

## CAYUCOS SANITARY DISTRICT

### RESOLUTION NO. 2015-1

#### A RESOLUTION OF THE BOARD OF DIRECTORS OF THE CAYUCOS SANITARY DISTRICT DECLARING ITS INTENTION TO INDEPENDENTLY PURSUE ALTERNATIVES FOR WASTEWATER TREATMENT AND WATER RECLAMATION

**WHEREAS**, the Cayucos Sanitary District (“Cayucos”) was formed in 1942 pursuant to Health and Safety Code Sections 6400, *et seq.*, for the purpose of constructing and operating a sewer collection system and wastewater treatment facility; and

**WHEREAS**, in 1954 Cayucos constructed a sewer collection system and, under a Joint Powers Agreement (“JPA”) with the Morro Bay Sanitary District (now the City of Morro Bay (“Morro Bay”)), constructed a Wastewater Treatment Plant (“WWTP”). That JPA was subsequently amended in 1969, 1973, and again in 1982; and

**WHEREAS**, in 1982 Cayucos and Morro Bay renegotiated the JPA governing their jointly-owned WWTP facility and agreed to reconstruct and expand the WWTP, which expanded and reconstructed plant is still in use by the parties (the “existing WWTP”); and

**WHEREAS**, the 1982 JPA, under which the parties currently operate, sets forth the respective rights, duties and obligations of Morro Bay and Cayucos for purposes of ownership and capacity of the existing WWTP, appurtenant facilities, and the outfall line, as well as for the operation and maintenance of the existing WWTP; and

**WHEREAS**, Morro Bay owns 60% of the existing WWTP, 65% of the capacity rights and 65% ownership in the outfall and Cayucos owns 40% of the existing WWTP, 35% of the capacity rights and 35% of the outfall, and Morro Bay and Cayucos have equal decision making authority in the operation, maintenance and repair of the existing WWTP; and

**WHEREAS**, in 2003, Morro Bay and Cayucos began work efforts to replace the existing WWTP in order to phase out the need for a 301(h) modified discharge

permit, as required by the Central Coast Regional Water Quality Control Board; and

**WHEREAS**, from 2003 through 2010, Morro Bay and Cayucos agreed to share expenditures, based on the projected future WWTP capacity percentages, for jointly and methodically studying, planning and designing a new WWTP to be constructed on the same site as the existing WWTP; and

**WHEREAS**, on January 11, 2011 the Morro Bay City Council approved a Coastal Development Permit, applied for by Morro Bay and Cayucos, for the demolition of the existing WWTP and the construction of a new WWTP and said Coastal Development Permit was subsequently appealed to the California Coastal Commission (“CCC”); and

**WHEREAS**, on January 3, 2013, the Morro Bay City Council adopted Resolution 07-13 supporting the CCC staff recommendation to deny the Coastal Development Permit without regard for or consultation with Cayucos; and

**WHEREAS**, on January 7, 2013, the Board of Directors of the Cayucos Sanitary District adopted Resolution 2013-01 formally withdrawing the proposed new WWTP project application from CCC consideration and sent a letter to Morro Bay asking the City Council to also withdraw the project application, as it would suffer no prejudice in doing so; and

**WHEREAS**, at the CCC meeting of January 10, 2013, over the strong objection of Cayucos, Morro Bay formally supported that the CCC deny the Coastal Development Permit; and

**WHEREAS**, at the January 10, 2013 meeting, the CCC did deny the Coastal Development Permit, with detailed findings which significantly prejudiced the development potential of the jointly owned WWTP property; and

**WHEREAS**, since that time, Morro Bay and Cayucos have independently issued consultant contracts for the evaluation of various site alternatives and options for the treatment of wastewater within their respective communities; and

**WHEREAS**, on June 11, 2013, Cayucos completed a Conceptual Wastewater Treatment Alternatives Technical Memorandum; and

**WHEREAS**, on May 27, 2014, the Morro Bay City Council adopted Resolution 34-14, which determined that it is “in the best interest of Morro Bay to construct a new Water Reclamation Facility that complies with the California Coastal Commissions [sic] actions of January 8, 2013 [sic]” and directed City staff to “Begin preliminary discussions with the “Rancho Colina” property owner and regulatory agencies regarding site [sic] of a WRF on that property; and bring back to City Council a draft Memorandum of Understanding with the property owner that addresses the goals of each party, a negotiation timeline and general non-financial terms of the property acquisition.”

**WHEREAS**, on December 9, 2014, Morro Bay completed and approved a New Water Reclamation Facility (WRF) Preliminary Planning and Siting Study for the replacement of the existing WWTP with a new WRF proposed to be located at the Rancho Colina site and constructed within the next five (5) years (the “Morro Bay WRF Project”); and

**WHEREAS**, Morro Bay has independently issued other consultant contracts and commissioned studies to plan and develop the Morro Bay WRF Project without consultation or input from Cayucos; and

**WHEREAS**, Section 14 of the 1982 JPA states, “No relocation, reconstruction, alteration to, addition to, or replacement of any portions of the wastewater treatment plant shall occur without the prior written approval by MORRO BAY and CAYUCOS”; and

**WHEREAS**, Morro Bay and Cayucos have not agreed, in writing or otherwise, to relocate, replace or otherwise partner in the Morro Bay WRF Project; and

**WHEREAS**, Morro Bay has indicated that Cayucos will be required to pay a 28% share of the costs of studying, planning, designing and constructing the Morro Bay WRF Project; and

**WHEREAS**, Morro Bay has indicated that it intends to solely own and operate the Morro Bay WRF Project and that Cayucos will be a customer without any ownership of capacity rights; and

**WHEREAS**, Cayucos has received a significant amount of feedback from several important community organizations and groups, as well as from individual ratepayers, who have vocalized a strong public outcry against Cayucos’

participation in the Morro Bay WRF Project, citing Morro Bay's unilateral decision to eliminate any operational control and facility ownership by Cayucos, as well as the potentially exorbitant costs associated with the Morro Bay WRF Project; and

**WHEREAS**, in the face of the worst drought in State history and dwindling water supplies, Cayucos community organizations and groups, and individual ratepayers have also expressed a strong interest in community sustainability and concern over the inability to use reclaimed Cayucos water if Cayucos were to participate in the Morro Bay WRF Project.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Directors of the Cayucos Sanitary District as follows:

SECTION 1: The recitals set forth above are true, correct, and valid and are incorporated herein by this reference.

SECTION 2: The proposed ownership, governance, operational oversight and management structure of the Morro Bay WRF Project is fundamentally unfair and unacceptable to Cayucos.

SECTION 3: Reclaimed water is critically important to the future sustainability of the Cayucos community and the development of a wastewater treatment facility in Cayucos will best enable the community to utilize reclaimed water.

SECTION 4: Controlling costs and thereby minimizing sewer service rate increases is best achieved by having direct Cayucos oversight of all aspects of the planning, design, construction, management and operation of a wastewater treatment facility and related appurtenances.

SECTION 5: Cayucos hereby declares its intention to suspend consideration of participation in the Morro Bay WRF Project and independently pursue alternatives for wastewater treatment and reclamation of water that will maximize its resources and provide the greatest benefit to the Cayucos community.

SECTION 6: That all resolutions that are inconsistent with the provisions of this Resolution are hereby repealed.

On motion of **LLOYD**, seconded by **LYON**, and on the following roll call vote, to-wit:

**AYES: ENNS, CHIVENS, LYON, MAFFIOLI, LLOYD**

**NOES: NONE**

**ABSENT: NONE**


The foregoing Resolution is hereby adopted this 30<sup>TH</sup> day of April, 2015.

  
Robert B. Enns, Board President

ATTEST:

  
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Rick Koon, District Manager

APPROVED AS TO FORM:

  
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Timothy J. Carmel, District Counsel

