RESOLUTION NO. 2226

A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, ADOPTING A POLICY FOR THE EQUIVALENT RESIDENTIAL UNIT CREDITS ARISING FROM THE TOWER WELL TO PROMOTE A STRATEGIC GROWTH TO BUILD OUT POLICY FOR PAYSON.

WHEREAS, on April 18, 2005, the Town of Payson adopted Resolution 2052 approving an agreement with Terra-Payson 450, L.L.C. ("Terra") relating to a potential new water source East of Payson; and on August 25, 2005, the Town adopted Resolution 2098 approving a second water agreement with Terra re a second potential new water source East of Payson (collectively "the Agreements"); and

WHEREAS, on May 11, 2006 the Town, pursuant to the Agreements, accepted the Tower well along with the related improvements and pipeline and granted Terra 1000 Equivalent Residential Units ("ERUs"); and

WHEREAS, some of Terra's ERU's have been sold or transferred to various developers and property owners; and

WHEREAS, under the Agreements, all of the 1000 ERU's created thereby lapse and become of no further effect after April 17, 2010; and

WHEREAS, the Town of Payson desires to have a strategic, orderly, and planned growth to build out for the limited private lands available within the Town,

NOW, THEREFORE, THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, DO HEREBY RESOLVE AS FOLLOWS:

Section 1. It is the policy of the Town of Payson to promote a strategic, orderly, and planned growth to build out for the remaining undeveloped private lands in the Town.

Section 2. The policy set forth in this Resolution 2226 shall only apply to those Tower Well ERU Credits (the "Credits") purchased from Terra on or before ~~August 3~~ December 31, 2006.

Section 3. The Town will waive the provisions of Paragraph 9 of the Agreement approved by Resolution 2052 relating to the expiration of the Credits to this extent: The Town will recognize and accept the Credits between April 18, 2010 until April 17, 2015, provided that the holder of any such Credit pays to the Town an amount equal to the Town's then existing water development fee less the amount such holder paid for the Credit, but in no event shall the amount paid to the Town be less than zero (0).

Section 4. The Town will continue to require notification pursuant to Paragraph 9 of the Agreement approved by Resolution 2052 and other provisions of the Agreements, of any transfers of the Credits.

Addendum to: NOV 0 2 2006 G.8
DEC 1 4 2006 G-3

PASSED AND ADOPTED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON this _____ day of _____, 2006, by the following vote:

AYES _____ NOES _____ ABSTENTIONS _____ ABSENT _____

_____
F. Robert Edwards, Mayor

ATTEST:

_____
Silvia Smith, Town Clerk

APPROVED AS TO FORM:

_____
Samuel I. Streichman, Town Attorney