



REPORT TO CITY COUNCIL

Groundwater Sustainability Agency

Approved by:

Keith Helmuth, Department Director

Arnaldo Rodriguez, City Manager

Council Meeting of: February 5, 2020

Agenda Number: D-2

SUBJECT:

Consideration of a Resolution Approving the Memorandum of Understanding With Respect To The Cost Sharing In The Implementation Of The Madera Subbasin Joint Groundwater Sustainability Plan (MOU)

RECOMMENDATION:

Staff recommends that the City Council (Council):

1. Adopt Resolution No. _____ approving the Memorandum of Understanding With Respect To The Cost Sharing In The Implementation Of The Madera Subbasin Joint Groundwater Sustainability Plan

SUMMARY:

The City of Madera (City) is one of seven agencies that have established a Groundwater Sustainability Agency (GSA) within the boundaries of Madera Groundwater Subbasin pursuant to the 2014 Sustainable Groundwater Management Act (SGMA). Four of those GSAs, including the City, County of Madera (County), Madera Irrigation District (MID), and Madera Water District (MWD), prepared one joint Groundwater Sustainability Plan (GSP).

The remaining three GSAs, Gravelly Ford Water District GSA, Root Creek Water District GSA and New Stone Water District GSA, have each prepared individual GSPs, which when combined with the joint GSP, collectively cover the entire Madera Subbasin as required by SGMA.

The MOU addressed herein only those GSAs that prepared the joint GSP.

DISCUSSION:

The MOU addressed herein is not a requirement of SGMA. It merely provides an understanding of how costs shall be shared.

The MOU addresses cost sharing as it relates to cost of preparation of Annual Reports and other activities as may be deemed necessary by all parties to this agreement for implementation of the Madera Subbasin Joint GSP. It does not address other anticipated costs such as the Point of Contact and the Data Management System (DMS) that were addressed as part of the Coordination Agreement approved by Council on January 15, 2020.

As part of the Coordination Agreement approved by Council on January 5, 2020, language has been included that provides the understanding that should it be determined prior to January 31, 2022 that allocations are not equitable, a reevaluation of those allocations can be made.

The MOU is included as an exhibit to the associated resolution (Attachment 1)

FINANCIAL IMPACT:

There is no fiscal impact to the City's General Fund related to approval of the Agreement. Estimated annual costs of approximately \$22,000 associated with this MOU are anticipated to be funded by Water Utility Fund, 2020380 under the Capital Improvement Program Project W-STDY-1. W-STDY-1 (Water Feasibility & New Water Supply) based on preliminary discussions with Council. Staff is currently reviewing the validity of this funding with the City Attorney.

CONSISTENCY WITH THE VISION MADERA 2025 PLAN:

The recommended action supports the Well-Planned Community Vision Statement. "Sound planning helps Madera celebrate its past, balance its present with available resources and infrastructure and anticipate its future with coordinated planning and interagency cooperation guided by a shared vision." Where Strategy 434 is directly related: "Ensure continued water supplies to meet the demands of all Madeirans through innovative reclamation, conservation and education on water-use."

ALTERNATIVES:

Not approve the Agreement – To do so will result in there being no basis in cost associated with preparation of annual reports to the state or other activities.

ATTACHMENTS:

1. Resolution

Exhibit A – Memorandum of Understanding With Respect To The Cost Sharing In The Implementation Of The Madera Subbasin Joint Groundwater Sustainability Plan

Attachment 1
Resolution

RESOLUTION NO. 20-

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA,
CALIFORNIA, APPROVING THE MEMORANDUM OF UNDERSTANDING
WITH RESPECT TO THE COST SHARING IN THE IMPLEMENTATION OF
THE MADERA SUBBASIN JOINT GROUNDWATER SUSTAINABILITY PLAN**

WHEREAS, the Sustainable Groundwater Management Act of 2014, Water Code sections 10720-10737.8 (“SGMA”) was signed into law on September 16, 2014; and

WHEREAS, SGMA requires that each groundwater basin be managed by a Groundwater Sustainability Agency (“GSA”), or multiple GSAs, and that such management be pursuant to an approved Groundwater Sustainability Plan (“GSP”), or multiple coordinated GSPs; and

WHEREAS, on August 17, 2016, the City Council (Council) elected to form a GSA under SGMA making it one of seven GSAs within the Madera Subbasin; and

WHEREAS, pursuant to Water Code section 10727, SGMA requires that a Groundwater Sustainability Plan (“GSP”), or multiple GSPs, be developed and implemented by January 31, 2020 for each high-priority basin; and,

WHEREAS, the City of Madera GSA, the Madera County GSA, the Madera Irrigation District GSA, and Madera Water District GSA (collectively referred as the “Parties”) have collaboratively prepared a joint GSP for the Madera Subbasin in accordance with Water Code section 10727.2 to include all the components required by SGMA; and

WHEREAS, certain costs associated with managing the GSP and preparing required submittals in accordance with Water Code section 10727.2 can reasonably be shared among Parties to the joint GSP; and

WHEREAS, the Parties desire, through this MOU, to allocate the costs related to preparation of the Annual Reports and other activities as may be deemed necessary by all Parties to this agreement for implementation of the Madera Subbasin Joint GSP, as required under Water Code section 10728; and

WHEREAS, funding is available in the Capital Improvement Projects Budget for Fiscal Year 2019/20, Water Utility Fund, 2020380 Project W-STDY-1. W-STDY-1 (Water Feasibility & New Water Supply).

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MADERA hereby resolves, finds, determines and orders as follows:

1. The above recitals are true and correct.
2. The Agreement entitled “Memorandum of Understanding With Respect To The Cost Sharing In The Implementation Of The Madera Subbasin Joint Groundwater Sustainability

Plan” is approved and attached as Exhibit “A.” A copy of the Agreement shall be kept on file in the office of the City Clerk.

3. The Mayor is authorized to execute the Agreement.
4. This resolution is effective immediately upon adoption.

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**MEMORANDUM OF UNDERSTANDING
WITH RESPECT TO THE COST SHARING IN THE IMPLEMENTATION OF THE
MADERA SUBBASIN JOINT GROUNDWATER SUSTAINABILITY PLAN**

THIS MEMORANDUM OF UNDERSTANDING (“MOU”) is entered into the ___ day of _____, 2020 (the “Effective Date”), by and among the CITY OF MADERA (“City”), the COUNTY OF MADERA (“County”), MADERA IRRIGATION DISTRICT (“MID”), and MADERA WATER DISTRICT (“MWD”) collectively hereinafter referred to as the “Parties.”

RECITALS

A. WHEREAS, on September 16, 2014, the Governor of the State of California signed SGMA into law, consisting of Senate Bills 1168 and 1319, and Assembly Bill 1739 collectively, codified at Water Code Sections 10720 *et seq.*; and

B. WHEREAS, SGMA requires that California groundwater basins and subbasins be managed by a Groundwater Sustainability Agency (“GSA”) or multiple GSAs, and that such management be implemented pursuant to an approved Groundwater Sustainability Plan (“GSP”) or multiple coordinated GSPs; and

C. WHEREAS, each Party overlies the Madera Groundwater Subbasin (“Madera Subbasin”), as its boundaries are recognized by California’s Department of Water Resources (“DWR”), and may be modified from time to time in accordance with Water Code section 10722.2; and,

D. WHEREAS, each Party is a GSA,; and,

E. WHEREAS, the Parties have jointly prepared the Madera Subbasin Joint GSP; and

F. WHEREAS, the Parties desire, through this MOU, to allocate the costs related to preparation of the Annual Reports and other activities as may be deemed necessary by all Parties to this agreement for implementation of the Madera Subbasin Joint GSP, as required under Water Code section 10728; and

NOW, THEREFORE, in consideration of the mutual promises, covenants and conditions contained herein and these Recitals, which are hereby incorporated herein by this reference, it is agreed by and among the Parties as follows:

1. **Objectives.** The objectives of the Parties in entering into this MOU are as follows:

(a) The Parties intend to work together in mutual cooperation to jointly coordinate and cooperate in the implementation of the Madera Subbasin Joint GSP in

compliance with SGMA, for the sustainable management of groundwater for the Madera Subbasin for which there may be, at times, costs associated that can be shared by all Parties.

(b) The Parties intend that nothing in this MOU will serve to limit, or otherwise interfere with a respective Party's rights and authorities over its own internal matters as recognized by SGMA, including, but not limited to, a Party's rights and powers as a GSA, its surface water supplies, groundwater supplies, facilities, operations, water management, water supply matters, or anything else limiting a Party's police powers under any other authority.

(c) The Parties intend through this MOU to share the cost of preparation of Annual Reports and other activities as may be deemed necessary by all Parties to this agreement for implementation of the Madera Subbasin Joint GSP.

(d) Each Party recognizes that nothing in this MOU confers authorities or powers to any Party that the Party does not otherwise already hold.

2. **Cost Sharing.** With respect to the sharing of costs, the Parties to this MOU agree as follows:

(a) Costs shall be allocated equally, meaning divided into four equal portions.

(b) The Parties shall pay any invoice associated with this MOU within thirty (30) days of the date of the invoice.

3. **Term.** This MOU shall be effective as of the Effective Date, and shall remain in effect until terminated by all of the Parties.

4. **Withdrawal.** A Party may, in its sole discretion, withdraw from this MOU upon 90 days written notice to the other Parties, provided that the withdrawing Party will remain responsible for its proportionate share of any obligation or liability duly incurred under this MOU, and previously approved by the withdrawing Party.

5. **Notices.** All notices required or permitted by this MOU shall be in writing, and may be delivered in person (by hand or by courier) or may be sent by regular, certified, or registered mail or U.S. Postal Service Express Mail, with postage prepaid, or by facsimile transmission, or by electronic transmission (email) and shall be deemed sufficiently given if served in a manner specified in this Section 5. The addresses and addressees noted below are that Party's designated address and addressee for delivery or mailing of notices.

To City of Madera:

City of Madera
205 W. Fourth Street
Madera, CA 93637
559-661-5400

To County of Madera:

County of Madera
Department of Water and Natural Resources

200 W. Fourth Street
Madera, CA 93637
559-675-7703

To Madera Irrigation District: Madera Irrigation District
12152 Rd 28 ¼
Madera, CA 93637
559-673-3514

To Madera Water District: Madera Water District
16943 Rd 26, Suite 103
Madera, CA 93637
559-674-4944

Any Party may, by written notice to the other, specify a different address for notice. Any notice sent by registered or certified mail, return receipt requested, shall be deemed given on the date of delivery shown on the receipt card, or if no delivery date is shown, three (3) days after the postmark date. If sent by regular mail, the notice shall be deemed given forty-eight (48) hours after it is addressed as required in this section and mailed with postage prepaid. Notices delivered by United States Express Mail or overnight courier that guarantee next day delivery shall be deemed given twenty-four (24) hours after delivery to the Postal Service or courier. Notices transmitted by facsimile transmission or similar means (including email) shall be deemed delivered upon telephone or similar confirmation of delivery (confirmation report from fax machine is sufficient), provided a copy is also delivered via personal delivery or mail. If notice is received after 4:00 p.m. or on a Saturday, Sunday or legal holiday, it shall be deemed received on the next business day.

6. **Compliance with Laws.** In any action taken pursuant to this MOU, the Parties shall comply with all applicable statutes, laws, and regulations, specifically including, but not limited to, SGMA and its implementing regulations, as they now exist or as they may be amended or promulgated from time to time.

To the extent that this MOU conflicts with or does not accurately reflect any applicable statutes, laws, or regulations now existing or as amended or promulgated from time to time, the laws, statutes, and regulations shall govern. To the extent that any applicable statutes, laws, or regulations are amended or newly promulgated in such a manner that causes this MOU to conflict with, or no longer accurately reflect, such statutes, laws, or regulations, this MOU shall be modified, in writing, by all Parties, in order to comport with the newly amended or promulgated statutes, laws, or regulations.

7. **Entire Agreement.** This MOU and items incorporated herein contain all of the agreements of the Parties with respect to the matters contained herein, and no prior agreement or understanding pertaining to any such matter shall be effective for any purpose.

8. **Amendments.** No provisions of this MOU may be amended or modified in any manner whatsoever except by an agreement in writing duly authorized by the governing bodies of all Parties.

9. **Assignment.** The rights and obligations of the Parties under this MOU may not be assigned or delegated.

10. **Binding Effect.** This MOU shall apply to and bind successors, assignees, contractors, subcontractors, transferees, agents, employees, and representatives of the respective Parties hereto.

11. **Governing Law.** This MOU and all documents provided for herein and the rights and obligations of the Parties hereto shall be governed in all respects, including validity, interpretation and effect, by the laws of the State of California (without giving effect to any choice of law principles).

12. **Waiver.** The failure of any Party to insist on strict compliance with any provision of this MOU shall not be considered a waiver of any right to do so, whether for that breach or any subsequent breach. The acceptance by any Party of either performance or payment shall not be considered to be a waiver of any preceding breach of the MOU by any other Party.

13. **Severability.** If any term or provision of this MOU is, to any extent, held invalid or unenforceable, the remainder of this MOU shall not be affected.

14. **Headings.** The subject headings of the sections of this MOU are included for purposes of convenience only and shall not affect the construction or interpretation of any of the provisions herein.

15. **Counterparts.** This MOU may be executed in any number of counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties have executed this MOU as of the day and year first above written.

City of Madera

County of Madera

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Madera Irrigation District

By: _____

Name: _____

Title: _____

Madera Water District

By: _____

Name: _____

Title: _____

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