



## MEMORANDUM

**TO:** City Council

**FROM:** Whitney McDonald, City Manager

**SUBJECT:** Consideration of Approval of a Cost Sharing Agreement with the Cities of Grover Beach and Pismo Beach for the CCB Project and Resolution Authorizing an Application to the State Water Resources Control Board for a State Revolving Fund Loan for the Project

**DATE:** January 25, 2022

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### **SUMMARY OF ACTION:**

Consideration and approval of the proposed Cost Sharing Agreement (Agreement) (Attachment 1) with the cities of Grover Beach and Pismo Beach for the Central Coast Blue Project, Phase 1 (Project), as well as consideration and approval of a Resolution (Attachment 2) authorizing the City Manager to apply for financial assistance from Clean Water State Revolving Fund (CWSRF) administered by the State Water Resources Control Board (State Water Board) for the City's share of anticipated construction costs for the Project.

### **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 Project, \$720,000 for Fiscal Year 2021-22 and \$700,000 for Fiscal Year 2022-23. The Agreement obligates the City to pay for 25% of the total costs of the Project. 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 \$56,681,853. To date, \$4,496,094 in federal and State grants have been awarded to fund the Project. The City's portion of the remaining \$51,696,183 in Project costs is \$12,924,045., \$10,851,894 of which is for construction. It is anticipated that the Project will receive additional federal and State grants, which will reduce these costs. The Water and Sewer Rate Study approved by Council on January 11, 2022, provides recommended water rates necessary to fund the City's share of costs for the Project.

### **RECOMMENDATION:**

1) Consider and authorize the City Manager to execute a Cost Sharing Agreement for the Central Coast Blue project; and 2) Consider and approve the proposed Resolution authorizing the City Manager to apply for financial assistance from CWSRF administered

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by the State Water Board for the City's share of anticipated construction costs for the Project.

**BACKGROUND:**

The City of Pismo Beach is 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 District to construct a regional recycled water project that will enhance supply reliability by injecting advanced purified water into the Santa Maria Groundwater Basin (SMGB). The Project will reduce vulnerability to drought and seawater intrusion by creating a seawater intrusion barrier and supplementing the naturally occurring groundwater. Phase 1 of the Project proposes to treat wastewater from the City of Pismo Beach to an advanced purification level to create between 900-1,000 acre-feet of additional water per year.

On March 23, 2021, Council considered a proposed Central Coast Blue Operating Agreement and its associated environmental determination in compliance with the California Environmental Quality Act. After receiving public comment and conducting discussion and deliberation, Council approved the Operating Agreement and adopted Statements of Overriding Considerations and a Mitigation, Monitoring, and Reporting Program, subject to the condition that the cities of Pismo Beach and Grover Beach separately agree to enter into a Community Workforce Agreement for construction of the Project.

Following Council's action on March 23, 2021, the cities of Pismo Beach and Grover Beach indicated that they would not agree to the Community Workforce Agreement condition. Additionally, certain questions and concerns emerged during discussions with the cities regarding the proposed Operating Agreement terms.

At its April 13, 2021 regular meeting, Council considered a staff report outlining these questions and concerns and, after deliberations, took action to rescind its conditional approval of the Operating Agreement and directed the City Manager to draft a letter to the City Councils of Pismo Beach and Grover Beach requesting that certain items be address in the proposed Operating Agreement. In addition, Council approved a letter of support for the Project to the Bureau of Reclamation in consideration of the WaterSMART Title XVI Water Reclamation and Reuse Grant application. Through the application prepared and submitted by the City of Pismo Beach, the Project was awarded an additional \$1.7 million in grant funding on August 5, 2021. To date, \$4,496,094 in federal and State grants have been awarded to fund the Project.

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Letters to the City Councils of the cities of Grover Beach and Pismo Beach were sent on April 16, 2021, consistent with Council's April 13<sup>th</sup> direction. On May 24, 2021, letters were received from the City Managers of Grover Beach and Pismo Beach responding to the City's April 16, 2021 letter. Council considered the two letters at its regular meeting held on June 8, 2021. After deliberation, Council directed the City Manager to negotiate terms for a revised operating agreement that addresses the City's concerns.

Following this action, the city managers for Arroyo Grande, Grover Beach, and Pismo Beach worked to develop a new framework for cost-sharing and operating agreements for the Project. This framework was presented to the City Council on September 14, 2021, and was approved in concept, including a reduction of the City's share in the Project from 39% to 25%. The Grover Beach City Council likewise approved the revised framework on September 27, 2021, as did the Pismo Beach City Council on October 19, 2021. In addition, on November 15, 2021, the Pismo Beach City Council provided direction to obtain the remaining unsubscribed portion of the Project and increase its total share to 39%, with Arroyo Grande's share at 25% and Grover Beach's share at 36%.

Since September 14, 2021, staff for the three cities prepared and negotiated a draft Cost Sharing Agreement based on the revised framework, which is being presented for consideration and approval by the City Council at this time.

The parties anticipate receiving financial assistance from the CWSRF, administered by the State Water Board, for the Project construction costs. The CWSRF provides funding to public agencies and Native American tribal governments for the construction of clean water projects, typically in the form of low interest loans. In December 2021, City staff was informed that General Applications for financial assistance from the CWSRF were due by the end of the year for funding anticipated to be received in 2023, when Project construction is planned to begin. After close coordination with State Water Board staff, city staff from Pismo Beach and Grover Beach, and advice from Water Systems Consulting (WSC), the Project design consultant, it was determined that, in order to preserve the best possible opportunities for the Project to receive financial assistance from the CWSRF for all construction costs, each city should submit a General Application to the State Water Board for its respective share of construction costs. In addition, Pismo Beach submitted an application on behalf of the Joint Powers Authority that is anticipated to be formed to own and operate the Project.

#### **ANALYSIS OF ISSUES:**

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 between 900-1,000 acre-feet additional water per year. This new

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developed water will help to ensure that a sufficient barrier exists within the basin to keep sea water 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 Agreement and completion of the Project will secure an estimated 225-250 acre-feet per year of reliable groundwater for the City.

#### Proposed Agreement

Consistent with the revised framework, the proposed Cost Sharing Agreement includes the following key terms:

- The City of Pismo Beach remains lead agency and acts as project developer through final completion of Phase 1 of the Project.
- Costs will be shared by the three cities in proportion to their share of the benefits (water) allocated to the jurisdiction. Grover Beach and Arroyo Grande will reimburse Pismo Beach for their respective shares of the costs of the Project, including all pre-construction and construction costs. Ongoing pre-construction costs will be split between Arroyo Grande and Grover Beach until each party reaches its total contribution amount for its share of pre-construction costs.
- The allocation of costs/shares are as follows:
  - Pismo Beach: 39%
  - Grover Beach: 36%
  - Arroyo Grande: 25%
- The cities will form a Joint Powers Authority (JPA) that will own and operate the Project, as well as obtain financing for construction of the Project.\*
  - The JPA Board of Directors will consist of one representative of each city with each member retaining an equal vote on the Board.
  - The JPA will own all Project assets and will employ or contract for the Project's operations and administrative staff.
  - \* The revised framework indicated that the JPA would become effective upon completion of construction and commissioning of the Project. However, the Agreement calls for the JPA to be formed earlier in order to ensure that the JPA is able to obtain financing for the Project. The Agreement also acknowledges the intent for the JPA to apply for and obtain financing from CWSRF and, if financing is not available to the JPA through the CWSRF, that the parties may independently seek financing from the CWSRF.
- Joint meetings of the three City Councils will be held at least once annually until the Project is constructed to provide a venue for discussion and transparency for the public on the project progress, to receive Project updates, and discuss policy

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issues as needed (e.g., unexpected timeline extensions, approvals of expenditures beyond the Project budget, etc.).

- A Technical Advisory Committee made up of staff from the three cities may be formed and meet monthly to evaluate pre-construction and construction costs, provide input into formation and operations of the JPA, and present reports at the joint City Council meetings.
- Each City Council will review and approve the scope, budget, contingency and procurement for the remainder of pre-construction and construction phases of the Project. Costs in excess of the agreed-upon budget, plus a 20% contingency, will require approval of all three City Councils. If all three City Councils do not approve any such change order, the parties will meet and confer to arrive at an agreement on the requested change. If this process is unsuccessful, costs will be reduced to below the 20% contingency.
- The Agreement does not impose groundwater pumping limitations on participating parties and recognizes the participants' contribution of new developed water for their exclusive use. The Agreement also acknowledges that Project water will not be transported out of the Northern Cities Management Area (NCMA) without the prior written approval of the parties.
- An opt-out clause is included to allow exit of a party prior to award of a construction contract as long as the identified share of costs incurred to date are paid by that party.

In addition to clarifications regarding formation of the JPA and the intent for the JPA to obtain financing for construction, the Agreement states that a financing plan may be prepared by the parties to describe the intended mechanisms for funding the Project. It is anticipated that such a plan would be flexible and general in nature to account for the various opportunities for grants and other financing arrangements that may be awarded to the Project over time.

Finally, the Agreement also states the intent for the JPA to obtain title to the Project site from Pismo Beach. The prior proposed Operating Agreement included provisions allowing the City of Grover Beach to take title to the site in order to reduce potential property tax liability due to the sites' location within Grover Beach's jurisdiction. The Arroyo Grande City Attorney's research has concluded that, if the JPA owns the Project site, it will receive the same property tax benefits as the City of Grover Beach, thereby eliminating the potential desire by the parties for Grover Beach to hold title to the property.

#### CWSRF Application

In order to meet the deadline required to keep options open for financing for the Project, City staff submitted a General Application to the State Water Board for CWSRF funding for the City's share of construction costs for the Project on December 30, 2021. The cities

**Item 10.a.**

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of Grover Beach and Pismo Beach submitted similar applications during the last week of December 2021 as well. The General Application is the first step in a long process with the State Water Board for CWSRF funding. Applications are scored based on an established set of criteria and, in the summer of 2022, the State Water Board will determine the qualifying score that applications must receive in order to obtain financial assistance in 2022-2023.

Applications for financial assistance from the CWSRF require an authorizing resolution from the governing body of the applying agency. As no authorizing resolution had been approved by the City Council, the City's application was submitted along with a letter stating that the resolution would be sought in January or February 2022 and that the application would be withdrawn if the resolution is not approved (Attachment 3). Approval of the proposed Resolution authorizing the City Manager to submit and process the application for financial assistance from the CWSRF does not obligate the City to enter into a financing agreement or otherwise incur debt from the State Water Board at this time. Any such steps will come much later, at which time the parties will know whether the JPA will receive financial assistance for the Project's construction costs.

#### Next Steps:

It is anticipated that the City Councils for the cities of Grover Beach and Pismo Beach will both consider approval of the Agreement at their meetings scheduled for February 15, 2022. The Agreement will become effective upon approval by all three City Councils. This will operate as approval of the Project, and the parties will plan the first joint City Council meeting contemplated in the Agreement. In addition, staff for the three cities will immediately begin preparation of the Joint Powers Agreement for future review and approval by the City Councils.

#### **ALTERNATIVES:**

1. Approve staff's recommendation to authorize the City Manager to execute the proposed Cost Sharing Agreement and adopt the Resolution authorizing the City Manager to submit and process an application for financial assistance from the CWSRF for the City's share of Project construction costs.
2. Approve staff's recommendation to authorize the City Manager to execute the proposed Cost Sharing Agreement, do not adopt the proposed Resolution, and provide direction further direction to staff, such as direction to withdraw the General Application for financial assistance submitted to the State Water Board for CWSRF funding.
3. Direct staff to make any necessary changes to the proposed Cost Sharing Agreement and authorize the City Manager to execute the revised Agreement.
4. Do not authorize the City Manager to execute the Agreement or the proposed Resolution and provide further direction to staff.

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5. Provide other direction to staff.

**ADVANTAGES:**

Approving staff's recommendation will approve the City's participation in the Central Coast Blue 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. Approval of the Resolution authorizing the application to the State Water Board for CWSRF funding will enable the City to retain the ability to receive low-cost financial assistance from the CWSRF for its share of Project construction costs.

**DISADVANTAGES:**

The City's share of Project costs, anticipated to be approximately \$13 million if the Project does not receive any additional federal or State grants, will be paid by the City's water customers. The Water and Wastewater Rate Study approved by the City Council on January 11, 2022, indicates that an estimated 6.4% rate increase is necessary each year over the course of the next five years to support general increased costs of service and participation in 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.

Attachments:

1. Proposed Cost Sharing Agreement
2. Proposed Resolution Authorizing the CWSRF Application
3. The City's December 30, 2021 General Application