

**DATE:** September 14, 2010

**TO:** Mayor and City Council

**FROM:** Development Services Director

**SUBJECT:** Utility Service Agreement (USA 10-01) -- Hallmark Community Services (Owner) -- Authorize the City Manager to Execute a Utility Service Agreement and a Public Street Improvements Agreement Related to a Request for Sewer Service at 27971 Fairview Avenue in the Fairview Area of Unincorporated Alameda County

#### **RECOMMENDATION**

That the City Council adopts the attached resolution (Attachment I) authorizing the City Manager to file an application with the Alameda County Local Agency Formation Commission (LAFCo) for approval of an out-of-service area agreement, and to execute Utility Service Agreement No. 10-01 and a Public Street Improvement Agreement related to providing sewer service for the property at 27971 Fairview Avenue (Assessor's Parcel Number 425-0500-043).

#### **DISCUSSION**

The property owner is proposing a bedroom addition onto the existing three-bedroom residence on this parcel. The property is located within the City of Hayward's Sphere of Influence and Sewer Service Area (see Attachment II). The property's septic system was designed and installed in 1981 for a residence with no more than three bedrooms. The Alameda County Department of Environmental Health has determined that due to the scope of the proposed improvement, the residence must connect to the City's 8-inch sewer main in Fairview Avenue, pursuant to the Alameda County Onsite Wastewater Treatment System regulations. The City's 8-inch main is located within 200 feet and along the northern boundary of the subject property. This sewer main has capacity to accept additional waste discharge.

Existing City policy allows parcels located in the unincorporated portion of the County to connect to the City sewer system when the Alameda County Department of Environmental Health determines that such connection is warranted under the County regulations. Also, State law requires that a city file a resolution application to the applicable LAFCo for approval of an out-of-area service agreement prior to providing utility connections/service by that city for properties located within its Sphere of Influence, but outside its jurisdictional boundaries.

Pursuant to the City's practice, the owner has signed a Public Street Improvement Agreement committing to install roadway improvements and pavement tie-in along Fairview Avenue at a future date and agreeing to a future annexation of the property, if and when requested by the City. Requiring such an agreement is consistent with past practice for providing utility services to properties outside Hayward's jurisdictional boundaries, but within the boundaries of the City's Sewer Service Area.

Approval of a utility service agreement and related connection is not subject to environmental review, pursuant to Section 15061(b) (3) of the California Environmental Quality Act (CEQA) Guidelines. Section 15061(b) (3) states that a project is exempt from CEQA if, "the activity is covered by the general rule that CEQA applies only to projects, which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA."

### **FISCAL IMPACT**

There will be no fiscal impact to the City's General Fund, because the property is located in the unincorporated area of Alameda County. However, the owners will pay into the City's Enterprise Fund for all the expenditures, added maintenance costs, and applicable fees associated with the sewer service, in accordance with the City's fee schedule in effect at the time the utility service permits are issued.

### **PUBLIC CONTACT**

A public hearing is not required for the filing of a utility service agreement. A copy of this report was also sent to the owner.

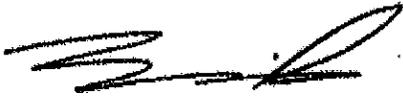
### **NEXT STEPS**

Should the Council authorize filing an application with LAFCO and execution of the agreements, staff will submit an application to LAFCo within the next few days so that this utility service agreement can be presented at the LAFCo's November 18, 2010, hearing for approval prior to providing sewer service. The owner has expressed a desire to have sewer service by mid-December of 2010. Upon receiving LAFCo's approval and payment of applicable sewer fees, sewer connection can be commenced, consistent with the property owner's desired timeframe.

*Prepared by:* John Nguyen, P.E., Development Review Engineer

*Recommended by:* David Rizk, AICP, Development Services Director

Approved by:



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Fran David, City Manager

Attachments:

Attachment I Draft Resolution

Attachment II Project Location Map

HAYWARD CITY COUNCIL

RESOLUTION NO. 10-

Introduced by Council Member \_\_\_\_\_

RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY TO THE ALAMEDA COUNTY LOCAL AGENCY FORMATION COMMISSION FOR APPROVAL TO ALLOW THE CITY TO PROVIDE SEWER SERVICE TO PROPERTY LOCATED AT 27971 FAIRVIEW AVENUE, AND FURTHER AUTHORIZING THE CITY MANAGER TO EXECUTE UTILITY SERVICE (USA 10-01) AND PUBLIC STREET IMPROVEMENTS AGREEMENTS

WHEREAS, sanitary sewer service from the City of Hayward has been requested by the owner of the property located at 27971 Fairview Avenue, Assessor's Parcel No. 425-0500-043-00 (the Property); and

WHEREAS, the Property is located within the City of Hayward's Sphere of Influence; and

WHEREAS, pursuant to City policy, the Property owner has signed Public Street Improvement and Utility Service Agreements to install street improvements across the Property frontage at a future date and to agree to annexation of the Property into Hayward when requested by City; and

WHEREAS, the City is required to apply to the Alameda County Local Agency Formation Commission (LAFCO) for approval of out-of-service area agreements to allow the City of Hayward to provide sewer service to properties located outside the City limits; and

WHEREAS, the Property owner has agreed to pay the LAFCO application processing costs;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that the City Manager is authorized to file an application with the Alameda County Local Agency Formation Commission requesting that the City of Hayward be allowed to provide sewer service for the Property.

BE IT FURTHER RESOLVED that provided LAFCO approves an out-of-area service agreement pursuant to Government Code §56133, the City Manager is also authorized to execute a utility service agreement (Utility Service Agreement 10-01) and a public street improvement agreement in the form of the agreements on file in the office of the City Clerk, to which reference may be made for further particulars.

IN COUNCIL, HAYWARD, CALIFORNIA \_\_\_\_\_, 2010

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:

MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST:

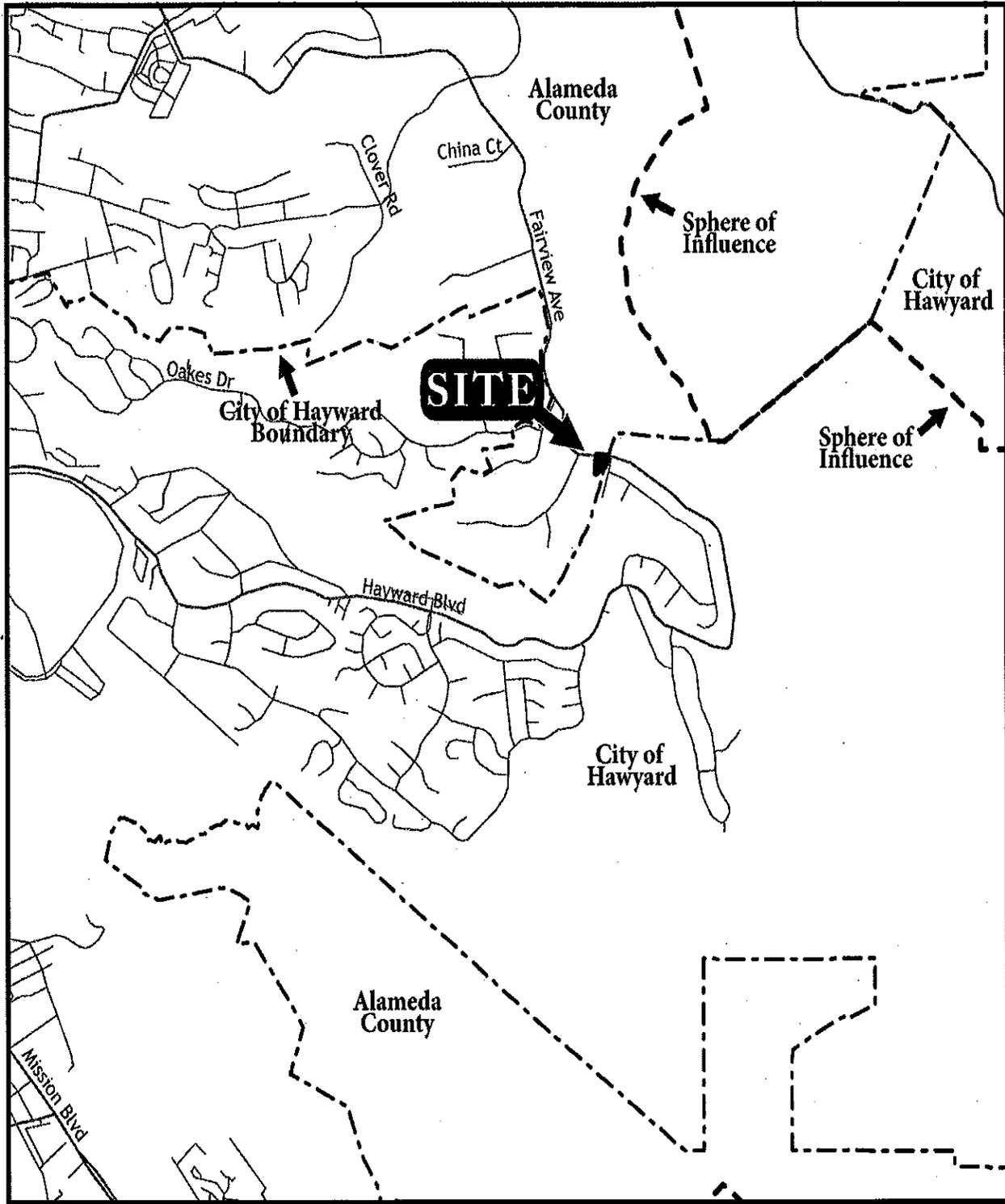
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Miriam Lens, City Clerk

APPROVED AS TO FORM:

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Michael Lawson, City Attorney



### Project Location

USA 10-01 PL-20010-0248

27971 Fairview Avenue

