



DATE: September 26, 2023

TO: Mayor and City Council

FROM: Director of Public Works

SUBJECT: Adopt a Resolution Finding the City's Lease with the East Bay Regional Park District Allows the Hayward Marsh Restoration Project

RECOMMENDATION

That Council adopts a resolution (Attachment II) affirming the City's intentions regarding a parcel of land leased to the East Bay Regional Park District for the Hayward Marsh Restoration Project.

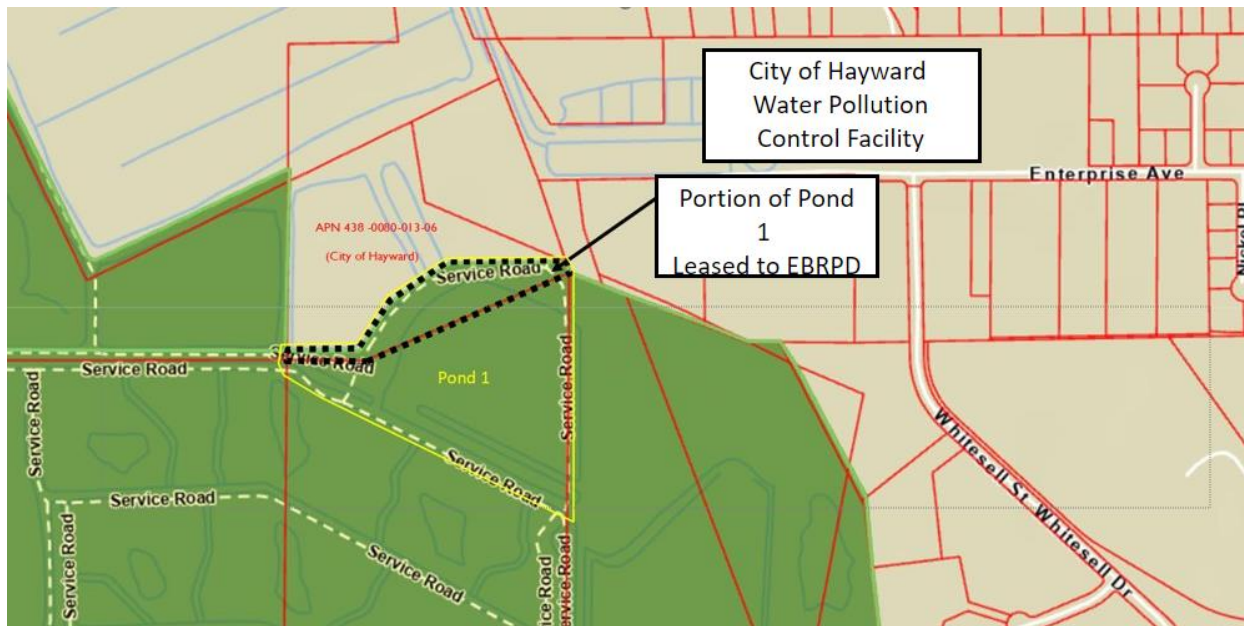
SUMMARY

The Hayward Marsh is a 145-acre area on the Hayward Regional Shoreline that is managed by the East Bay Regional Park District (EBRPD). The marsh was used by the Union Sanitary District (USD) as additional treatment for its secondary treated wastewater since 1985. USD is no longer using the marsh for that purpose and EBRPD seeks to restore it to provide wildlife habitat, flood protection, and improved public access. A four-acre portion of the northeast corner of the property is owned by the City and leased to EBRPD, and the lease is set to terminate in 2031. Staff is seeking Council confirmation that the current lease terms and conditions allow the restoration project and that the lease should be renewed in 2031 for another 25 years.

BACKGROUND

The majority of Hayward Marsh is owned by the EBRPD and has been used by the Union Sanitary District (USD) since 1985 as additional treatment for its secondary treated wastewater. The marsh consists of five managed ponds controlled by a series of tide gates and channels and includes islands for federally listed nesting birds, including endangered California least terns and Western snowy plovers. Over the years the ponds have silted in reducing the original design capacity to support favorable conditions for wastewater treatment and wildlife habitat therefore USD is no longer using the marsh for discharge of its wastewater. The location of the existing Hayward Marsh is shown in Attachment III and the four-acre parcel owned by the City is shown below in Figure 1.

Figure 1. Location Map



DISCUSSION

The Hayward Marsh Restoration Project¹ is identified in the Hayward Regional Shoreline Adaptation Master Plan² as one of many projects intended help improve resiliency to sea level rise. In addition, EBRPD seeks to implement the restoration project to provide wildlife habitat enhancements, improved public access and flood protection for the City and EBRPD. Project improvements will include widening of the Bay-side levee which currently supports the San Francisco Bay Trail to protect the trail from erosion and flooding and enhance the trail's longevity. The Marsh's existing central levee will be raised to protect tidal marsh habitat, salt pannes, and new nesting bird islands from sea level rise; and new upland habitat will be created behind this raised levee to allow the marsh to migrate as sea level increases. The restoration plan is shown in Attachment III, page 3.

A four-acre portion of Pond 1 is owned by the City and leased to EBRPD. In 1982, the City entered into a lease agreement with EBRPD for an approximately four-acre parcel shown in Attachment II, page 4. The project plans call for Pond 1 to be converted to uplands and seasonal wetlands. Before EBRPD continues to spend significant resources preparing detailed design plans, staff is seeking confirmation that the current lease terms and conditions allow the proposed work and that the lease may continue for another 25 years beyond its current expiration date.

¹ <https://www.ebparks.org/projects/restore-hayward-marsh-project>

² <http://www.hayward-ca.gov/shoreline-master-plan>

Term of Lease Agreement – The initial 1982 lease agreement was for a 25-year term, which ended in 2007. The agreement states the lease is to be automatically renewed for an additional term of 24 years, so it will be up for renewal in 2031. The agreement states that either party may give written notice of nonrenewal at least six months prior to expiration. Given the significant investment EBPRD is making in the property, staff would like to confirm that Council supports extending the lease. If extended for another 25 years, the new expiration would be in 2056.

Use of Property – The lease agreement states, “premises leased to District shall be utilized for wildlife habitat and recreational activities pursuant to plans prepared by District and approved by City”. The language refers to plans that were prepared prior to the lease agreement. Staff recommends that the language be interpreted to also allow for new plans such as those that may be prepared to implement projects identified in the Hayward Regional Shoreline Adaptation Master Plan. In this case, the District would prepare plans to accompany a Grading Permit application for the City’s review.

Grading Permit & Truck Access – According to EBRPD’s preliminary design, the project will require approximately 800,000 cubic yards of fill. This would require more than 30,000 truck trips over a two to three-year period. EBRPD originally proposed a truck access route that would pass through the City’s Water Pollution Control Facility (WPCF). Given the significant impact this would cause to the City’s property, staff strongly recommends against allowing the Park District to use any part of the WPCF for truck access. The Grading Permit application will include details showing how the grading and importing of fill will be accomplished. The District will need to show a truck access route that will not impact any portion of the City’s WPCF before a Grading Permit application will be accepted for consideration.

ECONOMIC & FISCAL IMPACT

The use of the City’s four-acre parcel by the EBRPD for the Hayward Marsh Restoration project will not have any economic or fiscal impacts to the City.

STRATEGIC ROADMAP

This agenda item supports the Strategic Priority of *Confront Climate Crisis and Champion Environmental Justice*. This item specifically relates to the following projects:

Mitigate Climate Crisis Impacts through Resilient Design and Community Engagement Project C13 Work with HASPA partners to seek grant funding to implement the Shoreline Master Plan and provide an update to Council.

The Hayward Marsh Restoration project is one of the projects identified in the Hayward Regional Shoreline Adaptation Master Plan.

SUSTAINABILITY FEATURES

The Hayward Marsh Restoration project would improve wildlife habitat, flood protection and resiliency to sea level rise.

PUBLIC CONTACT

The EBRPD held a public workshop to present the restoration alternatives on October 26, 2021. Approximately thirty stakeholders attended the meeting and their comments are included in the meeting summary³.

NEXT STEPS

If Council adopts the attached resolution and after an acceptable truck access plan is agreed upon, EBRPD will submit a Grading Permit application for the City's review.

Prepared by: Erik Pearson, Environmental Services Manager

Recommended by: Alex Ameri, Director of Public Works

Approved by:



Kelly McAdoo, City Manager

³ <https://www.ebparks.org/sites/default/files/SummaryPacketRestoreHaywardMarsh.pdf>