

ADOPTED BY THE
MAYOR AND COUNCIL

July 9, 2013

RESOLUTION NO. 22080

RELATING TO WATER; AMENDING THE TUCSON WATER SERVICE AREA POLICY BY AMENDING RESOLUTION NO. 21602, ADOPTED AUGUST 4, 2010, TO INCLUDE THE "NINE REFINEMENTS" ADOPTED BY THE CITIZENS' WATER ADVISORY COMMITTEE; AND DECLARING AN EMERGENCY.

BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF TUCSON, ARIZONA, AS FOLLOWS:

SECTION 1. Section 1(C) of Resolution No. 21602 is amended to add a new subsection (C)(4), to read as follows:

* * *

C. Tucson Water staff shall review requests for water service extension on a case by case basis, and apply the Water Service Area Policy as generally depicted on the map of record. Because the map of record is not sufficiently detailed to show water service policy at the parcel level for all parcels, Tucson Water staff shall make a determination regarding water service to a proposed development using the following criteria:

* * *

4. For any request that may also require annexation, the applicant may submit the water master plan or other planning documents to Tucson Water staff for review prior to completion of any annexation process. Water service arising from such

 City Clerk Note: This document reflects the changes read into the record at the Mayor and Council meeting of July 9, 2013.

RWR:SL:aa 07/22/2013

submittals shall be conditional upon final approval of the annexation, and any review fees or costs will not be refunded if the annexation does not become final.

SECTION 2. Subsection 1(C)(1) of Resolution No. 21602 is amended to read as follows:

* * *

C. Tucson Water staff shall review requests for water service extension on a case by case basis, and apply the Water Service Area Policy as generally depicted on the map of record. Because the map of record is not sufficiently detailed to show water service policy at the parcel level for all parcels, Tucson Water staff shall make a determination regarding water service to a proposed development using the following criteria:

1. Requests for extension of water service in the Non-Expansion Area shall not be considered except for proposed developments in unincorporated Pima County (yellow area of Exhibit A) that abut the current Tucson Water service area (dark blue area of Exhibit A). For such area to be approved for an extension of Tucson Water service, the development must be surrounded on three sides by parcels served by Tucson Water and contain less than 20 acres of net developable land on the property. Net developable land is defined as gross acreage minus any deductions that are required by a jurisdiction with regulatory authority over the property to be set aside as undevelopable space, such as hillside ordinance set-asides or floodplain set-asides. For commercial developments, the net developable land threshold shall be 50 acres, which relates to the equivalent water demand for a 20-acre residential development. For mixed-use developments, the 50 acre criteria will apply if the residential portion of the development is less than 20 net developable acres.

* * *

SECTION 3. Resolution No. 21602 is amended to add a new section 1(K), to read as follows:

K. The provision of water service through the infill criteria established in Section 1(C)(1) and the application of the Primary Jobs Incentive criteria established in Section 1(J)(2) are only applied in the

yellow (non-expansion) areas, as water service is already assured in pink (expansion) areas through PADA or annexation.

SECTION 4. Subsection (1)(A)(1)(b) of Resolution No. 21602 is amended to read as follows:

A. For purposes of potable and reclaimed water service, there are designated the following areas, whose particular components are graphically portrayed in map form by Exhibit A, which is incorporated by this reference:

1. An "Existing Obligated Service Area," which shall consist of:

* * *

b. The obligated service area, encompassing the area within City limits or contracted service areas where future service is required, designated in light blue on Exhibit A. The obligated service area also includes master planned developments with existing (as of July 9, 2013) grandfathered rights where an overall master plan had been approved and substantial infrastructure installed and approved by Tucson Water through a final inspection before August 4, 2010; and any development which had constructed infrastructure explicitly to provide service prior to August 4, 2010, pursuant to an Agreement for Construction of Facilities under Private Contract.

SECTION 5. The Water Service Area Map attached to Resolution No. 21602 is amended to retract the expansion area in the Southeast, near the intersection of Interstate 10 and Houghton Road. Following this retraction, this expansion area should only include those areas subject to the State Land agreement for additional services along the Houghton Road State Land Easement.

SECTION 6. Resolution No. 21602 is amended to add new subsections 1(D)(1) through 1(D)(5), to read as follows:

* * *

D. If an applicant for extension of water services believes that Tucson Water came to an incorrect determination when applying the Water Service Area Policy that resulted in denial of the water service extension, the applicant may request an administrative review process.

1. The Administrative Review process may include reviews of standard appeals for water service and requests for service under the Primary Jobs Incentive criteria established below in subsections 1(J)(2) and 1(J)(3).

2. Applicants may present their case in person to the City's Administrative Review Board, which shall have the discretion to limit the number of witnesses and the duration of any such presentation by majority vote. Administrative Review Board proceedings shall be open to the public and subject to the provisions of the Arizona Open Meetings laws.

3. The Administrative Review Board shall consider all relevant and pertinent facts, not just whether Tucson Water followed the existing policy in making a determination under this section.

4. The Board shall have the following authority:

- a) If the Board determines that Tucson Water erred in denying the requested water service under this Policy, the Board shall grant the appeal and direct Tucson Water to provide service. The Board shall state the reasons for granting the request in writing.
- b) If the Board determines that Tucson Water did not err in denying the service request, but finds that water service should be provided to the applicant either because the applicant qualifies for the Primary Jobs Incentive exemption under subsections 1(J)(2) and 1(J)(3) of this Policy or because the applicant presented facts that support a modification under 1(J)(1) of this Policy, then the Board shall forward the application to the Mayor and Council with a recommendation of approval, which shall include the Board's findings that support the recommendation. The Mayor and Council shall not be bound

by the Board's recommendation, but shall have the authority to grant or deny the application.

- c) If the Board determines that Tucson Water did not err in denying the service request, and that the applicant does not qualify for the Primary Jobs Incentive exemption or did not present facts that support a modification of this Policy, then the Board shall deny the request.

5. If the Board denies the request, the applicant may appeal the Board's decision to the Mayor and Council.

6. Any Mayor and Council action under this section will be scheduled for consideration on the regular agenda as a public hearing. In reviewing the Board's findings, the Mayor and Council will consider the best available data regarding Tucson's water resources portfolio and whether provision of water outside the service area would be consistent with maintaining a sustainable water supply.

SECTION 7. Resolution No. 21602 is amended to add a new subsection

1(J)(3), to read as follows:

* * *

J. The Mayor and Council may:

* * *

3. In reviewing appeals for water service outside the adopted service area under subsection 1(J)(2), the Board and/or the Mayor and Council will use the criteria approved by the Mayor and Council under Resolution No. 21764 relating to the City's Primary Jobs Incentive Program. Those criteria presently include: (1) a \$5 million investment in new or expanded facilities; (2), creation of at least 25 new jobs at 150% of mean annual earnings, and (3), the employer pays 75% of employee health premiums.

SECTION 8. Subsections 1(G)(1) and 1(G)(2) of Resolution No. 21602 are amended to read as follows:

* * *

G. Consistent with recommendations 3.1 and 3.2 in the comprehensive planning section of the City/County Water and Wastewater Study, Phase 2, City staff is directed to work with other jurisdictions and water providers on comprehensive, collaborative water planning recommendations by sub-region. The collaborative efforts may include developing agreements in which the City of Tucson would:

1. Wheel (convey) the renewable water supplies of other jurisdictions and/or water providers through Tucson Water infrastructure; and/or
2. Exchange renewable water supplies for water credits.

* * *

SECTION 9. Subsection 1(I) of Resolution No. 21602 is amended to read as follows:

I. Annually, Tucson Water and the Citizens' Water Advisory Committee shall review the Water Service Area Policy and the available "Water Checkbook" balance, and shall provide a report to the Mayor and Council in June with the results of the annual review and with any recommended modifications to the Water Service Policy. The Mayor and Council will consider the best available data regarding Tucson's water resources portfolio in adopting modifications to the Water Service Area Policy in order to ensure that the Policy is consistent with maintaining a long-term, sustainable water supply.

SECTION 10. The various City officers and employees are authorized and directed to perform all acts necessary or desirable to give effect to this Resolution.

SECTION 11. WHEREAS, it is necessary for the preservation of the peace, health and safety of the City of Tucson that this Resolution become immediately

effective, an emergency is hereby declared to exist, and this Resolution shall be effective immediately upon its passage and adoption.

PASSED, ADOPTED AND APPROVED by the Mayor and Council of the City of Tucson, Arizona, July 9, 2013.



MAYOR

ATTEST:



CITY CLERK

APPROVED AS TO FORM:



CITY ATTORNEY

REVIEWED BY:



CITY MANAGER

CA/dg
7/10/13

Tucson Water Service Area

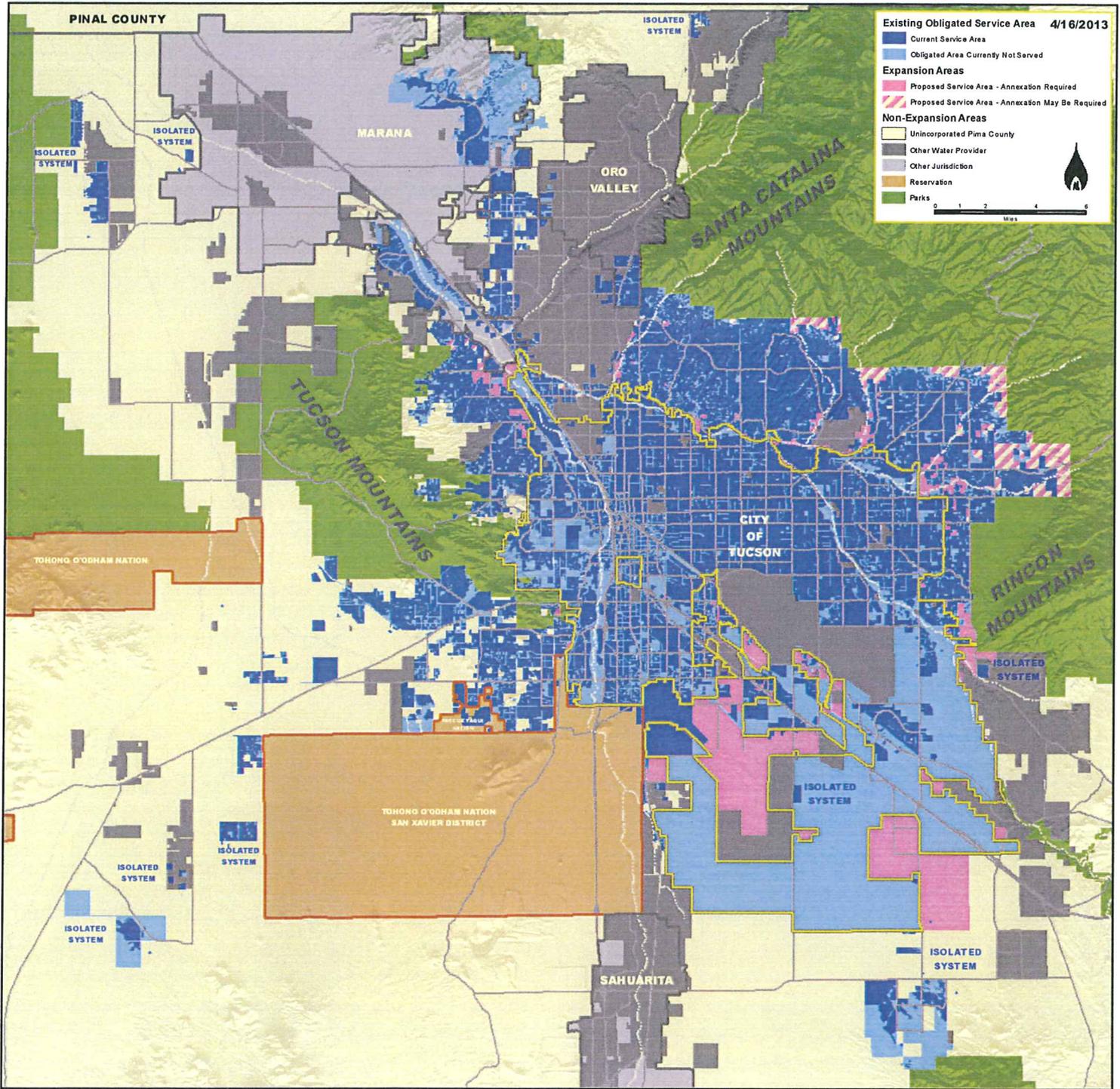


Exhibit A to Resolution No. 22080