



DATE: October 6, 2020

TO: Mayor and City Council

FROM: Director of Public Works

SUBJECT: Adopt a Resolution Authorizing the City Manager to Execute an Amendment to the Cooperating Agreement with East Bay Municipal Utility District to Prepare a Groundwater Sustainability Plan for the East Bay Plain Subbasin

RECOMMENDATION

That Council adopts a resolution (Attachment II) authorizing the City Manager to amend the Cooperating Agreement between the City of Hayward and the East Bay Municipal Utility District to jointly prepare a Groundwater Sustainability Plan for the East Bay Plain Subbasin.

SUMMARY

The Sustainable Groundwater Management Act (SGMA) was signed into law in 2014 to provide for comprehensive and sustainable management of groundwater resources within the State. Hayward (City) and the East Bay Municipal Utility District (EBMUD) are the Groundwater Sustainability Agencies (GSAs) for the portions of the East Bay Plain Groundwater Subbasin that underlie their respective service areas, and as such are jointly responsible for the long-term sustainable management of the Subbasin. On June 5, Council authorized execution of a Cooperating Agreement with EBMUD, under which the parties agree to work collaboratively and share the costs to prepare a single Groundwater Sustainability Plan (GSP) in accordance with SGMA. The Cooperating Agreement was amended in March 2019 to refine the scope of work and budget based on the actual consultant work plan and budget. A second amendment is recommended to incorporate additional needed tasks to improve the quality and quantity of data on which the GSP will be based, and to acquire and develop a data management system (DMS), incorporating the Basin's groundwater information, that will be accessible to the public. If approved, the additional work will increase Hayward's share of the total cost to prepare the GSP to a range of \$453,000 to \$528,000.

BACKGROUND

Following several years of drought and severe and unsustainable depletion of groundwater resources, 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 GSAs, and

implementation of GSPs. These requirements are mandatory for medium- and high-priority ranked groundwater basins and voluntary for low- and very-low ranked basins. The City became the GSA for the portion of the medium-priority East Bay Plain Subbasin underlying the City in June 2017. EDMUD is the GSA for the remaining portion of the Subbasin.

As the GSA for a portion of the East Bay Plain Subbasin, the City is responsible for developing and implementing a GSP to sustainably manage and utilize groundwater within its management area without causing adverse results. SGMA requires that medium-priority basins be managed under an adopted GSP by January 31, 2022. Upon approval from the City Council on June 5, 2018, the City entered into an agreement with EBMUD to jointly prepare a single GSP for the entire Subbasin. Working collaboratively with EBMUD reduces duplication of technical work and thus the cost of preparing a GSP for both agencies. The link below to the June 5, 2018 Council report provides additional background and discussion on key provisions of the Cooperating Agreement.¹ The Cooperating Agreement was executed on June 25, 2019.

The Cooperating Agreement anticipated the use of outside consultants to assist with the preparation of the GSP, and thus included a preliminary scope of work, project schedule, and budget. In addition, EBMUD had submitted an application for grant monies under Proposition 1 to help fund the GSP development. Subsequently, the City and EBMUD jointly selected Luhdorff & Scalmanini Consulting Engineers (LSCE) to provide technical consultant assistance, and EBMUD, on behalf of the GSAs, was awarded funding and executed a grant agreement with the State Department of Water Resources for \$1 million. The City Council authorized the first amendment of the Cooperating Agreement on January 29, 2019 to reflect the actual scope of work, schedule, budget, and grant funding. The link below to the January 29, 2019 Council report provides additional information on this action.² The amended Cooperating Agreement was executed on March 19, 2019.

As work on the GSP has progressed, Hayward and EBMUD staff have identified additional tasks that would result in a more robust and effective GSP, and allow for better management of, and public access to the related data; specifically: 1) performing additional monitoring and analysis; and 2) developing a data management system (DMS) to organize essential data and make it publicly accessible. In order to make it financially feasible for the partners to implement this work, EBMUD staff applied for and was awarded a second grant on behalf of the GSAs in the amount of \$680,000, including \$80,000 for grant administration, for funding assistance through Proposition 68. A second amendment to the Cooperating Agreement is needed to revise the scope of work and to incorporate funding shares.

DISCUSSION

Staff recommends that the Cooperating Agreement be amended to include the additional scope of work for monitoring and analysis, and the development of a DMS in the scope of work and budget. A significant portion of the cost would be paid by the Proposition 68 grant, with a total local match in the range of \$254,000 to \$400,000, depending on the final cost for

¹ <http://hayward.legistar.com/gateway.aspx?M=F&ID=62cad132-db48-4124-90a7-1273a8819e7e.docx>

² <http://hayward.legistar.com/gateway.aspx?M=F&ID=8ef44b7c-0cf3-49d3-9cd8-4691229848f0.docx>

the services. The local match would be divided between the City and EBMUD. The following paragraphs describe the additional scope of work, consultant selection, and cost sharing.

Revisions to Scope of Work

Additional Monitoring and Analysis

LSCE performed an analysis of available technical data related to the Subbasin, including results of pump tests, well logs, seismic information and groundwater levels, and identified data gaps that could lead to less certain groundwater modeling results and sustainable yields. While the majority of available data is for the southern end of the Subbasin, which includes the portion that underlies the City, much of the data is from shallow zones. Additional intermediate- and deep-zone monitoring wells will help better define the hydrogeologic transition zone between the East Bay Plain Subbasin and the adjacent Niles Cone Subbasin, managed by the Alameda County Water District (ACWD), an issue of great importance to the City.

This task will include isotopic analyses to further investigate the hydrogeology and geochemistry of the Subbasin. Generally speaking, this highly sophisticated analysis uses the properties of water molecules to evaluate the age and origin of water samples and is useful in determining the connection between groundwater basins. Among other benefits of this work, it could assist in further developing a clearer delineation of the boundary between the East Bay Plain Subbasin and Niles Cone Subbasin.

Funding is available for wells to be drilled in two sites within the City's groundwater management area. Staff would work with the consultant to identify suitable locations on City-owned properties and to ensure that the work is done in accordance with all City standards and requirements.

Data Management System

This new task will provide for the acquisition and development of a database to manage existing and future data, and to make it accessible to a wide range of stakeholders across the Subbasin, including government entities, environmental organizations, and the public. Functioning as a data repository for the East Bay Plain Subbasin, the DMS will provide comprehensive management, storage and backup, and public access that does not currently exist. This project will be jointly implemented by the City and EBMUD.

Consultant Selection

The Cooperating Agreement outlines a process for EBMUD to be the Contracting Entity for the GSP consultants and for the parties to jointly select a qualified firm. EBMUD issued a request for proposals in July to carry out the additional monitoring work. Although a number of firms showed initial interest, only LSCE submitted a proposal. EBMUD and City staff performed an objective review of the proposal and determined that LSCE has proposed a highly qualified team and a reasonable number of hours for the work. Through its prior work with the City,

LSCE is familiar with the East Bay Plain Subbasin, especially the southern part that underlies Hayward. The total cost of their proposal is \$760,630. In order to comply with internal procedures, EBMUD will be executing separate agreements with LSCE for the technical and project development tasks, in the amount of \$424,740 and with Bradley & Sons Drilling for the field work, in the amount of \$335,890. EBMUD staff is preparing to request approval from its Board of Directors at their October 20, 2020 meeting, to execute an agreement with LSCE and Bradley & Sons Drilling and to amend the Cooperating Agreement with the City.

A separate request for proposals will be issued by EBMUD for the DMS since there are a number of potential vendors and platforms that could be utilized. At a minimum, the system will feature a web-based user interface, built-in GIS compatibility, secure storage and back-up, and customizable applications. The RFP is currently being prepared, and Information Technology staff from both agencies will play a key role in identifying the project needs and scope of work and making a final selection.

Cost Share Allocations for Additional Work

Under the terms of the Cooperating Agreement, as amended in March 2019, the City will reimburse EBMUD for 35 percent of the invoiced consultant costs, up to a maximum of \$557,000. The net current cost to the City, after receipt of the Proposition 1 grant funding, is not expected to exceed \$207,000. As described in the June 5, 2018 report, EBMUD will set up a separate account to deposit agency contributions, grant funds, and to make disbursements to consultants.

Staff recommends the City contribute 35% of the local cost for the additional monitoring wells and sampling. This cost allocation recognizes the fact that more existing data is available for the southern end of the Subbasin, while less is known about the portion of the Subbasin managed by EBMUD. The proposed cost for consultant services related to this work is \$760,630, of which \$532,000 will be covered by the Proposition 68 grant and another \$6,200 is related to grant administration and not included in the City's cost share. Thus, the total local share for the field and analytical work to be paid by EBMUD and the City would be \$222,430, 35 percent or \$77,850 of which would be the City's responsibility.

The DMS will benefit both entities equally and staff recommends the City reimburse EBMUD for 50% of the local match for this portion of the additional work. The estimated total cost of this work ranges from \$100,000 to \$250,000 depending on the selected platform. Grant funding in the amount of \$68,000 is available for this work, with the local match in the range of \$32,000 to \$182,000. The City's cost share is not expected to exceed \$91,000.

There is potential for additional grant funds in the amount of \$78,467, which is contingent upon future appropriation by the State of Proposition 1 funding. The availability of these funds is uncertain and if granted, would not be awarded until after July 1, 2021. For these reasons, staff is not including the additional funds in the financial analysis at this time.

The following table summarizes the estimated City share of the costs to prepare a GSP, assuming approval of staff's recommendation.

Table 1. Estimated City Share of Costs to Prepare GSP

	Cooperating Agreement Budget March 2019	Cooperating Agreement Amended Budget September 2020
Total Consultant Budget	\$1,591,442	\$2,452,072 - \$2,602,072
City Share of Consultant Cost		
Estimated Maximum Cost-Share (Upfront Cost)	\$557,000	\$873,000 - \$948,000
Maximum Prop 1 Grant Reimbursement	(\$350,000)	(\$350,000)
Maximum Prop 68 Grant Reimbursement	\$0	(\$220,000)
Net Cost Share	\$207,000	\$303,000 - \$378,000
City staff time (estimated)	\$150,000	\$150,000
Total	\$357,000	\$453,000 - \$528,000

STRATEGIC ROADMAP

This agenda item supports the Strategic Priority of Improve Infrastructure; specifically:

- Project 13. Upgrade Water System Infrastructure

ECONOMIC IMPACTS

Cost for implementing the GSP have not been fully evaluated and will largely depend on the actions needed to sustainably manage the basin. SGMA provides mechanisms for GSAs to recover costs for groundwater management through water rates, pump and extraction fees, and grant funding. Implementation costs are difficult to estimate at this time but are not expected to significantly impact customer water rates.

FISCAL IMPACT

The Water Improvement Fund in the Capital Improvement Program (CIP) includes funds for groundwater-related activities such as preparation and implementation of the GSP. At this time, staff anticipates the costs for developing a GSP and DMS will not exceed \$528,000 including reimbursement to EBMUD for consultant fees and \$150,000 for internal costs. There is potential for additional costs as work on the GSP progresses; however, none are anticipated at this time. The allocation in the CIP is sufficient to fund the City's share of preparing the technical studies and investigations, along with developing a GSP that complies with SGMA

requirements. Implementation costs will depend on the needed actions. There will be no impact on the General Fund.

SUSTAINABILITY FEATURES

The City's role as a GSA, along with its responsibility for developing a GSP, provide the authority to ensure that the groundwater beneath 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 water supplies, which will help the City respond to future water supply uncertainties and the effects of climate change.

PUBLIC CONTACT

SGMA requires active stakeholder participation in the development of GSPs to ensure common understanding and transparency throughout the process. Key stakeholders in the City include large groundwater users and neighboring agencies, such as the Hayward Area Park and Recreation District, Chabot College, Alameda County, and ACWD. Staff has developed an interested parties' list to keep stakeholders apprised of groundwater activities, and together with EBMUD, is implementing a Stakeholder Communications and Engagement Plan. This Plan provides a roadmap for meeting SGMA's requirements for stakeholder outreach and incorporates a broad variety of communication methods. A Technical Advisory Committee, comprised of professionals with diverse perspectives and expertise, has been formed to review technical documents and make recommendations. Both the City and EBMUD maintain websites³ where interested parties can access information and documents.

NEXT STEPS

If the City Council concurs, staff will amend the Cooperating Agreement with EBMUD and work with EBMUD staff and the consultant team to implement the additional tasks.

Prepared by: Cheryl Muñoz, Water Resources Manager
Marilyn Mosher, Senior Management Analyst

Recommended by: Alex Ameri, Director of Public Works

Approved by:



Kelly McAdoo, City Manager

³ <https://www.hayward-ca.gov/content/sustainable-groundwater-management>