

**Agenda Item No. 9**

**– Amended Attachment No. 1**

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**(CC Mtg 11/04/2019)**

**MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY  
OF ARROYO GRANDE, CITY OF GROVER BEACH, AND  
CITY OF PISMO BEACH REGARDING PARTICIPATION  
WITH MONTEREY BAY COMMUNITY POWER**

This MEMORANDUM OF UNDERSTANDING (MOU) is hereby made and entered into by and between the City of Arroyo Grande, a California municipal corporation, hereinafter referred to as ARROYO GRANDE, the City of Grover Beach, a California municipal corporation, hereinafter referred to as GROVER BEACH, and the City of Pismo Beach, a California municipal corporation, hereinafter referred to as PISMO BEACH (ARROYO GRANDE, GROVER BEACH, AND PISMO BEACH hereinafter individually referred to as “party” and hereinafter collectively referred to as the “parties.”).

**A. INTRODUCTION**

In Spring 2019, ARROYO GRANDE, GROVER BEACH, AND PISMO BEACH pursued community choice energy programs for the purpose of providing choice in the electricity market, reducing greenhouse gas emissions, proving potential rate savings, supporting energy efficiency, promoting regional collaboration, and contributing to economic development. The three cities pursued participating in a community choice energy program by joining Monterey Bay Community Power (MBCP). In June 2019, ARROYO GRANDE, GROVER BEACH, AND PISMO BEACH took action to become official members of MBCP.

As outlined in the MBCP Joint Powers Agreement, the agency is governed by two decision making bodies and one advisory body:

- The **Policy Board** is comprised of elected officials and meets quarterly to decide high level policy decisions.
- The **Operations Board** is comprised of City Managers or their designees and meets approximately eight times per year to decide finer detailed operational decisions.
- The **Community Advisory Council** is comprised of community members and serves in an advisory role to the Policy Board and Operations Board.

MBCP is a large agency and to ensure manageable meetings, smaller jurisdictions share seats on the Policy Board and Operations Board. Jurisdictions with 50,000 or more residents have permanent seats, while smaller jurisdictions share seats based on geographic proximity. Since ARROYO GRANDE, GROVER BEACH, AND PISMO BEACH are smaller than 50,000 each, the three cities will share a Policy Board and Operations Board seat. Additionally, MBCP has communicated that the three cities may select one Community Advisory Council member.

**B. PURPOSE**

The purpose of this Memorandum of Understanding is to identify a clear framework between ARROYO GRANDE, GROVER BEACH, AND PISMO BEACH to share governance seats on Monterey Bay Community Power’s Policy Board, Operations Board, and Community Advisory Council. It should also be noted that community collaboration and regionalism was a key value of the effort to create a local community choice energy program. This Memorandum of Understanding seeks to encourage further regional collaboration.

**C. SHARED SEATS**

1. Policy Board - The Policy Board representative shall serve for a term of two years and shall alternate between cities. GROVER BEACH shall provide the initial representative and will serve from

December 2019 to December 2021 and thereafter shall rotate on a two-year basis to the City of Pismo Beach, the City of Arroyo Grande, and back to the City of Grover Beach.

- a. The City with the currently serving Policy Board representative shall distribute via email to both City Councils and City Managers the meeting minutes and any additional narrative deemed necessary after each Policy Board meeting to stay informed of policy, business or other related matters.
  - b. The Policy Board ~~Director-representative~~ alternative shall be identified by the City next in rotation for the Policy Board seat. For example, the initial representative alternative shall be selected by Pismo Beach for the period December 2019 to December 2021.
2. Operations Board - The Operations Board representative shall serve for a term of two-years concurrently with the Policy Board Director, and may be one of two options:
- a. The City Manager for the City of the Policy Board representative; or
  - b. A director or deputy-director level staff member as determined by the City Manager of the Policy Board representative.
3. Community Advisory Council – There shall be one Community Advisory Council member that shall serve a two-year term concurrently with the Policy Board representative and Operations Board representative and be selected by the current Policy Board ~~Member-representative~~ and their alternative. The pool of Community Advisory Committee applicants shall ~~include-be comprised of~~ all registered voters residing in the cities of Arroyo Grande, Grover Beach, and Pismo Beach. The City currently providing the Policy Board representative shall conduct the Community Advisory Council selection process.
4. In all cases, the elected officials, staff, or public representing the joint interests of ARROYO GRANDE, GROVER BEACH, AND PISMO BEACH, for purposes of the MBCP, shall consider the program purposes outlined in the Central Coast Community Energy Joint Exercise of Powers Agreement:
- a. Reducing greenhouse gas emissions;
  - b. Providing electric power to customers at a competitive cost;
  - c. Carrying our programs to increase energy efficiency;
  - d. Stimulating and sustaining the local economy by developing local jobs in renewable energy and energy efficiency; and
  - e. Promoting long-term rate stability and energy security and reliability for residents through local control of electric generation resources.
5. If a party fails to attend or otherwise comply with the Monterey Bay Community Power JPA and bylaws, and if the board seat becomes vacated because of such conduct, the ~~other-next~~ party in rotation shall serve in that seat immediately upon the seat becoming vacant.

#### D. PROCESS

GROVER BEACH City Council will appoint its Board ~~mMembers~~ for the two-year term by November 2019. Terms shall run for two ~~\_~~years starting ~~in-on~~ December 1 and concluding ~~in-on~~ November 30 of odd-numbered years. Future ~~board term~~-~~appointment~~~~sees~~ shall be made by ~~alternating City Councils the~~ respective parties in November of the year that the term concludes (e.g., PISMO BEACH in 2021 and ARROYO GRANDE in 2023).

#### E. PRINCIPAL CONTACTS

The principal contacts for this MOU are:

**ARROYO GRANDE:**

Name

James Bergman

Role:

City Manager, City Lead

**GROVER BEACH**

Name

Matthew Bronson

Role:

City Manager, City Lead

**PISMO BEACH**

Name

James Lewis

Role:

City Manager, City Lead

F. COST OBLIGATION

Each party to this Memorandum of Understanding shall be financially responsible for absorbing costs incurred for their own participation on the Policy Board, Operations Board, and Community Advisory Council.

G. COMMENCEMENT/EXPIRATION DATE

This Memorandum of Understanding is executed as of the date of last signature and is effective until an additional local governmental agency within the San Luis Obispo County jurisdiction joins MBCP, or ARROYO GRANDE, GROVER BEACH, ~~AND-or~~ PISMO BEACH withdraw from MBCP, or ~~either-any~~ party fails in good faith to resolve with the other ~~partiesy~~ a conflict over a substantial issue concerning the MBCP or the parties' performance of this MOU. Prior to such termination, the party desiring to terminate this MOU shall provide the non-terminating ~~partiesy~~ with written notice of its desire to terminate and the reasons therefore. ~~Both-All~~ parties agree to engage in a meet and confer process, and, in the case of termination based on a conflict over a substantial issue concerning the MBCP or the parties' performance of this MOU, the parties shall engage with one another in good faith to resolve the conflict. If a conflict still exists after such good faith negotiations, this MOU shall terminate upon thirty (30) days final written notice.

H. LIABILITIES

It is understood that none of the parties to this Memorandum of Understanding is the agent of the other ~~parties~~ and neither is liable for the wrongful acts, omissions or negligence of the other ~~parties~~. Each party shall be responsible for its wrongful or negligent acts or omissions and those of its officials, officers, employees, and agents, howsoever caused, to the extent allowed by law, and shall be responsible for their own Commercial General Liability, Auto, Worker's Compensation and Errors and Omissions insurance and adherence to their respective City's policies. Each party to this Memorandum of Understanding agrees to indemnify, defend and hold the other ~~parties~~, and their officials, officers, employees, and agents, against any liability, claim, personal injury, including death, or property damage caused by that party's negligence or willful misconduct in their performance under this Memorandum of Understanding.

I. NO ASSIGNMENT

The rights and obligations of the parties to this Memorandum of Understanding may not be assigned or delegated.

J. AMENDMENT

This Memorandum of Understanding may not be amended or modified in any manner whatsoever except by written agreement between the parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the last written date below.

FOR ARROYO GRANDE:

Date: \_\_\_\_\_  
James Bergman, City Manager

FOR GROVER BEACH:

Date: \_\_\_\_\_  
Matthew Bronson, City Manager

FOR PISMO BEACH:

Date: \_\_\_\_\_  
James Lewis, City Manager