



DATE: July 16, 2019

TO: Mayor and City Council

FROM: Director of Public Works

SUBJECT: Adopt a Resolution Authorizing the City Manager to Execute a Utility Service Agreement for Water Service for Twenty-five Single-family Residential Lots Along Five Canyons Parkway within Unincorporated Alameda County and File an Application with Alameda County Local Agency Formation Commission for Approval of an Out-of-Service Area Agreement

RECOMMENDATION

That Council adopts a resolution (Attachment II) authorizing the City Manager to Execute a Utility Service Agreement and file an application with the Alameda County Local Agency Formation Commission (LAFCo) for approval of an out-of-service area agreement.

SUMMARY

In 1993, City Council approved a Utility Service Agreement (USA) to serve the Alameda County approved 31 single-family home Oak Terrace Development (Tract 6869), located along Five Canyons Parkway within unincorporated Alameda County (see attached area map). During the County tentative map approval process, the development was reduced from 31 to 25 single-family residential lots and the development name changed to Terrace View. USA 06-02, authorized by Council Resolution 93-015, between the City and Terrace View developer was executed in 2008 and subsequently expired in 2010. Therefore, Council approval of a new resolution is needed to authorize execution of a new USA for the Terrace View Development.

Staff has negotiated a new USA (Attachment IV) with the current applicant, City Ventures, LLC (Applicant), for service to the Terrace View Development, which recognizes and mitigates the impacts of providing water service to this property. Approval of the resolution would authorize the City Manager to execute the USA and file an application with the Alameda County Local Agency Formation Commission (LAFCo) for approval of an out-of-service area agreement. Upon LAFCo approval of the out-of-service area agreement, the Applicant would be able to move forward with applying for permits to connect to the Hayward Water System and apply for necessary building permits with Alameda County.

BACKGROUND

The City of Hayward Water System provides water service to residents and businesses in Hayward. In addition, long standing City policy allows for properties outside of the City limits

to connect to the Hayward Water System, subject to approval of the Local Agency Formation Commission (LAFCo) and execution of a Utility Service Agreement (USA).

Terrace View is a 25-lot single-family residential development located within the Five Canyons area. Formerly known as Oak Terrace, this development is located within East Bay Municipal Utility District's (EBMUD) ultimate service area, and originally included 31 single-family lots. When the Environmental Impact Report was prepared in 1992 for development of the property, EBMUD determined that it was unable to provide water service to this location due to the high cost of serving a relatively few properties and recommended that the developer pursue an agreement for water service with the City of Hayward.

In January 1993, the Council approved Resolution 93-015 that authorized the execution of a USA for the Oak Terrace Development. The Tentative Map, Tract 6869 was approved by Alameda County in 2004 and the Final Map was recorded in October 2006. The development was reduced from 31 to 25 single-family residential lots and the development name had changed to Terrace View. USA 06-02, authorized by City Resolution 93-015, between Hayward and the Terrace View developer was executed on May 2, 2008 and subsequently expired in 2010 due to nonpayment and lack of progress.

The City's preference continues to be that the Terrace View Development be served by EBMUD. However, EBMUD's position not to serve this development remains unchanged, and in 2014, EBMUD again notified the developer that water service to Terrace View is not available or feasible from EBMUD, and recommended pursuing water service from the City.

In April 2018, discussions were initiated between the City and the current applicant, City Ventures, LLC (City Ventures), regarding a new USA to provide water service to the Terrace View development.

Since the original USA expired, there have been changes in water supply availability and new conditions that have impacted the City's ability to provide water service for this development. These new conditions include:

- Conservation laws enacted in 2018 as a result of the State experiencing one of the worst droughts in recorded history. These new laws establish stringent improvements in water conservation and drought planning to adapt to climate change and water supply shortages.
- Environmental requirements being placed on the City's wholesale water supplier, the San Francisco Public Utilities Commission, to reduce diversions of water supplies from the Tuolumne River, which directly impacts the reliability of the City's water supply.
- Recent State-wide wildfires, which have highlighted the risk of wildfires along wildland urban interfaces.

DISCUSSION

In consideration of the new conditions described above, staff and City Ventures have negotiated a USA (attached) that recognizes the benefits to the developer of connecting to the Hayward Water System and the City's need to address and mitigate the water supply issues and other factors associated with serving Terrace View. Among the proposed conditions are:

- Payment of water service connection fees (also known as facilities fees) to defray a portion of the cost for existing and future water system infrastructure. Connection fees for domestic water service would be commensurate with the cost of connecting to the EBMUD water system. Staff negotiated this term to recognize the benefit to the developer of being permitted to connect to the City's water system.
- Payment of \$460,000 to mitigate water supply impacts. These funds would be utilized towards a water supply project, such as recycled water, groundwater development or similar.
- Payment of \$350,000 to mitigate fire protection impacts. These funds would be allocated to the purchase of a water tender or other fire protection enhancements.
- Installation of plumbing fixtures and landscaping requirements that comply with the highest water efficiency standards.
- In recognition of the fact that these properties are located outside of the City of Hayward and the City has no existing requirement to provide water service to this development, the Agreement acknowledges that, in the event of a water supply shortage resulting in "excess use" charges, Terrace View properties would be assigned a zero water allotment. This means that all consumption would be considered "excess" and potentially subject to higher charges. This provision is consistent with the policy adopted by the City Council in Resolution 92-298. The assignment of a zero-water allotment only affects water charges, and not the quantity of water delivered to homes outside the City's corporate limits during a water shortage.

Staff believes that the proposed USA is reasonable, fair, and consistent with the City's past practice of accommodating development outside of the City limits without negatively impacting Hayward water customers.

ECONOMIC IMPACT

There would be no impact on City water customers. The slightly higher water rates for water service to properties outside the City would mitigate any additional costs for providing the service. The addition of these homes, which are located near the City boundary, will benefit local business due to increased patronage.

FISCAL IMPACT

A payment of \$350,000 will be made to the General Fund for the purchase of a water tender for firefighting purposes or other firefighting enhancements. There are no adverse General

Fund impacts. All other fees and charges related to this action will be allocated to the Water System Operating and Water System Improvement Funds.

STRATEGIC INITIATIVES

This agenda item does not directly relate to one of the Council’s three Strategic Initiatives.

SUSTAINABILITY FEATURES

The proposed USA recognizes and mitigates the City’s water supply impacts of providing water service to the property. It also requires the homes within this development to comply with the highest water efficiency standards for plumbing fixtures and outdoor water use in effect in the City of Hayward at the time of issuance of building permits.

PUBLIC CONTACT

A public hearing is not required for the filing of a USA and no public contact was initiated.

NEXT STEPS

Should the Council approve USA 19-01 and authorize the filing of an out-of-service area application with LAFCo, staff would execute the USA and continue to work with the Applicant to prepare and submit an application to LAFCo. The USA would be presented at LAFCo’s next available public hearing after it is filed. Upon receiving LAFCo’s approval, the Applicant would be able to proceed with applying for the required permits for water service from the City to the Terrace View Development.

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Laura Simpson, Director of Development Services

Approved by:



Kelly McAdoo, City Manager