



MEMORANDUM

TO: City Council

FROM: Matthew Downing, City Manager

SUBJECT: Amendments to the Central Coast Blue Regional Recycled Water Authority Joint Exercise of Powers Agreement

DATE: June 11, 2024

RECOMMENDATION:

1) Adopt a Resolution approving Amendment Number 1 to the Joint Exercise of Powers Agreement Creating the Central Coast Blue Regional Recycled Water Authority; and
2) Determine that adopting the Resolution is not a project subject to the California Environmental Quality Act (CEQA) because it has no potential to result in either a direct, or reasonably foreseeable indirect, physical change in the environment. (State CEQA Guidelines, §§ 15060, subd. (c)(2)-(3), 15378)

IMPACT ON FINANCIAL AND PERSONNEL RESOURCES:

There is no direct fiscal impact associated with the recommended action. If the amendment is approved by all necessary parties, the City would be reimbursed its respective share of the purchase price of real property obtained for purposes of the Central Coast Blue Project ("Project"), calculated as the sum of \$499,855.34.

BACKGROUND:

The Cities of Arroyo Grande, Grover Beach, and Pismo Beach ("Member Agencies") entered into a Joint Exercise of Powers Agreement ("Agreement") in October 2022, which included provisions to govern the development and management of the Project and the Central Coast Blue Regional Recycled Water Authority ("Authority").

On [April 9, 2024](#), the City Council directed staff to submit formal notices of intent to withdraw from the Agreement, as well as from the related Cost-Sharing Agreement. Pursuant to Section 8.2 of the Agreement (Attachment 2), withdrawal is effective one hundred eighty (180) days after written notice is provided to the Authority. Under the Agreement, withdrawal from the Authority constitutes a withdrawal of that member agency's representative from the Board of Directors.

On [June 3, 2024](#), the Authority Board of Directors voted unanimously to provide a recommendation to the Member Agencies to amend the Agreement as outlined below. At

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the same meeting, the Board of Directors acknowledged and accepted the City's notice of intent to withdraw from the Agreement effective June 30, 2024, and waived the 180-day notice requirement, contingent upon the approval of the proposed amendments by all three Member Agencies. Amendments to the Agreement are specifically addressed in Article 8 – Termination / Withdrawal / Amendment of the Agreement as follows:

8.5 Amendment. This Agreement may be amended at any time by the written approval of the governing body of each Member Agency upon recommendation of a majority of the Board of Directors of the Authority.

ANALYSIS OF ISSUES:

The City of Pismo Beach has expressed its interest in continuing the existence of the Authority to preserve the previous investment in the Authority and the opportunity to develop the Project notwithstanding the withdrawal of the City and the City of Grover Beach from the Authority. To that end, Pismo Beach has requested an amendment to the Agreement that would accomplish a number of matters, generally outlined as follows:

1. The Agreement would be amended to remove the cities of Arroyo Grande and Grover Beach as Member Agencies, and to add the Pismo Beach Financing Agency as a Member Agency;
2. The Agreement would be amended to change the Water Purveyor Contributions to reflect the withdrawal of Arroyo Grande and Grover Beach, and setting the allocation of costs at 100% for Pismo Beach;
3. The Agreement would be amended to remove the restriction prohibiting the Authority's attorney from being counsel to one of the Member Agencies;
4. The Agreement would be amended to remove the provision that Arroyo Grande and Grover Beach would participate in the division of remaining assets upon the dissolution of the Authority at some undetermined point in the future, and to authorize the reimbursement of Arroyo Grande and Grover Beach for their respective shares of the purchase price of real property acquired for the Project; and
5. Other conforming changes would be made to the Agreement to reflect the withdrawal of Arroyo Grande and Grover Beach and the addition of the Pismo Beach Public Financing Agency.

ALTERNATIVES:

The following alternatives are provided for the Council's consideration:

1. Adopt a Resolution approving Amendment Number 1 to the Joint Exercise of Powers Agreement Creating the Central Coast Blue Regional Recycled Water Authority;
2. Modify and adopt the Resolution; or
3. Provide other direction to staff.

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ADVANTAGES:

The proposed amendments remove the City from the Agreement and Authority prior to the 180-day notice requirement and minimizes Authority administration costs as the City departs. The amendments also preserve the Authority as a tool for current and future financing, as well as providing a structure for future regional water supply solutions as desired by the City Council.

DISADVANTAGES:

Due to the requirement for amendments to the Agreement to be approved by the governing body of each Member Agency, any Member Agency's failure to approve the proposed amendments would preclude the City's withdrawal from the Authority prior to the 180-day noticing period. This would require the City to remain in the Authority until November 13, 2024, and the City would be responsible for Project costs during this time period. Additionally, not allowing the Pismo Beach Financing Agency to join the Authority would effectively eliminate the joint powers agreement structure, triggering dissolution of the Agreement and associated actions, including property disposition under State law.

ENVIRONMENTAL REVIEW:

The action is not a project subject to the California Environmental Quality Act (CEQA) because it has no potential to result in either a direct, or reasonably foreseeable indirect, physical change in the environment (State CEQA Guidelines, §§ 15060, subd. (c)(2)-(3), 15378).

PUBLIC NOTIFICATION AND COMMENTS:

The Agenda was posted at City Hall and on the City's website in accordance with Government Code Section 54954.2.

ATTACHMENTS:

1. Proposed Resolution
2. Joint Exercise of Powers Agreement Creating the Central Coast Blue Regional Recycled Water Authority