first year of operation of the upgraded plant to assure the State Water Resource Control Board ("SWRCB") that the City and District collect sufficient money to cover operations for that year and pay the first yearly SRF loan payment.

On August 13, 2007 the City Council adopted a Draft Revenue Program. On November 13, 2007, the City Council adopted a rate schedule that will raise sewer use fees beginning July, 2009 and continuing through July, 2014.

The District Board adopted a Draft Revenue Program on June 20, 2007. On October 17, 2007, the District Board adopted a rate schedule that will raise sewer use fees beginning October, 2008 and continuing through July, 2011.

The Revenue Programs were developed using a template consistent with the SWRCB guidelines for the SRF loan process. The template is based on proportioning both the flows and loadings to the treatment plant. The loading parameters used are based on the strength of the wastewater determined by total suspended solids and BOD (Biochemical Oxygen Demand). Carollo used a standardized format that outlines the loadings contributions from the various types of residential and commercial users.

Based on recent discussions with staff at the SWRCB, the City and District anticipate submitting a single application for the SRF loan process, with the City acting as the lead agency during the application process. The City and District will develop and execute a contractual agreement between the two agencies that will outline and enforce the roles and responsibilities of each agency apart from the SRF agreement. The PM will need to be familiar with the requirements and process for the SRF loan application to the SWRCB but will not be party to the separate contractual agreement.

Environmental Review and Permitting

The City and District entered into a contract with Environmental Science Associates (ESA) on July 1, 2008, to perform the environmental review and permitting process for the WWTP upgrade project. The CEQA and NEPA process are currently on-going. The City and District anticipate the environmental review process to be completed in twelve to eighteen months (no later than December 31, 2010).

Design Process

The City and District entered in to a contract with MWH America, Inc., on March 12, 2010 for engineering design services. The design process is currently on-going. The City and District anticipate the design process to be completed in approximately fifteen months (no later than September 1, 2011). The scope for design services covers the following:

- **Project Management**: meetings, schedules, QA/QC, design services monitoring/cost control of the design process itself.
- **Project Report**: preparation of draft and final FMP amendments, geotechnical services, technical assistance for environmental services, public meeting support, etc.
- **Design Services**: contract specifications and drawings, opinion of probable costs, final design workshops, support for regulatory approvals and permits, support for SRF, etc.
- **Bidding and Award Services**
- **Engineering Services during Construction**: preparation of conformed plans and specs, field support, prepare record drawings, provide operations coordination services, etc.

The PM will be responsible to oversee the MWH America, Inc. design contract. The PM will work closely with the Design team to ensure that the design of the project is delivered per the terms and conditions of that design contract.

The PM will also coordinate the activities of the design consultant with the project team and with other consultants as necessary.

Reference Documents

The City and District have available for review the following engineering studies and reference documents:

1. Draft Facility Master Plan Report (2007) and Draft Facility Plan Amendment No.1---Note: This Report and the Draft Amendment are available on the City web site.
2. Morro Bay Cayucos Sanitary District Wastewater Treatment Plant Flood Hazard Analysis (2009)
3. Wastewater Treatment Alternatives Analysis in the Chorro Valley (2007)
4. City of Morro Bay Draft Revenue Program (2007)
5. Cayucos Sanitary District Draft Revenue Program (2007)
6. 8-Year Full Secondary Compliance Schedule for the Morro Bay – Cayucos Wastewater Treatment Plant (20056)
7. RWQCB Staff Report: Reissuance of Clean Water Act Section 301(h) Modified NPDES Permit, Order NO. R3-2006-0019, and Approval of Settlement

- Agreement, Morro Bay/Cayucos Wastewater Treatment Plant, San Luis Obispo County (2006)
8. City of Morro Bay Sewer Collection System Master Plan Update (2006)
 9. Morro Bay – Cayucos Wastewater Treatment Plant Alternatives Evaluation Report (2004)
 10. City of Morro Bay/Cayucos Sanitary District Comprehensive Recycled Water Study (March 2000)
 11. City of Morro Bay Water Management Plan (2003)
 12. City of Morro Bay General Plan/Local Coastal Plan (pending California Coastal Commission review and approval)
 13. The Land Use Element of the San Luis Obispo County General Plan Estero Area Plan (November 2004).

STAFF REPORT

MORRO BAY-CAYUCOS J.P.A.
WASTEWATER TREATMENT PLANT

TO: President and Board of Directors, Cayucos Sanitary District
Mayor and City Council, City of Morro Bay

FROM: Bill Callahan, District Manager
Cayucos Sanitary District

DATE: April 27, 2010

SUBJECT: Consideration to Pay for Capital Costs Associated with the New Morro Bay-Cayucos (MBCSD) Wastewater Treatment Plant (WWTP) Based on Capacity Rights Identified for the New MBCSD WWTP

STAFF RECOMMENDATION:

Staff recommends the City and District pay for capital costs associated with the new MBCSD WWTP based on capacity rights, identified in the draft Facilities Master Plan (FMP) completed by Carollo Engineers, September 2007. Staff also recommends using this same payment strategy when final capacity rights are identified for each agency in the new WWTP.

HISTORY:

The City and District previously agreed to pay for capital costs associated with the WWTP Upgrade/New WWTP on the basis of flow until both parties could agree on capacity allocations for the new WWTP. The City and District agreed that any balance that existed using the flow based payment method would be identified and paid when final capacity rights in the new WWTP were confirmed.

DISCUSSION:

Section 14 of the JPA "Future Modifications, Replacements, and Enlargements" states; "Unless otherwise agreed to by the parties, the cost of such an agreed to reconstructed plant will be allocated based on capacity rights agreed to at the time of reconstruction."

District staff feels the capacities identified in the final draft of the Carollo FMP are suitable for interim capacity based payments (Morro Bay 72%/Cayucos 28%) for the new WWTP. City and District staffs are working with MWH Engineers to establish a final WWTP project capacity. Once this is established, final capacity rights for each agency will be approved and future project payments should be based on these final capacity rights.