



**DATE:** July 18, 2017

**TO:** Mayor and City Council

**FROM:** Director of Utilities & Environmental Services

**SUBJECT** Sustainable Groundwater Management: Authorization for the City Manager to execute a Memorandum of Understanding with the East Bay Municipal Utility District (EBMUD) Regarding Joint Preparation of a Groundwater Sustainability Plan for the East Bay Plain Subbasin and Support for EBMUD's Grant Application

## **RECOMMENDATION**

That the Council adopts a resolution authorizing the City Manager to execute a Memorandum of Understanding with the East Bay Municipal Utility District (EBMUD) regarding joint preparation of a Groundwater Sustainability Plan for the East Bay Plain Subbasin, and supporting EBMUD's grant application for funding assistance to prepare the Plan.

## **SUMMARY**

On June 6, the State formally designated Hayward as the exclusive Groundwater Sustainability Agency (GSA) for the portion of the East Bay Plain Groundwater Subbasin that underlies the City. In accordance with previous direction from the Council Sustainability Committee (CSC) and City Council, staff has been discussing with EBMUD the feasibility of working cooperatively to prepare a Groundwater Sustainability Plan (GSP) for the East Bay Plain Subbasin. Staff is requesting that City Council authorize the execution of a Memorandum of Understanding (MOU) to develop a cooperating agreement with EBMUD to jointly prepare a GSP. Staff is also requesting Council support for a grant application that EBMUD is preparing related to funding assistance for preparation of the GSP.

On July 10, staff updated the CSC on these items and the CSC unanimously recommended approval. The following link to the CSC report provides additional background and discussion: <https://hayward.legistar.com/LegislationDetail.aspx?ID=3096082&GUID=5F5C6275-88F0-420F-B6D8-851674B43F8F&Options=&Search=>

## **BACKGROUND**

Groundwater provides a significant portion of California's water supply. The recent drought has highlighted the importance of groundwater and the need to protect this resource against unsustainable groundwater pumping and irreversible environmental impacts such as land

subsidence. These concerns were a driving force behind the development of the Sustainable Groundwater Management Act (SGMA) legislation. In general, SGMA provides a framework for sustainable management of groundwater supplies by local authorities. Local agencies with water supply and/or land use authority must assume the role of groundwater regulators through the formation of local GSAs and implementation of GSPs.

The City overlies portions of two groundwater basins designated as medium-priority by the California Department of Water Resources (DWR)—the Niles Cone Subbasin and the East Bay Plain Subbasin. For the East Bay Plain Subbasin, the City Council adopted a resolution on February 7, 2017, authorizing staff to file the necessary documents for the City to become the GSA for the portion of the East Bay Plain Subbasin that underlies the City. On March 6, staff filed an application to serve as the GSA with DWR and on June 6, following a ninety-day public review period, DWR formally designated Hayward as the exclusive GSA for the portion of the East Bay Plain Subbasin underlying the City. East Bay Municipal Utility District (EBMUD) is the exclusive GSA for the remaining portion of the East Bay Plain Subbasin that underlies EBMUD's service area outside of Hayward. Figure 1 illustrates the GSA boundaries for the East Bay Plain Subbasin. Alameda County Water District (ACWD) is the exclusive GSA for the Niles Cone Subbasin.

A key responsibility of being a GSA is preparing and implementing a GSP. GSPs are intended to sustainably manage and utilize groundwater without causing “undesirable results” such as the unsustainable lowering of groundwater levels over time. Based on direction from the CSC and City Council, staff is working with EBMUD staff to develop an agreement for the two agencies to jointly prepare and implement a single GSP to cover the entire East Bay Plain Subbasin. Working cooperatively with EBMUD would significantly reduce duplication of technical work and thus the cost of preparing the GSP for both agencies.

## **DISCUSSION**

### Memorandum of Understanding to Prepare a Single GSP

The first step towards preparing a single GSP would be to enter into an MOU with EBMUD that would serve as a framework for negotiating a detailed cooperating agreement, under which the parties will develop and implement a single GSP to manage the East Bay Plain Subbasin. The MOU commits the parties to working in good faith to ensure SGMA compliance for the entire groundwater basin but does not commit the City financially, beyond in-house staff costs, if mutual agreement on the cooperating agreement is not reached.

Among the issues that would be negotiated and included in the cooperating agreement are:

- Equitable cost-sharing
- Decision making based on mutual understanding and respect
- Commitment to inclusive and transparent basin stakeholder outreach and input
- A governance structure that would set forth the roles and responsibilities of each party to ensure sustainable groundwater management in compliance with SGMA
- Dispute resolution procedures

The goal of both parties would be to complete negotiation of the cooperating agreement by early 2018, at which time it would be brought to the Hayward City Council and the EBMUD Board of Directors for approval.

#### Grant Funding for GSP Preparation

Under Proposition 1, approved by the voters in November 2014, DWR established the Sustainable Groundwater Planning Grant Program to provide funds for GSP development and implementation. DWR has recently released the Draft Proposal Solicitation Package (PSP) for GSPs. In this PSP, \$61.3 million is available for the Category 2, Tier 2 group under which EBMUD and Hayward are eligible to apply for funding for the East Bay Plain Subbasin. Only one GSA per basin can apply and only one grant will be awarded for each basin. The maximum grant amount is \$1 million and the required local cost-share is 50% of the total cost.

EBMUD has in-house resources available and has agreed to serve as the lead agency for submitting the application and, if successful, for administering the grant. Staff will assist EBMUD with preparing the grant application and securing letters of support from local entities. EBMUD plans to submit the application in the first filing period that begins August 2017. In order to demonstrate to DWR Hayward's commitment to working cooperatively with EBMUD, the resolution includes a statement of support for the funding assistance application.

#### **ECONOMIC IMPACT**

The economic impact of developing and implementing sustainable management of the City's portion of the East Bay Plain Subbasin has not yet been fully evaluated, and will depend in large part on the activities required to manage the basin. SGMA provides mechanisms for GSAs to recover costs associated with groundwater management through water rates, well pumping extraction fees, and/or grants. SGMA implementation costs are difficult to estimate at this time but are not expected to significantly affect customer water rates. Sustainable management of our groundwater can significantly benefit City water customers in the long run.

#### **FISCAL IMPACT**

The Water Improvement Fund in the Capital Improvement Program includes funds for groundwater-related activities such as preparation of a GSP and its implementation actions. Once the GSP has been prepared, costs to implement the GSP will depend on the actions identified that are necessary to ensure long-term basin sustainability. Costs to prepare the GSP are expected to be offset by cost-sharing with EBMUD and any grants that are received. Staff believes that existing resources are sufficient to complete the technical studies and investigations necessary to prepare the GSP. There would be no impact on the General Fund.

#### **SUSTAINABILITY FEATURES**

The City's emergency wells are an important part of Hayward's water supplies and critical to our ability to reliably deliver water in the event of an earthquake or other disruptions to our imported surface water supply. Hayward's role as a GSA and responsibility for developing a GSP

provide Hayward with the authority to ensure that groundwater beneath the City is protected and sustainably managed for the future. A long-term commitment to groundwater supplies increases Hayward's overall water supply reliability, maximizes local supplies, and diversifies the City's water resources which will help the City respond to future water supply uncertainties such as the impacts of climate change.

## **PUBLIC CONTACT**

SGMA requires extensive outreach and opportunities for stakeholder participation. City staff's desire is to work in an open and collaborative way with the public and local agency stakeholders to implement SGMA requirements. Staff recently updated stakeholders on ground water management activities and will continue to do so as the GSP is developed. Key stakeholders include neighboring local agencies and large groundwater users within the City, such as the County of Alameda, ACWD, Hayward Area Park and Recreation District, and Chabot College.

These proposed actions were discussed at the CSC meeting on July 10 and unanimously recommended by the Committee members.

## **NEXT STEPS**

If the City Council concurs with the recommended actions, staff will execute the MOU with EBMUD to establish the framework for partnering on SGMA-related activities and provide support for EBMUD's grant application for the East Bay Plain Subbasin. Staff will also begin negotiations on the more detailed cooperating agreement, outlining each agency's roles and responsibilities for ensuring the East Bay Plain Subbasin is sustainably managed in compliance with SGMA. Once the negotiations have been completed, staff will return to request City Council consideration of the cooperating agreement with EBMUD.

*Prepared by:* Jan Lee, Water Resources Manager

*Recommended by:* Alex Ameri, Director of Utilities & Environmental Services

*Approved by:*



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Kelly McAdoo, City Manager

**Figure 1. GSA Coverage for East Bay Plain Subbasin**

