

**COST SHARING AGREEMENT
FOR PARTIES PARTICIPATION IN THE
CENTRAL COAST BLUE PROJECT**

THIS COST SHARING AGREEMENT (hereinafter “Agreement”), is effective as of _____, 2022 (the “Effective Date”) by and between the City of Arroyo Grande, a California municipal corporation (“Arroyo Grande”), City of Grover Beach, a California municipal corporation (“Grover Beach”) and City of Pismo Beach, a California municipal corporation (“Pismo Beach”). The cities may be individually referred to herein as a “Party” or collectively as the “Parties.”

RECITALS:

WHEREAS, in 1983, the Parties hereto entered into a voluntary groundwater management plan to manage the safe yield of the Arroyo Grande Groundwater Basin, which agreement was updated by the Parties through approval of the 2002 Agreement Regarding Management of the Arroyo Grande Groundwater Basin (the “Management Agreement”); and

WHEREAS, on April 30, 2002, the Parties hereto, among others, entered into a settlement agreement (the “Settlement Agreement”) related to a 1997 groundwater adjudication litigation filed by the Santa Maria Valley Water Conservation District, which reaffirmed the Management Agreement, established separate water management areas (the “Original Management Areas”) to be independently managed by the Parties and others, and requiring the Parties and others to develop an equitable cost sharing agreement for any newly constructed water resource and water production facilities within the Original Management Areas; and

WHEREAS, on June 30, 2005, the Parties hereto entered into a stipulation imposing a physical solution for ensuring the Arroyo Grande Groundwater Basin’s long-term stability (the “Stipulation”). The Stipulation adopted a local management approach, establishing three management areas (the “Current Management Areas”) and requiring a monitoring program to be established in each of the Current Management Areas; and

WHEREAS, on January 25, 2008, the Santa Clara Superior Court entered Judgment in the Santa Maria Groundwater Adjudication litigation approving the Stipulation, without qualification (the “Adjudication Decree”); and

WHEREAS, the Parties intend to participate in the Central Coast Blue Project to construct a regional recycled water project that will enhance supply reliability by injecting advanced purified water into the Northern Cities Management Area of the Santa Maria Groundwater Basin (“Project”). The Project will reduce vulnerability to drought and seawater intrusion by creating a seawater intrusion barrier and supplementing the naturally occurring groundwater; and

WHEREAS, the Project must comply with the California Environmental Quality Act (“CEQA”), and the lead agency pursuant to CEQA is Pismo Beach. Both Arroyo Grande and Grover Beach are considered responsible agencies for the Project and are required to make findings

for each significant effect of the Project and adopt a mitigation monitoring and reporting program; and

WHEREAS, Phase 1 of the Project includes construction of an Advanced Treatment Facility (“ATF”), treatment of all secondary treated flows from Pismo Beach’s Wastewater Treatment Plant (“WWTP”), construction of five injection wells and associated transmission lines, and injection of flows from the WWTP (“Phase 1”). Phase 1 proposes to treat wastewater from Pismo Beach to an advanced purification level to create between nine hundred (900) and one thousand (1,000) acre-feet of additional water per year; and

WHEREAS, Phase 2 will include upgrades to the ATF to increase capacity, construction of two additional injection wells and associated transmission lines, and injection of flows from the South San Luis Obispo County Sanitation District Wastewater Treatment Plant (“Phase 2”); and

WHEREAS, the Parties desire to enter into this Agreement to set forth the mechanism for establishing the fair share allotment of the Phase 1 costs in proportion to each Party’s share of the benefits of the Project.

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby expressly acknowledged, the Parties hereby agrees as follows:

ARTICLE I
General Provisions

1. Recitals. The Recitals set forth above are expressly incorporated as terms of this Agreement. In the event of a conflict between the Recitals above and Articles I through V of this Agreement, Articles I through V shall prevail.

2. Term. This Agreement shall be effective from the last date of execution by all Parties until the date of issuance of a Notice of Completion of Phase 1 to all other Parties by Pismo Beach (the “Term”).

3. Management Agreement. In the event of a conflict between this Agreement and the Management Agreement, the Management Agreement shall prevail.

4. Adjudication Decree. In the event of a conflict between this Agreement and the Adjudication Decree, the Adjudication Decree shall prevail.

5. Developed Water. The Parties hereto acknowledge and agree that the recycled water injected into the ground pursuant to this Agreement, as well as all new developed water subsequently extracted, is New Developed Water as defined in the Adjudication Decree.

6. Municipal Pumping Entitlement. Each Party’s annual allocation of groundwater, as provided in the Management Agreement including agricultural conversion credits, shall remain as follows:

Arroyo Grande: 1,323 acre-feet per year.

Grover Beach: 1,407 acre-feet per year.

Pismo Beach: 700 acre-feet per year.

This Agreement in no way limits any Party's right to pump their respective annual allocation of groundwater under the Adjudication Decree and in no way limits any Party's right to transfer, sell, or lease their allocation of water consistent with the Adjudication Decree. Further, this Agreement in no way limits any Party's right to pump their respective share of the recycled water injected into the ground pursuant to this Agreement, as well as all other dependent agreements described herein, for subsequent extraction.

ARTICLE II **Definitions**

1. **Construction Cost.** Means the cost incurred as of the effective date of the first construction contract for Phase 1 of the Project through the determination by the Parties that construction of Phase 1 is complete, including the cost of the purchase of the Facility site for the Project. Construction Cost does not include legal expenses attributable to each Party's City Attorney, retained counsel or their associates.

2. **Enterprise.** Means, for purposes of application to the Cities of Arroyo Grande and Grover Beach, the Party's water system, including all facilities, works, properties and structures of the Party for the treatment, transmission and distribution of potable and non-potable water, including all contractual rights to water supplies, transmission capacity supply, easements, rights-of-way and other works, property or structures necessary or convenient for such facilities, together with all additions, betterments, extensions and improvements to such facilities or any part thereof hereafter acquired or constructed. For purposes of City of Pismo Beach, the above definition shall include both the Party's water and wastewater system.

3. **Facility or Facilities.** Means the advanced water treatment facility that will receive and further treat wastewater influent from Pismo Beach's WWTP, in Phase 1, which as of the date of this Agreement is proposed to be constructed on Assessor's Parcel Number 060-543-016 in the City of Grover Beach, including the Facility's equalization basin, injection wells, storage tanks, pump station and associated piping and equipment from the Pismo Beach WWTP.

4. **Gross Revenues.** Means all gross income and revenue received or receivable by the Party from the ownership and operation of its Enterprise, calculated in accordance with Generally Accepted Accounting Principles, including all rates, fees and charges (including fees for connecting to the Enterprise and any water stand-by or water availability charges or assessments) received by the Party for water service made available or provided by the Enterprise and all other income and revenue howsoever derived by the Party from the Enterprise or arising from the Enterprise; provided, however, that (i) any specific charges levied for the express purpose of reimbursing others for all or a portion of the cost of the acquisition or construction of specific facilities, or (ii) customers' deposits or any other deposits subject to refund until such deposits have become the property of the Party, are not Gross Revenues and are not subject to the lien of

the Agreement. For purposes of Pismo Beach, this definition will include all income and revenue received as defined by this provision for both the water and wastewater system.

5. Lead Agency. Means the public agency that has the principal responsibility for carrying out or approving a project. The lead agency for this Project is Pismo Beach.

6. Net Revenues. “Net Revenues” means, for any period, all of the Gross Revenues during such period less all of the Maintenance and Operation Costs during such period. For purposes of this provision, Maintenance and Operation Expense means all reasonable expenses incurred by the Party in causing the Enterprise to be operated and maintained in good repair, working order and condition, including payments made to any other municipal corporation or private entity for water service (or other utility service if the Party combines such service in the Enterprise and enters into a contract for such services), but not including any depreciation or taxes levied or imposed by the Party or payments to the Party in lieu of taxes, or capital additions to or capital replacements of any portion of the Enterprise. Net Revenues for the City of Pismo shall mean the above definition as it applies to both the water and wastewater systems.

7. Pre-Construction Cost. Includes the cost of planning, designing and procuring of contracts for professional services required to obtain and perfect any necessary permits, leases, licenses, or other requirements for Phase 1 of the Project, beginning with the 2017 Regional Groundwater Sustainability Program Contract through, but not including award of the first construction contract for Phase 1 of the Project. Pre-Construction Cost does not include legal expenses attributable to each Party’s City Attorney, retained counsel or their associates.

ARTICLE III

Project Delivery and Governance Framework

1. Lead Agency Duties. Pismo Beach will remain Lead Agency and act as project developer through final completion of Phase 1 of the Project. As the Lead Agency, Pismo Beach will act as the construction manager for Phase 1 and will provide administration of Phase 1 on all Parties' behalf. Pismo Beach is hereby authorized and empowered to represent the Parties in construction supervisory and coordination activities, including the authority to issue field work directives and/or change orders on behalf of the Parties, pursuant to the terms of this Agreement. As Lead Agency, Pismo Beach will contract for professional services and is responsible for obtaining and perfecting any necessary permits, leases, licenses or other approvals for Phase 1 of the Project, consistent with its own contracting policies. The Parties shall pay their pro rata shares of Pre-Construction costs for any professional service expenses incurred by Pismo Beach in connection with obtaining such Phase 1 approvals, in accordance with Article IV below.

a. Contract Awards. Pismo Beach shall adhere to all federal, State, and local laws in awarding contracts for Phase 1 and, to the extent any federal grant funds are used to finance contracts for Phase 1, specifically in compliance with Title 2 of the Federal Code of Regulations, part 200 et seq.

b. Local Hire. Subject to Section 1.a., above, every contractor submitting a bid to Pismo Beach for a public works contract for Phase 1 of the Project shall agree to make a good faith effort to hire individuals who are local residents. A “good faith effort” means a contractor

will take the following or similar actions to recruit and maintain residents of San Luis Obispo County and Santa Barbara County as part of the construction workforce:

- i. Contact local recruitment sources to identify individuals who are local residents;
- ii. Advertise for individuals who are local residents in trade papers and newspapers of general circulation within San Luis Obispo and Santa Barbara Counties; and
- iii. With respect to any portion of a public works contract to be performed by a subcontractor, identify subcontractors whose workforce includes individuals who are local residents.

c. Grant Funding and Financing. As Lead Agency, Pismo Beach will apply for available grant funding for Pre-Construction and Construction Costs of Phase 1 of the Project, including but not limited to Proposition 1 Groundwater Grant Program Grant Funding from the State Water Resources Control Board and Title XVI WaterSMART Water Reclamation and Reuse Grant Funding from the United States Bureau of Reclamation. The Parties may jointly develop a financing plan describing the anticipated mechanisms for obtaining the necessary funding to construct Phase 1 of the Project.

2. Phase 1 Accounting. Pismo Beach will maintain Phase 1 accounting and will invoice the other Parties consistent with the Water Purveyor Contributions identified in Article IV of this Agreement. Pismo Beach shall, on a monthly basis, invoice each Party for its pro rata percentage of the Pre-Construction Costs and Construction Costs incurred by Pismo Beach during such preceding, if not reimbursed by other funding sources, as established in the annual operating budget, and further detailed in Article IV of this Agreement. All Parties agree to pay Pismo Beach's invoices within thirty (30) days of the date of the invoice subject to and consistent with Article IV, Section 4 of this Agreement.

3. Joint Powers Authority. Contemporaneously with preparation of this Agreement, the Parties are negotiating a Joint Powers Agreement to establish a Joint Powers Authority ("JPA"), 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. The Joint Powers Agreement will contain provisions addressing, without limitation, acquisition of the Facility site from Pismo Beach, ownership of the Facility, and financing of Construction Costs, including repayment obligations of the Parties consistent with the Water Purveyor Contribution percentages identified in Article IV, Section 2.a of this Agreement. It is the intent of the Parties that the JPA shall apply for and obtain financing through the State Water Resources Control Board's Clean Water State Revolving Fund for Construction Costs or other financing mechanisms not otherwise covered by grant funding awarded to the Project and for the JPA to comply with all requirements to obtain such financing. The potential loans could be separate installment sale agreements based on the respective share of each Party, and repayment would be paid either directly to the JPA by each Party consistent with the Water Purveyor Contribution percentages identified in Article IV, Section 2.a of this Agreement or directly to the State Water Resources Control Board or bond trustee, depending on the funding

mechanism. In the event that the JPA is not able to finance the Construction Costs, the Parties will seek financing consistent with the financing plan described in Article III, Section 1.c above, which may include applications by each Party to the State Water Resources Control Board's Clean Water State Revolving Fund for its respective share of Construction Costs. Any financing mechanism for construction of Phase 1 of the Project, ownership, and operation of the Facility will be addressed in the Joint Powers Agreement. The Joint Powers Agreement will also contain provisions regarding governance of the JPA that will include, at a minimum, the following requirements: the JPA will be governed by a three-member Board of Directors consisting of one elected official from each Party; each JPA Director will retain equal voting rights on the JPA Board of Directors; and the JPA Board of Directors will meet bi-monthly or quarterly.

4. Parties Review of Construction Scope, Schedule and Budget. Prior to initiating construction, the City Council for each Party shall have a reasonable opportunity to review and approve the scope, schedule, and budget of Phase 1 of the Project. The approved budget for Phase 1 shall include a twenty percent (20%) contingency to allow for appropriate flexibility for contract management by the Lead Agency. Change orders and amendments that exceed twenty percent (20%) of the most recently-approved contract value shall require approval by the City Council for each Party. If a Party does not grant such approval, the Parties will immediately confer in an attempt to reconcile the disagreement. Should the Parties be unable to reach agreement, measures shall be taken to reduce the additional costs below 20% of the current contract value and in no such event shall the Parties be liable for Construction Costs in excess of this amount absent a written amendment to this Agreement.

5. Technical Advisory Committee. The City Managers of the Parties may create a temporary Technical Advisory Committee ("TAC") to assist the Parties in reviewing the technical aspects of Phase 1 and the Phase 1 budget. The TAC will consist of nine (9) members with three members appointed by each Party's City Manager. If created, the TAC will be established within one (1) month of the Effective Date and will meet monthly until completion of Phase I of the Project. The TAC will provide technical input on the following: (1) review and suggest any modifications to the pre-construction and construction plans and agreements for Phase 1; (2) assist the Parties in deliberating on technical matters that could be of issue in the development of Phase 1, and make recommendations to be presented to the City Councils of the Parties on all major technical aspects of Phase 1 of the Project; and (3) develop, for consideration by the Parties' City Councils, joint operational protocols for the JPA to ensure the continued operation of the facilities and viability of the Project in the future. The TAC will be disbanded upon completion of Phase I of the Project.

6. Joint Agency Meetings. During design and construction of Phase 1, the City Councils for each Party will meet jointly at least once but no more than twice per year to provide a venue for discussion and transparency for the public on the progress of Phase 1, to receive Phase 1 updates, and discuss policy issues as needed. The TAC will present a summary of their work and analysis of Phase 1 at all the joint meetings.

ARTICLE IV
Pre-Construction and Construction Costs

1. **Facility Purchase.** Pismo Beach has previously purchased the site for the Facility at a total cost of \$1,815,373 (the “Purchase Price”). The Purchase Price shall be included as a Construction Cost of Phase 1 of the Project. The Parties acknowledge that pursuant to Article XIII, Section 11, subdivision (a), of the California Constitution, the Facility site may be considered taxable real property. As such, the Parties shall cooperate to minimize the property tax implications of Pismo Beach’s current ownership of the Facility site by either allocating such property tax costs among the Parties according to the Water Purveyor Contribution percentages, as defined in Article IV below, by transferring title of the Facility site to the JPA, or by such other action upon which the Parties may agree.

2. **Water Purveyor Contributions.** The Parties shall pay their pro rata share of all Pre-Construction and Construction Costs incurred by Pismo Beach in connection with Phase 1 of the Project.

a. The Parties agree to the following cost allocation of the total Pre-Construction and Construction costs for Phase 1 for each Party:

- i. Arroyo Grande shall contribute 25%.
- ii. Grover Beach shall contribute 36%.
- iii. Pismo Beach shall contribute 39%.

b. Pursuant to Section VII.3(c) of the Stipulation, as adopted by the Adjudication Decree, the Parties may engage in contractual transfers, leases, licenses, or sales of any of their water rights, including voluntary fallowing programs, for drought protection, conservation, or other management purposes; however, no groundwater produced within the Current Management Areas, including water produced by Phase 1 of the Project, may be transported outside of the Current Management Areas without the written agreement of each Party.

3. **Pre-Construction Cost Review and Adjustment.** Following approval of this Agreement, the City Council for each Party shall have a reasonable opportunity to review and approve the scope, schedule, and budget of the remaining Pre-Construction Costs for Phase 1 of the Project, which will include a twenty percent (20%) contingency to allow for appropriate flexibility for contract management by the Lead Agency. Change orders and amendments that exceed twenty percent (20%) of the current Pre-Construction Cost contract value shall require approval by the City Council for each Party. If a Party does not grant such approval, the Parties will immediately confer in an attempt to reconcile the disagreement. Should the Parties be unable to reach agreement, measures shall be taken to reduce the additional costs below 20% of the current contract value and in no such event shall the Parties be liable for Pre-Construction Costs in excess of these amounts absent a written amendment to this Agreement. Cost share percentages for Pre-Construction Costs may be temporarily adjusted to help reconcile remaining Pre-Construction Cost contributions for each of the Parties, if funding is available, until the cumulative contributions by each Party approximately match the Water Purveyor Contribution percentages set forth in

Section 2, above, taking into account the payments already made by Pismo Beach, and the contributions already made by Grover Beach and Arroyo Grande, for Phase 1. Once Pre-Construction Cost contributions approximate the Water Purveyor Contribution percentages, the remaining Pre-Construction Costs will be split according to the Water Purveyor Contribution percentages. In the event that the costs funded by Pismo Beach, Arroyo Grande, and Grover Beach do not match the cumulative contributions in the Water Purveyor Contribution percentages set forth in Section 2, above, prior to construction, the Parties shall structure the construction financing to achieve the contributions in the Water Purveyor Contribution percentages.

4. Invoicing. Pismo Beach shall, on a monthly basis, invoice each other Party for its pro rata percentage of the expenses incurred, as established in the budget approved by the Party's City Councils for all Pre-Construction and Construction Costs. Payment shall be made within thirty (30) days of receipt of each invoice as to all non- disputed charges. If a Party disputes any of the charges, it shall give written notice to Pismo Beach within thirty (30) days of receipt of an invoice of any disputed charges set forth on the invoice. In the event that payment is not made as to all non- disputed charges consistent with this Section, interest may apply at the maximum rate allowed by law. Notwithstanding the foregoing, Construction Costs financed by the JPA shall be invoiced to and paid by the JPA consistent with any financing agreements entered into by the JPA, including the time frames and other requirements included in the financing agreements. In the event that the JPA does not obtain financing for the Construction Costs and each Party obtains financing for its respective share of Construction Costs, invoices will be paid consistent with the financing agreements entered into by the Parties, including the time frames and other requirements included in the financing agreements. Pismo Beach agrees to provide all documentation necessary for the JPA, or for a Party individually financing its share of the Construction Costs, to receive reimbursements for Construction Costs consistent with the financing agreement entered into by the JPA or the Party.

5. Payment Limitations. The respective obligation of each Party to make payments herein with respect to the Pre-Construction and Construction Costs of Phase 1 or in furtherance of the objective and purpose of this Agreement, is a special, limited obligation payable solely from net revenues of each party's respective Enterprise fund(s), and does not constitute a debt or pledge of the faith and credit of each Party or of the State of California or of any political subdivision thereof within the meaning of any constitutional or statutory debt limitation or restriction. The payments made under this Agreement are payable from net revenues of each party's respective Enterprise fund(s) on such a basis as is dictated by each Party's existing debt instruments. The respective obligation of each Party to make payments hereunder or in furtherance of the objective and purpose of this Agreement is further subject to the Parties establishing sufficient net revenues to fund the obligations of this Agreement, which includes, but is not limited to, approval by the Party's City Councils for an increase in Enterprise user fees sufficient to meet the above obligations of this Agreement, the successful implementation of a Proposition 218 protest hearing wherein the Parties are authorized to proceed with approval of a fee increase, and the attainment of Proposition 1 Groundwater Grant Program Grant Funding by the State Water Resources Control Board.

6. Grant Funding. Any grant funding obtained for Pre-Construction or Construction Costs will be applied to reduce the total cost of Phase 1. The Parties' obligations for such costs shall be reduced according to the contribution percentages set forth in Section 2, above.

ARTICLE V **Miscellaneous**

1. Indemnification.

a. Each Party hereto agrees to protect, indemnify, defend, and hold harmless each of the other Parties and their elected officials, officers, employees, agents, successors, and assigns from and against any and all actual or potential claims, liabilities, damages, losses, fines, penalties, judgments, awards, costs, and expenses (including without limitation reasonable attorneys' fees and costs and all foreseeable, unforeseeable and consequential damages) asserted against, resulting in, imposed upon, or incurred by said other Party by reason of the first Party's breach of any provisions of this Agreement, the Adjudication Decree, the Management Agreement, or applicable federal or State law. This indemnification shall survive the termination of this Agreement.

b. Notwithstanding the above indemnity provision, costs and expenses arising from an action challenging the preparation, approval, or certification of the Facility Environmental Impact Report (Facility EIR) or any other document related to certification under the California Environmental Quality Act (CEQA) used by Pismo Beach for the approval of the Project, shall be considered a Pre-Construction Cost subject to pro-rata division. However, if the challenge is successful, Pismo Beach shall pay any award of attorney's fees.

2. Records. Pismo Beach shall maintain identifiable records regarding any and all costs and expenses subject to this Agreement, including records of billing, payment, and other documents related to the execution of its obligations under this Agreement. The Parties and their designated agents shall have the right to inspect all records maintained by Pismo Beach associated with this Agreement at any time during normal business hours, with fifteen (15) business days' advanced written notice to Pismo Beach.

3. Assignability. This Agreement shall not be assignable by any Party hereto to any other Party or non-party.

4. No Third Party Beneficiary. This Agreement shall not be construed or deemed to be an agreement for the benefit of any third party or parties and no third party or parties shall have any claim or right of action hereunder for any cause whatsoever.

5. Notice. Any notice or communication required hereunder between the Parties must be in writing and may be given either personally, by registered or certified mail (return receipt requested), or by Federal Express, UPS, or other similar couriers providing overnight delivery. If personally delivered, a notice or communication shall be deemed to have been given when delivered to the Party whom it is addressed. If given by registered or certified mail, such notice or communication shall be deemed to have been given and received on the first to occur of (i) actual receipt by any of the addressees designated below as the Party to whom notices are to be sent; or

(ii) five (5) calendar days after a registered or certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. If given by Federal Express or similar overnight courier, a notice or communication shall be deemed to have been given and received on the date delivered as shown on a receipt issued by the courier. Any Party hereto may at any time, by giving ten (10) calendar days' written notice to the other Party hereto, designate any other address in substitution of the address to which such notice or communication shall be given. Such notices or communications shall be given to the Parties at their addresses set forth below:

To City of Arroyo Grande: Whitney McDonald
City Manager for City of Arroyo Grande
1375 Ash Street
Arroyo Grande, CA 93420

With copy to: White Brenner LLP
Attn: Barbara A. Brenner, Esq.
1414 K Street, 3rd Floor
Sacramento, CA 95814

To City of Grover Beach: Matthew Bronson
City Manager for City of Grover Beach
154 S. Eighth Street
Grover Beach, CA 93433

With copy to: David Hale, City Attorney
1233 W. Shaw Ave. Ste. 106
Fresno, CA 93711

To City of Pismo Beach James R. Lewis
City Manager for City of Pismo Beach
760 Mattie Road
Pismo Beach, CA 93449

With copy to: Richards, Watson & Gershon
Attn: Dave Fleishman, Esq.
847 Monterey Street, Suite 206
San Luis Obispo, CA 93401

6. Amendments. No alteration of the terms of this Agreement shall be valid unless made in writing and signed by the Parties and incorporated into this Agreement.

7. Severability Clause. In case any one or more of the provisions contained herein shall, for any reason, be held invalid, illegal, or unenforceable in any respect, it shall not affect the validity of the other provisions, which shall remain in full force and effect.

8. Captions. The captions of the various sections, paragraphs and subparagraphs of this Agreement are for convenience only and shall not be considered nor referred to for resolving questions of interpretation of this Agreement.

9. Opt-out Clause. Any Party may opt-out of this Agreement prior to the award of the first Phase 1 construction contract. Any Party exercising this opt-out clause shall be responsible for their pro rata share of the Pre-Construction Costs as set forth in Article IV up to the date of opting-out.

10. Dispute Resolution. In the event of any dispute arising from or relating to this Agreement, the disputing Party shall, within thirty (30) calendar days of discovery of the event(s) giving rise to the dispute, notify all Parties to this Agreement in writing of the basis for the dispute. Within thirty (30) calendar days of receipt of said notice, the Parties shall meet and confer in good faith to informally resolve the dispute. Except as provided in Article III, Section 4, and Article IV, Section 3, all disputes that are not resolved informally shall be settled by non-binding mediation. Within ten (10) calendar days following the failed informal proceedings, each Party shall nominate and circulate to all other Parties the name of two (2) mediators. Within ten (10) calendar days following the nominations, the Parties shall rank their top three among all nominated mediators, awarding 3 points to the top choice, 2 points to the second choice, and 1 point to the third choice, and zero points to all others. Each Party shall forward its tally to Pismo Beach, who shall tabulate the points and notify the Parties of the name of the mediator with the highest cumulative score, who shall be the selected mediator. In the event of a tie vote, or in the event the selected mediator declines or ceases to act, Pismo Beach may develop a procedure for approval by the Parties for selecting a mediator. Upon completion of mediation, if the controversy has not been resolved, any Party may exercise all rights to bring a legal action relating to the controversy in state or federal court, as applicable.

11. Statutes and Law Governing Contract. This Agreement shall be governed and construed in accordance with the statutes and laws of the State of California.

12. Venue. Venue for all legal proceedings shall be in the Superior Court of California in and for the County of San Luis Obispo.

13. Waiver. The Parties' waiver of any term, condition or covenant, or breach of any term, condition or covenant shall not be construed as a waiver of any other term, condition or covenant or breach of any other term, condition, or covenant.

14. Attorney's Fees and Costs. If any action at law or in equity, including action for declaratory relief, is brought to enforce or interpret the provisions of this Agreement, the prevailing Party shall be entitled to reasonable attorney's fees and costs, which may be set by the court in the same action or in a separate action brought for that purpose, in addition to any other relief to which such Party may be entitled.

15. Entire Agreement. This Agreement contains the entire Agreement between Arroyo Grande, Grover Beach and Pismo Beach relating to Phase 1 of the Project. Any prior agreements, promises, negotiations, or representations not expressly set forth in this Agreement are of no force or effect.

16. Good Faith. To the extent reasonably required, each Party to this Agreement shall, in good faith, cooperate and assist the other Party in meeting its obligations under this Agreement.

17. Authority. The Parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement and the names, titles, and capacities herein stated on behalf of any entities, persons, states, counties or cities represented, or purported to be represented, by such entities, persons, states, counties or cities and that all former requirements necessary or required by state or federal law in order to enter into the Agreement have been fully complied with. Further, by entering into this Agreement no Party hereto shall have breached the terms or conditions of any other contract or agreement to which such Party is obligated, which such breach would have a material effect hereon.

18. Counterparts. This Agreement may be executed in counterparts, and all such executed counterparts shall constitute the same agreement. It shall be necessary to account for only one such counterpart from and executed by each Party hereto in proving this Agreement.

19. Other Agreements. This Agreement shall not prevent any Party from entering into similar agreements with others. The Parties acknowledge and accept the terms and conditions of this Agreement as evidenced by the following signatures of their duly authorized representatives. It is the intent of the Parties that this Agreement shall become operative on the Effective Date.

20. Drafting and Ambiguities. Each Party acknowledges that it has reviewed this Agreement with its own legal counsel, and based upon the advice of that counsel, freely entered into this Agreement. Each Party has participated fully in the review and revision of this Agreement. Any rule of construction that ambiguities are to be resolved against the drafting Party, does not apply in interpreting this Agreement.

[Signatures on Following Page]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the day and year first written above.

CITY OF ARROYO GRANDE
a municipal Corporation

By: _____
_____, City Manager

APPROVED AS TO FORM:

By: _____
_____, City Attorney

ATTEST:

By: _____
_____, City Clerk

CITY OF PISMO BEACH
a municipal Corporation

By: _____
_____, City Manager

APPROVED AS TO FORM:

By: _____
_____, City Attorney

ATTEST:

By: _____
_____, City Clerk

CITY OF GROVER BEACH
A municipal Corporation

By: _____
_____, City Manger

APPROVED AS TO FORM:

By: _____
_____, City Attorney

ATTEST:

By: _____
_____, City Clerk