



MEMORANDUM

TO: City Council

FROM: Whitney McDonald, City Manager
Timothy J. Carmel, City Attorney

SUBJECT: Discussion and Consideration of Approval of a Joint Exercise of Powers Agreement Creating the Central Coast Blue Regional Recycled Water Authority and Appointment of a Representative to the Authority Board of Directors

DATE: September 27, 2022

SUMMARY OF ACTION:

Approval of the proposed Joint Exercise of Powers Agreement Creating the Central Coast Blue Regional Recycled Water Authority (CCB JPA Agreement) (Attachment 1) with the cities of Grover Beach and Pismo Beach for the Central Coast Blue Project (Project). Appointment of a Council representative to the CCB JPA Board of Directors will enable the JPA Board to meet before the City Council ordinarily makes committee appointments in December if necessary to address needs of granting or loaning agencies.

IMPACT ON FINANCIAL AND PERSONNEL RESOURCES:

The City's Biennial Budget for Fiscal Years 2021-23 includes a total of \$1,420,000 in the Water Availability Fund for the Central Coast Blue Project, \$720,000 for Fiscal Year 2021-22 and \$700,000 for Fiscal Year 2022-23. The CCB JPA Agreement obligates the City to pay for 25% of the total costs of the Project consistent with the Cost Sharing Agreement approved by the City Council on January 25, 2022. The City of Pismo Beach will pay 39% of the costs and the City of Grover Beach will pay 36% of the costs. Total costs for the Project are currently estimated to be \$92,595,000. To date, \$17,120,000 in federal and State grants have been awarded to fund the Project. It is anticipated that the Project could receive an estimated \$29,178,000 of additional federal and State grants, which would reduce these costs. The City's portion of the estimated remaining \$46,297,000 in Project costs is \$11,574,250. It is anticipated that this amount would be financed through low interest loans provided by federal or State programs such as the Water Infrastructure Finance and Innovation Act (WIFIA) and/or the State Revolving Fund. In addition to the pre-construction and construction costs of the project, the three Cities will also support their share of operating and maintenance costs of the Central Coast Blue facility, which is currently projected to begin in 2026. The Water and Sewer Rate Study approved by

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Council on January 11, 2022 (Attachment 3), provides recommended water rates necessary to fund the City's share of costs for the Project.

RECOMMENDATION:

1) Authorize the Mayor to execute a Joint Exercise of Powers Agreement Creating the Central Coast Blue Regional Recycled Water Authority (Authority); and 2) appoint a member of the City Council to the Authority Board of Directors

BACKGROUND:

The City of Pismo Beach has been the lead agency for the Central Coast Blue Project. The Project has been a multi-agency effort between three of the four Northern Cities Management Area agencies (the Cities of Arroyo Grande, Grover Beach, and Pismo Beach) and the South San Luis Obispo County Sanitation District¹ to construct a regional recycled water project that will enhance supply reliability by injecting advanced purified water into the Santa Maria Groundwater Basin. The Project will reduce vulnerability to drought and seawater intrusion by creating a seawater intrusion barrier and supplementing the naturally occurring groundwater.

At its January 25, 2022 meeting, the City Council authorized entering into a Cost Sharing Agreement with the cities of Grover Beach and Pismo Beach for the Project, as well as a Resolution that authorized the City Manager to apply for financial assistance from Clean Water State Revolving Fund administered by the State Water Resources Control Board for the City's share of anticipated construction costs for the Project. A copy of the January 25, 2022 staff report related to the Cost Sharing Agreement is attached for reference (Attachment 2) and contains additional information regarding the process leading up to approval of that agreement, as well as information related to the financing for the Project. The Cost Sharing Agreement also contained provisions related to the contemplated creation of a joint powers authority, which will be a separate legal public entity, pursuant to Government Code section 6500 et seq., that will own and operate the Project and have the power to issue debt and enter into loans or financing agreements to finance the construction costs for Phase 1 of the Project. As set forth in the Cost Sharing Agreement, the Joint Powers Agreement is to contain provisions addressing acquisition of the facility site from Pismo Beach by the Authority, ownership of the facility, and financing of construction costs, including repayment obligations of the parties consistent with the Water Purveyor Contribution percentages identified in the Cost Sharing Agreement. The CCB JPA Agreement has been negotiated by staff for the cities of Arroyo Grande, Pismo

¹ Although it has contributed to the overall Project effort, the South San Luis Obispo County Sanitation District is not a party to the JPA during Phase I and will not be involved in the construction or initial operation of the Project.

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Beach and Grover Beach and is now being presented to the City Council for its consideration and approval.

On September 14, 2022, the first joint City Council meeting called for in the Cost Sharing Agreement was held with the City Councils of the cities of Arroyo Grande, Grover Beach, and Pismo Beach. At that meeting, the City Councils and the public received an update from the Project's design and engineering consultant, Water Systems Consulting (WSC), regarding the Project components and purpose, preliminary design of the Advanced Treatment Facility, updated cost estimates, grant funding opportunities and awards, and permitting requirements. The City Manager for Arroyo Grande also provided information regarding the Cost Sharing Agreement and the anticipated CCB JPA. Total costs to construct the Project are now estimated to reach approximately \$93 million. With anticipated federal and state grants, the City's share of the remaining, non-grant funded costs is anticipated to be approximately \$11.6 million. The City's current water rates will be sufficient to cover these anticipated construction costs.

ANALYSIS OF ISSUES:

As previously explained in the January 25, 2022 staff report, the Project will help address the threat of seawater intrusion by injecting recycled water into the basin at key locations near the seawater interface. Phase 1 of the Project proposes to treat wastewater from the City of Pismo Beach to an advanced purification level to create approximately 900 acre-feet of additional water per year. This new developed water will be injected into the basin at key locations to help to ensure that a sufficient barrier exists within the basin to keep seawater from flooding into the aquifer and contaminating the wells used by the NCMA parties. As a result, the Project will support the City's ability to rely on groundwater to supply water to its residents and businesses into the future. Approval of the CCB JPA Agreement and completion of the Project will secure an estimated 225 acre-feet per year of reliable groundwater for the City.

Proposed CCB JPA Agreement

The CCB JPA Agreement contains provisions to provide for the ongoing operation of the Project. It provides that the new Central Coast Blue Regional Recycled Water Authority will have the responsibility for the operation and maintenance of the Project and will own the Facility Sites, Facilities, Ancillary Facility Sites and Ancillary Facilities, which are defined in the Agreement. It references and incorporates the Cost Sharing Agreement, and contains provisions to be consistent with it. It has also been reviewed and revised by bond counsel, to address and facilitate anticipated future financing for the Project. The Agreement contains provisions relating to:

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- The powers of the Authority (e.g., to make contracts, employ staff and consultants, acquire and dispose of property, issue bonds and incur debts and liabilities, apply for grants, etc.).
- The governance of the Authority. There will be a Board of Directors, which will have a Chair and Vice Chair, will meet at least quarterly, and which will consist of one representative of each city, as well as one alternate. Except for reimbursement for actual costs and expenses, the Board will serve without compensation from the Authority.
- An annual budget process. In March of each year, the Board is to adopt a preliminary budget and an allocation of contributions from the Member Agencies for presentation to each Member Agencies' governing body. The governing body of each Member Agency is to then review and comment on the preliminary budget and allocation of contributions. The Board is to adopt a final budget prior to July 1 of each year and adopt an allocation of contributions from the Member Agencies to be consistent with the percentages agreed to for Pre-Construction and Construction costs for Phase 1 of the Project (i.e., Arroyo Grande 25%, Grover Beach 36%, and Pismo Beach 39%). Each annual budget is to be adopted by an affirmative unanimous vote of the Directors, except that the first annual budget may be adopted by a majority vote.
- Construction financing, operations and maintenance costs, capital improvement costs, and debt service. In connection with the issuance of debt, each party will enter into a Financing Agreement with the Authority securing the obligation of such party to make payments on its share of debt service. The Financing Agreements will stipulate that payment to the Authority is a special limited obligation payable solely from system net revenues of each party's Enterprise Fund.

Termination, withdrawal of Member Agencies and the effect of withdrawal, including continuing liability (the Agreement makes it clear that the debts, liabilities, and obligations of the Authority are not the debts, liabilities and obligations of any of the Member Agencies) and indemnification.

Appointment to the Authority Board of Directors

In addition to consideration and approval of the CCB JPA, it is recommended that the City Council appoint a representative to the Authority Board of Directors. While appointments to regional and local boards and committees are typically considered by Council in December of each year, selection of a representative to the Authority Board at this time will enable the Board to meet sooner, if necessary for purposes of applying for funding or financing.

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ALTERNATIVES:

1. Approve staff's recommendation to authorize the Mayor to execute the proposed Joint Exercise of Powers Agreement Creating the Central Coast Blue Regional Recycled Water Authority with the cities of Grover Beach and Pismo Beach for the Central Coast Blue Project; and appoint a member of the City Council to the Authority Board of Directors;
2. Do not approve staff's recommendation to authorize the Mayor to execute the proposed Joint Exercise of Powers Agreement and provide direction to staff related to any changes that the City Council wants the City Manager to negotiate with the other parties; and/or do not appoint a member of the City Council to the Authority Board of Directors at this time;
3. Provide other direction to staff.

ADVANTAGES:

The City Council has already approved the City's participation in the Project and the City has executed the Cost Sharing Agreement, which contemplates that the parties will create a Joint Powers Authority to own and operate the Project. Approval of the CCB JPA Agreement will provide a framework for operating, managing and administering the Project. The Project is important for the ongoing resiliency of groundwater resources relied upon by the City, as well as all residents, businesses, agricultural operations, and visitors to the Five Cities area.

DISADVANTAGES:

Since the City has already approved participation in the Project and entered into the Cost Sharing Agreement, no disadvantages to entering into the CCB JPA Agreement have been identified, as it will provide the needed framework for operating, managing and administering the Project.

ENVIRONMENTAL REVIEW:

The City of Pismo Beach is the Lead Agency under the California Environmental Quality Act (CEQA) for the Project and previously prepared, circulated, and approved an Environmental Impact Report (EIR), and adopted findings and a Statement of Overriding Considerations on February 16, 2021. The City of Arroyo Grande is a Responsible Agency for the Project under CEQA. On March 23, 2021, the City Council adopted findings and a Statement of Overriding Considerations for the Project relying on the EIR in compliance with CEQA. No additional CEQA findings are required at this time.

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.

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Attachments:

1. Proposed Joint Exercise of Powers Agreement Creating the Central Cost Blue Regional Recycled Water Authority
2. January 25, 2022 Staff Report relating to Cost Sharing Agreement
3. January 11, 2022 Staff Report and attachments