



DATE: February 28, 2023

TO: Mayor and City Council

FROM: Director of Public Works

SUBJECT Adopt a Resolution Authorizing the City Manager to Execute Amendment No. 3 to the Professional Services Agreement with EKI Environment & Water, Inc., for As-Needed Technical Support Related to Implementation of the Groundwater Management Plan Increasing the Contract Amount by \$50,000 for a Total Not-to-Exceed Amount of \$145,000

RECOMMENDATION

That the Council adopts a resolution (Attachment II) authorizing the City Manager to amend the Professional Services Agreement (PSA) with EKI Environment & Water, Inc., (EKI) for as-needed technical support related to sustainable groundwater management at a cost of \$50,000, increasing the not-to-exceed (NTE) amount to \$145,000.

SUMMARY

The Sustainable Groundwater Management Act (SGMA) was enacted in 2014 by the State to provide a framework for comprehensive and sustainable groundwater management at the local level. Among other provisions, SGMA gives local agencies, including Hayward, authority to adopt and implement a Groundwater Sustainability Plan (GSP) to manage and protect groundwater basins and ensure long-term reliability of these water supplies. Hayward overlays a portion of the East Bay Plain Groundwater Subbasin. The remaining portion is within the East Bay Municipal Utility District (EBMUD) service area. Hayward and EBMUD worked collaboratively to prepare a GSP, which was adopted by the Hayward City Council in December 2021.

Continued independent groundwater technical support and expertise are needed to implement the adopted GSP and ensure the City's compliance with provisions of SGMA. The City entered into a PSA with EKI in January 2021 to provide needed technical services. The PSA was amended in July 2021 and July 2022 to allow for additional work activities and support for GSP implementation. A third amendment to increase the contract amount by \$50,000 is recommended to allow for additional support to continue GSP implementation. If approved, the additional funding would increase the total not-to-exceed amount to \$145,000.

BACKGROUND

SGMA was signed into law in 2014 to provide for comprehensive and sustainable management of groundwater resources within the State. The legislation provides a framework for groundwater management at the local level through formation of Groundwater Sustainability Agencies (GSAs). As part of SGMA, local agencies in High- and Medium-Priority groundwater basins are required to form GSAs that have authority and responsibility to develop, adopt and implement a GSP. Hayward and EBMUD each formed GSAs for the portions of the East Bay Plain Groundwater Subbasin which underlay their respective boundaries.

The City and EBMUD, with technical consulting assistance, jointly completed a single GSP for the East Bay Plain Subbasin. In accordance with SGMA guidelines, the governing bodies of each agency conducted public hearings and adopted the GSP in December 2021. The GSP was submitted to DWR by the January 31, 2022 deadline. Annual GSP reports are required to be submitted by April 30 of each year. The first report was submitted in March 2022 and the next is due by April 30, 2023.

Working collaboratively with EBMUD to prepare and implement a single GSP for the entire Subbasin, under the terms and conditions of a Cooperating Agreement, has reduced duplication of technical work and thus the cost to both agencies. The Cooperating Agreement anticipated the use of consulting services. The City and EBMUD jointly selected Luhdorff & Scalmanini Consulting Engineers (LSCE) to provide technical consulting assistance.

Because the City does not currently have staff with extensive groundwater knowledge and experience, staff determined that retaining a consulting firm to provide independent review and technical assistance to the City would help ensure that Hayward's interests are protected. The City solely retained EKI in January 2021 for this purpose. The PSA has been amended twice, in July 2021 and May 2022¹, to provide additional funds for continued technical support. The second amendment increased the NTE amount to \$95,000. Staff has identified upcoming additional tasks for which technical support will be needed.

DISCUSSION

The Hayward City Council and the EBMUD Board of Directors adopted the East Bay Plain Subbasin GSP in December 2021 and are now in the implementation phase. Implementing the GSP will ensure that the groundwater beneath Hayward will be managed and protected in such a way that it will remain a long-term reliable source of water for the community, particularly in the event of a water supply emergency.

GPS implementation includes technical work, such as GSP-related groundwater monitoring and preparation of annual reports. Recent work completed by EKI includes participation in technical team meetings, technical support related to well consistency determination in accordance with the Governor's Executive Order, review of grant application materials, and monitoring data management.

¹ <https://hayward.legistar.com/LegislationDetail.aspx?ID=5659881&GUID=DE3BCA65-9A66-4877-B667-B8AD0BD6493E&Options=&Search=>

Because GSP- and SGMA-related activities are continuing, and technical support is integral to Hayward's continued compliance with SGMA, staff recommends that the PSA with EKI be amended to include an additional \$50,000 in funding for a total NTE amount of \$145,000. Specifically, the scope of work that would be performed under the amended PSA includes:

- Conducting required groundwater monitoring
- Supporting expansion of the City's monitoring network
- Assisting with stakeholder outreach and communication
- Review and analysis of impact of any new SGMA-related legislation, executive orders, and regulations
- Review of GSP materials prepared for other basins that are relevant to the City, e.g., Niles Cone
- Preparing annual reports and other materials as needed

ECONOMIC IMPACT

Costs for implementing the GSP and other SGMA-related activities are not expected to significantly impact customer water rates. The community could benefit from groundwater actions to achieve sustainability goals and greater diversity and reliability of water supplies, especially in the event of an emergency water supply shortage.

FISCAL IMPACT

The Water Improvement Fund in the Capital Improvement Program (CIP) includes funds for groundwater-related activities such as sustainable groundwater management. The proposed amendment to the City's PSA with EKI will increase the NTE amount by \$50,000. There is sufficient funding in the CIP project to cover this cost. There is potential for additional costs as SGMA work progresses, and staff will return to Council if more funding is needed.

STRATEGIC ROADMAP

This agenda item is a routine operational matter and does not relate to one of the Council's six Strategic Priorities.

SUSTAINABILITY FEATURES

As a GSA, the City is responsible for the development and implementation of the GSP, including preparation of an annual update to ensure the groundwater under the City is protected and sustainably managed for the future. A long-term commitment to groundwater sustainability increases the City's overall water supply reliability, maximizes local sources, and diversifies the City's potential water supplies.

PUBLIC CONTACT

This item does not require public contact.

NEXT STEPS

If Council approves this item, the City Manager will execute the third amendment to the PSA with EKI, increasing the amount by \$50,000 for a not-to-exceed amount of \$145,000.

Prepared by: Cheryl Muñoz, Water Resources Manager

Recommended by: Alex Ameri, Director of Public Works

Approved by:

A handwritten signature in black ink, appearing to read 'Kelly McAdoo', with a long horizontal stroke extending to the right.

Kelly McAdoo, City Manager