

RESOLUTION 2242

A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH THE RIM COUNTRY CHAPTER OF THE ARIZONA ARCHAEOLOGICAL SOCIETY FOR THE MANAGEMENT OF THE GOAT CAMP RUINS SITE.

WHEREAS, the Town's Parks and Recreation Department manages an archaeological site known as Goat Camp Ruin Site ("the Site"); and

WHEREAS, pursuant to existing Agreements with the United States Forest Service and the Arizona State Historical Preservation Office, the Town is required to secure and develop the Site to provide public archaeological education and interpretation.

WHEREAS, the Rim Country Chapter of the Arizona Archaeological Society ("RCCAAS") has knowledge and expertise in the preservation, excavation, restoration and maintenance of historical and archaeological sites; and

WHEREAS, the Town desires RCCAAS to assist with the stewardship and management of the Site,

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

Section 1. That the Agreement between the Rim Country Chapter of the Arizona Archaeological Society and the Town of Payson be and is hereby approved in substantially the form set forth in Exhibit "A" attached hereto.

Section 2. That F. Robert Edwards, Mayor of the Town of Payson, be and is hereby authorized to execute the Agreement with RCCAAS, in substantially the form set forth in Exhibit "A" attached hereto and made a part hereof by this reference as though set forth in full at this point.

Section 3. That the Town of Payson be and is hereby authorized to take such other and further measures and actions as are necessary or appropriate to carrying out the terms, provisions and intent of said Agreements and this Resolution.

PASSED AND ADOPTED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON this \_\_\_\_\_ day of \_\_\_\_\_, 2007, by the following vote:

AYES \_\_\_\_\_ NOES \_\_\_\_\_ ABSTENTIONS \_\_\_\_\_ ABSENT \_\_\_\_\_

\_\_\_\_\_  
F. Robert Edwards, Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Silvia Smith, Town Clerk

\_\_\_\_\_  
Samuel I. Streichman, Town Attorney

**Prepared by Town of Payson Legal Department**

SIS:drs January 11, 2007 (11:01am)  
C:\MyFiles\Resolutions\2242 Goat Camp Agreement.wpd

JAN 18 2007 G.J.\*

# EXHIBIT "A"

to Resolution No. 2242

## AGREEMENT

THIS AGREEMENT is made by and between the RIM COUNTRY CHAPTER OF THE ARIZONA ARCHAEOLOGICAL SOCIETY, an Arizona non profit corporation (hereinafter "RCCAAS"), and the TOWN OF PAYSON, an Arizona municipal corporation (hereinafter "Town") (collectively the "Parties").

### RECITALS

- A. The Town's Parks and Recreation Department manages an archaeological site known as Goat Camp Ruin Site (hereinafter "the Site").
- B. Pursuant to existing Agreements with the United States Forest Service and the Arizona State Historical Preservation Office ("SHPO"), the Town is required to secure and develop the Site to provide public archaeological education and interpretation.
- C. RCCAAS has knowledge and expertise in the preservation, excavation, restoration and maintenance of historical and archaeological sites.
- D. The Town desires RCCAAS to assist with the stewardship and management of the Site.

### AGREEMENT

NOW, THEREFORE, in consideration of the promises and agreements herein set forth, RCCAAS and the Town do hereby agree as follows:

- 1. The Town hereby appoints RCCAAS and RCCAAS shall act during the term of this Agreement as steward of the Site. In this capacity, RCCAAS shall perform the following services and functions in connection with the Site: day to day operations, protection, preservation, monitoring, improvement and management of the Site.
- 2. RCCAAS shall comply with all the provisions of Federal, State, and Local laws and regulations. RCCAAS shall comply with all agreements regulating the Town's use of the Site, including, but not limited to the Master Plan and the Memorandum of Understanding between the Tonto National Forest, the Town, and SHPO. RCCAAS acknowledges that it has received a copy of the above referenced agreements and has reviewed and understands the same.
- 3. RCCAAS shall develop and submit a Maintenance and Improvement Plan for the Site (which shall include operational and preservation plans) to the Town's Parks and Recreation Director ("the Director"). The Maintenance and Improvement Plan shall be in accordance with commonly accepted archaeological practices. Prior to any development, improvements, or work at the Site, RCCAAS shall receive written approval from the Director. All improvements constructed or placed on the Site shall be and remain the property of the Town.
- 4. RCCAAS shall develop an Access Plan for the Site. The Access Plan shall at a minimum address the following: (a) access to and within the Site, (b) coordination with the Town Trails Master Plan, (c) limitations on motorized vehicle use, and (d) allowable equestrian uses.

Following the development of the Access Plan, RCCAAS shall submit the Access Plan to the Director for review. Following review by the Director, the Access Plan shall be submitted to the Town Council for approval. The Access Plan shall only go into effect after approval by the Town Council.

5. RCCAAS shall not charge a fee for any person using or accessing the Site.
6. The term of this Agreement shall be one (1) year from the date of the last Party's signature and shall automatically renew for additional one year terms unless either of the Parties notifies the other in writing of its intent to terminate this Agreement at least 60 days prior to the date of termination.
7. RCCAAS may prepare grant applications related to the Site. No grant shall be submitted to the grant authority unless the grant is reviewed and approved by the Director prior to submittal.
8. RCCAAS may request funds for grant matching money from the Town. The Town may consider such requests, but the Town, by this Agreement, is not committing to any future funding for the Site.
9. This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter contained in this Agreement. All prior and contemporaneous agreements, representations and understandings of the Parties, whether oral or written, are superseded by and merged into this Agreement.
10. If any section, subsection, sentence, clause, phrase or portion of this Agreement is for any reason held invalid or unconstitutional by any Federal or State Court, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions hereof, so long as the part held invalid or unconstitutional shall not go to the essence hereof.
11. This Agreement shall be construed according to its plain meaning. The Parties acknowledge that each has had the opportunity to retain and seek the assistance of counsel in the drafting, review, and execution of this Agreement and no presumption in favor of or against the party drafting this Agreement shall be applied in its interpretation.
12. This Agreement is subject to the provisions of A.R.S. § 38-511, the terms of which are incorporated herein and which provides for cancellation of contracts by each of the Parties for certain conflicts of interest.
13. This Agreement shall be governed and construed in accordance with the internal laws of the State of Arizona. Any dispute, controversy, claim, or cause of action arising out of or related to this Agreement may, but in no event need, be settled by submission, with the written consent of both Parties to binding arbitration in accordance with the rules of the American Arbitration Association and the Arizona Uniform Arbitration Act, A.R.S. § 12-1501, *et seq.*, and judgment upon any award rendered by the arbitrator(s) shall be entered in the Superior Court of Gila County, Arizona, or any such dispute, controversy, claim, or cause of action may be mediated or may be litigated in the Superior Court of Gila County, Arizona. The venue for any such dispute shall be Gila County, Arizona. Both Parties consent in advance to such venue and jurisdiction and waive any right to object that Gila County is an inconvenient or improper forum based upon lack of venue. Neither Party shall be entitled to recover any of its attorneys' fees, costs, or expert

witness fees from the other party incurred in any such dispute, controversy, claim, or cause of action, but each party shall bear its own attorneys' fees, costs, and/or expert witness fees, without contribution from the other Party, whether the same is resolved through arbitration, litigation in a court, or otherwise.

14. This Agreement is executed by the individuals whose names are affixed hereto and the parties certify to each other that each is a validity existing entity authorized to do business in the State of Arizona and that such individuals are authorized to sign this Agreement. This Agreement may be executed in any number of counterparts, each of which shall be an original but all of which shall constitute one and the same instrument.
15. Nothing herein shall be construed to permit anyone other than the Parties to rely upon this Agreement. This Agreement does not give any such third party a cause of action (as a third party beneficiary or otherwise) on account of any nonperformance hereunder.
16. All notices, filings, consents, approvals, and other communications provided for herein or given in connection herewith shall be validly given, filed, made, delivered, or served if in writing and delivered personally or sent by certified United States mail, postage prepaid, return receipt requested, to:

Town of Payson  
303 North Beeline Highway  
Payson, Arizona 85541  
Attention: Parks and  
Recreation Director

Rim Country Chapter of the Arizona  
Archaeological Society

\_\_\_\_\_  
Attention: \_\_\_\_\_

or to such other addresses as either party hereto may from time to time designate in writing and deliver in a like manner. Notices, filings, consents, approvals, and communication given by certified mail shall be deemed delivered forty-eight (48) hours following deposit in the U.S. mail, postage prepaid and addressed as set forth above. Notices delivered personally shall be deemed delivered upon delivery.

17. It is not intended by this Agreement to, and nothing contained herein shall, create any employment relationship, partnership, joint venture, or other arrangement between Town and RCCAAS.

WHEREFORE, the parties have caused this Agreement to be executed by their duly authorized representatives.

**RIM COUNTRY CHAPTER OF THE ARIZONA  
ARCHAEOLOGICAL SOCIETY**, an Arizona non profit corporation

By \_\_\_\_\_  
its \_\_\_\_\_

\_\_\_\_\_  
Dated

**TOWN OF PAYSON,**  
an Arizona municipal corporation

By \_\_\_\_\_  
F. Robert Edwards, Mayor

\_\_\_\_\_ Dated

ATTEST:

\_\_\_\_\_  
Silvia Smith, Town Clerk

**APPROVAL AS TO FORM**

The Town of Payson Legal Department has reviewed this agreement and approved it as to form. When reviewing this agreement for form, the Legal Department considers whether the following situations have been addressed:

- A. Identification of parties;
- B. Offer and acceptance;
- C. Existence of consideration (we do not review to determine if consideration is adequate);
- D. That certain provisions specifically required by statute are included (i.e., provisions concerning non-availability of funds and conflict of interest, A.R.S. § 38-511).

We have not reviewed the agreement for other issues. Therefore, approval as to form should not be considered as approval of the appropriateness of the terms or conditions of the agreement or the underlying transaction. In addition, approval as to the form should not be considered approval of the underlying policy considerations addressed by the agreement.

Dated: \_\_\_\_\_, 2007.

By \_\_\_\_\_  
Samuel I. Streichman, Town Attorney

*January 11, 2007 (1:40pm)*  
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