

**SANTA YNEZ COMMUNITY SERVICES DISTRICT  
BOARD OF DIRECTORS**

**SPECIAL BOARD MEETING**

**January 30, 2019**

**5:30 P.M.**

**1070 Faraday, Santa Ynez, CA**

**AGENDA**

- 1. CALL TO ORDER**
- 2. ROLL CALL**
- 3. PUBLIC COMMENTS:** Members of the public may address the Board on agenda items only
- 4. DISCUSSION AND POSSIBLE ACTION ON THE CONTRACT WITH BUELLTON TO PROVIDE DISTRICT STAFF TO OPERATE BUELLTON'S WASTEWATER TREATMENT PLANT.**
- 5. ADJOURNMENT**

**SANTA YNEZ  
COMMUNITY SERVICES DISTRICT  
STAFF REPORT**

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TO: BOARD OF DIRECTORS

PREPARED BY: Jeff Hodge, General Manager

FOR: REGULAR BOARD MEETING

DATE: January 30, 2019

ITEM: Discussion and possible action regarding providing a Chief Plant Operator and other plant operation personnel as needed while Buellton continues to recruit wastewater personnel.

**SUMMARY:** At the January 16<sup>th</sup> regular meeting this item was on the agenda for discussion and possible action. No action was taken, however the Board agreed to bring the City of Buellton contract to a special meeting after the District's legal counsel had reviewed the additional changes from the City of Buellton. The District's legal counsel made the final revisions to the contract and at the last City of Buellton City Council meeting, the Buellton Council approved the contract.

**RECOMMENDATION:** Approve the contract if no other revisions are necessary

**ATTACHMENTS:**  
Wastewater Contract

## WASTEWATER TREATMENT PLANT MANAGEMENT AGREEMENT

This Wastewater Treatment Plant Management Agreement ("Agreement"), dated January 24, 2019, is made and entered into by and between the Santa Ynez Community Services District, a public agency of the State of California ("District"), and the City of Buellton, a municipal corporation ("City").

### Recitals

- A. The City has had two positions open for recruitment within its Sewer Division since October 1, 2018: Lead Maintenance and Utility Fieldworker (for purposes of this Agreement, "Chief Plant Operator") and Journey Maintenance and Utility Fieldworker. There have not been any eligible candidates applying for either position to date.
- B. The person filling the Chief Plant Operator position must hold a current Grade III Wastewater Treatment Plant Operator's Certificate issued by the State Water Resources Control Board in order to operate the City's waste water treatment plant (the "Plant"). The City is in need of a Grade III Operator to perform Chief Plant Operator duties for the Plant pursuant to legal and operational requirements of the Central Coast Regional Water Quality Control Board.
- C. Because of the lack of eligible candidates for the two open positions, the City has an immediate need of staffing in order to continue its operations and maintenance of the Plant and the sewer collection system throughout the City (the "Collection System"). Specifically, assistance is needed in staff support at the Plant and for the Collection System until such time as the City has a successful recruitment and training has been provided.
- D. The District has met with the City's prior Chief Plant Operator to evaluate the level of effort to properly operate and maintain the Plant and Collection System. The District has determined that it has adequate staff to assist in the City's operations and maintenance needs and can provide a Grade III Operator to perform Chief Plant Operator duties.
- E. The City has and maintains its own equipment and supplies and will continue to provide those resources necessary for the continued operations and maintenance of the Plant and Collection System.
- F. The parties desire to set forth herein the terms on which the District will provide to the City (i) a Grade III Operator to perform Chief Plant Operator duties and (ii) such other personnel as the parties agree are necessary for the City to continue to operate the Plant and Collection System.

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Grade III Operator and Other Personnel.** The District will make available to the City a Grade III Operator to serve as Chief Plant Operator and such other personnel as the parties agree are necessary for the City to continue its operations and maintenance of the Plant and Collection System. During the term of this Agreement, the City shall provide District

personnel with full and unrestricted access to the Plant, Collection System, and all appurtenances relating thereto for the purpose of enabling the District to fulfill its responsibilities hereunder and to undertake other activities reasonably related to this Agreement. Unless otherwise agreed in writing, the District's responsibilities hereunder shall not include services related to the construction of new facilities, the expansion or modification of existing facilities, or the replacement of existing facilities at the end of their useful life. The Chief Plant Operator shall have full authority and responsibility over the routine operations and maintenance of the Plant and Collection System including oversight of other personnel working on the Plant and Collection System. The Chief Plant Operator shall remain under the direction and control of the District, except that the City shall have authority to approve or not approve expenditures not considered routine and shall have authority over the terms of employment of City employees working under the Chief Plant Operator.

2. Payment and Status of District Personnel. For services provided hereunder, the City shall pay to the District an amount sufficient to reimburse the District for (i) District staff time reasonably related to the operations and maintenance of the Plant and Collection System, including the applicable salary or hourly wage, plus the cost of fringe benefits and insurance, including workers' compensation insurance, for District personnel, (ii) all other costs and expenses incurred by the District reasonably related to the such services, and (iii) an administrative fee of ten percent (10%) on all such charges (collectively, the "District Fee"). The Chief Plant Operator and any other District personnel working on the Plant and Collection System will remain under the supervision and control of the District except as noted above. The District will be responsible for all direct and indirect costs associated with workers' compensation claims arising in connection with work performed by the District's personnel while providing services to the City hereunder.

3. Term. This Agreement shall commence as of \_\_\_\_\_ (the "Effective Date") and shall continue until terminated by thirty (30) days written notice by one party to the other; provided, however, that this Agreement shall be subject to immediate termination upon written notice by either party if the other party commits a material breach of the terms hereof and fails to correct such breach after written notice of the breach and a reasonable opportunity to cure. Upon the termination of this Agreement, the District's obligations hereunder shall cease and terminate.

4. Notices. All notices permitted or required under this Agreement shall be in writing and shall be given by personal delivery or sent by (i) certified or registered mail, postage prepaid, return receipt requested, (ii) reputable overnight delivery service (e.g., UPS, Federal Express, DHL or Airborne), or (iii) facsimile or email transmission, using the contact information set forth below.

If to the District: Santa Ynez Community Services District  
1070 Faraday Street  
Santa Ynez, CA 93460  
Fax: (805) 688-3006  
Email: [jhodge@sycsd.com](mailto:jhodge@sycsd.com)  
Attn: General Manager

If to the City: City of Buellton  
107 W. Highway 246  
Buellton, CA 93427  
Fax: (805) 686-0086  
Email: [marcb@cityofbuellton.com](mailto:marcb@cityofbuellton.com)

Attn: City Manager

Either party may change its contact information for notice purposes by giving notice of such change in the manner set forth above.

5. Indemnity. City shall indemnify, defend, and hold harmless District, and its directors, officers, employees, and agents ("District Indemnitees"), from and against any and all causes of action, claims, liabilities, obligations, judgments, or damages, including reasonable legal counsels' fees and costs of litigation ("Claims"), arising out of City's performance of, or failure to perform, its obligations under this Agreement or out of the Plant and Collection System operations conducted by City, except for Claims arising from the sole negligence or willful misconduct of District. In the event the District Indemnitees are made a party to any action, lawsuit, or other adversarial proceeding arising from City's performance of, or failure to perform, its obligations under this Agreement or out of the Plant and Collection System operations conducted by City, City shall provide a defense to the District Indemnitees or at the District's option reimburse the District Indemnitees their costs of defense, including reasonable legal counsels' fees, incurred in defense of such Claims.

District shall indemnify, defend, and hold harmless City, and its officers, employees, and agents ("City Indemnitees"), from and against any and all Claims, arising out of District's negligence or willful wrongful acts or omissions in the performance of its obligations under this Agreement. In the event the City Indemnitees are made a party to any action, lawsuit, or other adversarial proceeding arising from District's negligence or willful wrongful acts or omissions in the performance of its obligations under this Agreement, District shall provide a defense to the City Indemnitees or at the City's option reimburse the City Indemnitees their costs of defense, including reasonable legal counsels' fees, incurred in defense of such Claims.

#### 6. Insurance.

General liability insurance. Each party shall maintain commercial general liability insurance with coverage at least as broad as Insurance Services Office form CG 00 01, in an amount not less than \$2,500,000 per occurrence for bodily injury, personal injury, and property damage. Each policy must include contractual liability that has not been amended. Any endorsement restricting standard ISO "insured contract" language will not be accepted. The party maintaining the commercial general insurance shall ensure that the other party is named as an additional insured on such policy.

Automobile liability insurance. Each party shall maintain automobile insurance at least as broad as Insurance Services Office form CA 00 01 covering bodily injury and property damage for all activities of that party arising out of or in connection with work to be performed under this Agreement, including coverage for any owned, hired, non-owned or rented vehicles, in an amount not less than \$1,000,000 combined single limit for each accident. The party maintaining the commercial general insurance shall ensure that the other party is named as an additional insured on such policy.

Workers' compensation insurance. Each party shall maintain its own Workers' Compensation Insurance (Statutory Limits) and Employer's Liability Insurance (with limits of at least \$1,000,000).

Each party shall submit to the other, along with the certificate of insurance, a Waiver of Subrogation endorsement in favor of the other party, its officers, agents, employees and volunteers.

7. Service Interruption. The City acknowledges that, due to circumstances beyond the reasonable control of the District, such as mechanical failure, accidental damage, routine or emergency repairs, modifications or improvements, labor disputes, treatment upsets, legal or regulatory requirements or restrictions, acts of God or similar matters, the operation of the Plant and/or Collection System may be interrupted or the capacity thereof may be reduced. The City hereby waives any and all claims against the District, including but not limited to claims for punitive and consequential damages, and releases the District from any and all liability relating to any interruptions in operations or reductions in the capacity of the Plant and/or Collection System.

8. Partial Invalidity. If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each such term and provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.

9. Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the permitted successors and assigns of the parties hereto.

10. Professional Fees. In the event of any action or suit arising in connection with the enforcement or interpretation of any of the covenants or provisions of this Agreement, the prevailing party shall be entitled to recover all costs and expenses of the action or suit, including actual attorneys' fees, accounting fees and any other professional fees incurred in connection therewith.

11. Entire Agreement/Amendments. This Agreement (including all exhibits attached hereto) is the final expression of and contains the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior understandings and communications with respect thereto. This Agreement may not be modified, changed, supplemented or terminated, nor may any obligations hereunder be waived, except by a written instrument signed by the party to be charged. The parties do not intend to confer any benefit hereunder on any person, firm or corporation other than the parties hereto.

12. Construction. Headings at the beginning of each paragraph and subparagraph are solely for the convenience of the parties and are not a part of this Agreement. Whenever required by the context of this Agreement, the singular shall include the plural and the masculine shall include the feminine and vice versa. This Agreement shall not be construed as if it had been prepared by one of the parties, but rather as if both parties had prepared the same. Unless otherwise indicated, all references to paragraphs and subparagraphs are to this Agreement. All exhibits referred to in this Agreement are attached and incorporated by this reference.

13. Governing Law. The parties hereto expressly agree that (i) this Agreement shall be governed by, interpreted under and enforced in accordance with the laws of the United States of America and the State of California, (ii) in the event of any dispute, the parties shall be subject to the jurisdiction of the courts of the State of California, regardless of their place of residence, and (iii) in any action arising in connection with this Agreement, venue shall be in the County of Santa Barbara, State of California, United States of America.

14. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

15. Facsimile and Electronic Signatures. In the event executed copies of this Agreement or any notices or other written communications permitted or required hereunder are provided by one party to the other(s) by facsimile or email transmission, the original copies shall be sent by the signing party to the other party(ies) as soon as reasonably feasible, and pending the receipt thereof, the facsimile or emailed copies and the signatures thereon shall for all purposes be treated as originals.

16. Further Assurances. The parties agree to take such actions and execute such documents as may be reasonably required to carry out the intent of this Agreement.

17. Assignment. Neither party may assign its rights or delegate its obligations under this Agreement, in whole or in part, without the prior written consent of the other party.

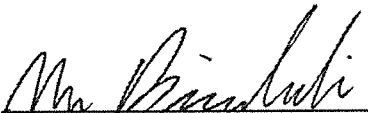
18. Waivers. No waiver of any breach of any provision herein and no delay in enforcing performance of any obligation hereunder shall be deemed a waiver of any preceding or succeeding breach, or of any other provision herein, and no such waiver or delay shall impair any right, power or remedy relating to the breach. No extension of time for performance of any obligation or act shall be deemed an extension of the time for performance of any other obligation or act.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective as of the Effective Date.

SANTA YNEZ COMMUNITY SERVICES DISTRICT

CITY OF BUELLTON

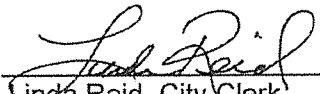
By: \_\_\_\_\_  
Karen Jones, Board President

By:  \_\_\_\_\_  
Marc Bierzinski, City Manager

ATTEST:

ATTEST:

By: \_\_\_\_\_  
Wendy Berry, Board Secretary

By:  \_\_\_\_\_  
Linda Reid, City Clerk


APPROVED AS TO FORM:

APPROVED AS TO FORM:

Howell Moore & Gough LLP  
District Legal Counsel

Burke, Williams & Sorensen, LLP  
City Attorney

By: \_\_\_\_\_  
Richard G. Battles, Partner

By:  \_\_\_\_\_  
Gregory M. Murphy, City Attorney