



To: Sustainability and Transportation Committee, Mesa City Council

From: Water Resources and Development Services Departments

Date: April 3, 2025

Subject: Water Utility Modification Request by Mr. Michael Morasco to Executed, Recorded Utility Service Agreement No. 20240562701 for Residential Real Property 219-22-002G in Maricopa County

I. OVERVIEW

This appeal issue is whether the legal requirement to extend utility connection along the entire frontage of property to receive City of Mesa water and wastewater / sewer utility services for a residential property in Maricopa County (outside incorporated Mesa) should be maintained.

This appeal is before this Sustainability and Transportation Committee because the City of Mesa Utility Rate Book, Terms and Conditions for the Sale of Utilities (Ordinance No. 5903), Section 24(B) entitled “Modifications” prescribes the procedure for requesting modifications from the Terms and Conditions, Section 3 from the designated City Council Committee, the Sustainability and Transportation Committee (“Committee”). A request for modification proceeds to the Mesa City Council only upon recommendation from this Committee.

The Terms and Conditions for the Sale of Utilities, Section 24(B) states:

24. Modifications:

B. In order to promote the interests of the City, the City Council may modify, eliminate or approve alternatives from the requirements of Section 3 of the Terms and Conditions for the Sale of Utilities for an individual parcel of real property. Any such decision shall be at the discretion of the City Council and shall be made only upon a recommendation from the designated City Council Committee to allow such modifications, eliminations or alternatives. An approved modification may be contingent upon the applicant entering into a Utility Service Agreement.

This Memorandum provides a) Governing Law, b) the Technical Reasons for the Governing Law, c) a Summary of Events preceding this Committee appeal, and d) the Mesa City Department position on the appeal and modification request.

II. GOVERNING LAW – Mesa City Code and Ordinance No. 5903

The legal authority governing this appeal is a) Mesa City Code, Title 8, Chapter 10 entitled “Municipal Water System” and b) the Mesa Utility Rate Book, Terms and Conditions for the Sale of Utilities, Ordinance No. 5903. **Each is provided in Attachments 3 and 4, respectively.** This legal authority requires that utility connection along the entire frontage of property to receive City of Mesa water and wastewater utility services outside incorporated Mesa, in Maricopa County.

Mesa City Code, Title 8, Chapter 10 includes the following definitions and requirements.

8-10-2: - DEFINITIONS - Excerpt

APPLICANT: A Person that owns property and applies for Development Entitlements or otherwise requests water utility service.

FRONTAGE: The entire length of that portion of a parcel of property that abuts a qualifying private street, public utility easement, or public Right-of-Way.

OUTSIDE USER: Any Applicant desiring or Customer receiving service at property located outside the municipal boundaries of the City.

8-10-3: GENERAL PROVISIONS – Excerpt

(A) All Applicants, Customers and Persons receiving or using City service from the System are subject to, must comply with, and are deemed to have consented to, this Chapter 10 of Title 8 of the Mesa City Code, as well as the Terms and Conditions and the provisions of applicable Rate Schedules, as well as to such conditions of pressure and supply as the City may provide from time to time through the System and at the property and location served.

(E) The City has no obligation to provide new service to Outside User Applicants, nor to provide a larger meter to existing Outside Users.

8-10-4: MINIMUM REQUIREMENTS FOR POTABLE WATER SERVICE - Excerpt

(A) In addition to any other applicable requirements of the Mesa City Code and the Terms and Conditions, all Applicants and property for which service is desired shall, as a minimum requirement of receiving service, extend as a portion of the System a minimum of an eight inch Distribution Main (or such size as is determined by the Director) adjacent to and along the entire Frontage of the parcel (if not existing), and along all Frontages of the property if multiple Frontages occur. In addition, Applicants must extend and loop the transmission mains as necessary under the Water Master Plan. All transmission and Distribution Main extensions must comply with applicable Engineering standards. The Director may modify or reduce the requirement that a Distribution Main be extended for the entire Frontage of a parcel if such extension is not needed to provide service to customers beyond the property.

The Terms and Conditions referenced above in Section 8-10-3(A) are the Mesa Utility Rate Book, Terms and Conditions for the Sale of Utilities, Ordinance No. 5299. Specifically, the Terms and Conditions, Sections 3 and 23 address “Service and Main Connections and Charges” and “Parcels Outside the Municipal Limits, Annexation Exceptions.” Section 3.A. details parcel requirements for water and wastewater service. Section 3.F. requires a parcel owner requesting utility service to extend public main line(s) along all frontages of the parcel. Section 3.M. requires Customers outside City corporate limits to comply with Section 23 which details requirements for Utility Service Outside Municipal Limits, including compliance with these Terms and Conditions for the Sale of Utilities.

III. TECHNICAL REASONS – for the Governing Law Provisions

The Mesa City Code provisions were established to ensure that future development funds the water and sewer localized infrastructure associated with their development. The City of Mesa develops Master Plans that project infrastructure growth throughout the utility service area. As individual developments advance, the Code requires that these developments design and build water and sewer lines along all frontages and in some cases extending lines a greater distance to reach their property. This provision is necessary so that growth pays for growth as it occurs rather than burdening Mesa’s water and sewer rate payers with this cost.

This requirement is not unique to Mesa, as most Valley cities have similar provisions to ensure that new development fund water and sewer lines rather than placing this responsibility on the existing rate payers. It’s not only the developers of vacant properties that pay for new infrastructure. Anyone purchasing a house in a master planned community, pays a portion of the water and sewer built to serve that development. The price of the infrastructure is integrated into the cost of the home.

On a broader level, the City does program money in the Capital Improvement Program (CIP) to design and build select major water and sewer trunklines ahead of larger, regional growth. An example of this would be the Pecos Sewer Line in Southeast Mesa. Water Resources currently has money programmed to construct approximately two and a half miles of large diameter sewer from the East Mesa Interceptor (EMI) to Ellsworth Road to extend important infrastructure ahead of future regional development. However, as properties tributary to this new line develop, those developers will be required to comply with this code and fund the water and sewer lines along their full frontages.

It's important for Mesa to enforce this code requirement as consistently as possible so that growth pays for itself and inadvertent gaps in infrastructure do not sporadically exist throughout the Service Area. This is especially important for the water distribution system since it is a pressurized system which is modeled to be looped so that the completed system can provide the intended levels of service for customers.

IV. SUMMARY OF EVENTS

In 2024, Michael Morasco contacted the City to obtain water and wastewater utility services at Real Property 219-22-002G in Maricopa County, Arizona (the “Property”).

On May 16, 2024, City of Mesa informed Mr. Morasco that a condition for City water and sewer services is as follows, “There is an existing 8 inch DIP to be extended along E Palm Lane and connected to the existing 8 inch ACP in 76th Street. Water service lines are not allowed to cross property lines.” **See Attachment 5**, pages 7 – 8.

On October 9, 2024, Mr. Morasco provided a notarized signature on the City of Mesa Utility Service Agreement No. 20240562701 for water and wastewater utilities at the Property between the City of Mesa and Michael K. Morasco and Pamela Morasco as Trustees of The Morasco Family Trust. The Agreement was recorded on October 22, 2024. **The Agreement is provided as Attachment 6.**

The Agreement states in Paragraph 1.2 and 1.3 that in order to receive water and wastewater utilities from City of Mesa at the Property and the Morasco Trustees will complete the Required Improvements depicted in Exhibit B. Exhibit B entitled “The Required Improvements” on page 7 of the Agreement requires:

A. For Water Utility: An 8-inch line constructed along the E. Palm Lane frontage connecting a loop. The process requires design, obtaining permits, construction, and approval for the mainline construction to the existing 8-inch water mainline located at Sossaman Road. The connection is necessary and will need to be extended across the frontage of the site.

B. For Sewer / Wastewater Utility: The design, permitting, construction and acceptance of the mainline connection to the existing 8-inch sewer mainline to Sossaman Road.

On December 16, 2024, Mesa City Staff met with Mr. Morasco at his request because he sought to amend the executed and recorded Agreement to eliminate the water utility requirement of constructing an eight (8) inch line constructed along the E. Palm Lane frontage connecting the loop.

On December 23, 2024, Mesa timely provided, as requested by Mr. Morasco, the legal authority citations for the utility requirement to his legal counsel Ingrid Rainey. **See Attachment 7.**

On January 21, 2025, Mesa City Staff provided a detailed legal and technical explanation for the utility requirement and denied Mr. Morasco’s request to amend the executed and recorded Agreement. **See Attachment 8.**

On February 10, 2025, Mesa Deputy City Manager Marc Heirshberg provided additional explanation to Mr. Morasco. **See Attachment 9.**

On February 18, 2025, Michael Morasco requested an appeal before this Committee.

V. CONCLUSION and CITY STAFF POSITION

The applicable municipal law requires the property owners, Michael K. Morasco and Pamela Morasco as Trustees of The Morasco Family Trust, to extend the water utility connection along the entire frontage of property at Real Property 219-22-002G in Maricopa County, Arizona to receive City of Mesa water and wastewater utility services outside incorporated Mesa.

These municipal legal provisions ensure growth pays for itself and that inadvertent gaps in infrastructure do not sporadically exist throughout the Service Area. This is necessary for the water distribution system because it is a pressurized system and modeled to be looped so that the completed system can provide the intended levels of service for customers.

On October 9, 2024, Mr. Morasco provided a notarized signature on a now recorded Utility Service Agreement for water and wastewater utilities at the Property explicitly agreeing to this Required Improvement, “For Water Utility: An 8-inch line constructed along the E. Palm Lane frontage connecting a loop. The process requires design, obtaining permits, construction, and approval for the mainline construction to the existing 8-inch water mainline located at Sossaman Road. The connection is necessary and will need to be extended across the frontage of the site.”

In conclusion, the governing law, the technical reasons for the legal provisions, and the executed and recorded Utility Service Agreement require the water line extension along the E. Palm Lane frontage of the property.