

# SUMMARY OF AGENDA ITEM

DATE: 10-16-08

SUBMITTED BY: LaRon Garrett

RESOLUTION/ORDINANCE # 2439

TITLE: ARESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA ACCEPTING THE DRAINAGE EASEMENT DESCRIBED IN THE DOCUMENT ATTACHED HERETO AS EXHIBIT "1"

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## PURPOSE:

To accept a drainage easement between Luke Drive and Hoover Drive to allow the installation of drainage facilities to address a neighborhood drainage issue. This easement is from Clifford and Joyce Bucher.

## SUMMARY OF CHANGES TO ACCOMPLISH THIS PURPOSE:

Provide construction crews the right to install and maintain an underground storm drain system on private property for the Town of Payson.

## RECOMMENDED COUNCIL ACTION:

Approval of this Resolution

## BACKGROUND:

For some time there has been a drainage issue in the Luke Drive/Hoover Drive area. By accepting this easement the Town will be able to install drainage facilities that will address the existing neighborhood drainage issue. This easement will allow the installation of underground facilities on private property that will be maintained by the Town.

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**RESOLUTION NO. 2439**

**A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, ACCEPTING THE DRAINAGE EASEMENT DESCRIBED IN THE DOCUMENT ATTACHED HERETO AS EXHIBIT "1".**

**WHEREAS**, A.R.S. § 9-241 provides that the Town of Payson may receive real property necessary or proper to carry out the purposes of the municipal corporation, within or without its limits: and

**WHEREAS**, certain easement described on Exhibit "1" attached hereto has been offered to the Town of Payson by Clifford W. Bucher and Joyce J. Bucher, husband and wife; and

**WHEREAS**, said real property is located within the corporate limits of the Town of Payson,

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

Section 1. That the Town of Payson does hereby accept the drainage easement described in Exhibit "1" attached hereto and incorporated herein as though set forth in full at this point.

Section 2. That the Town of Payson shall perform any and all other acts necessary or appropriate to accept said drainage easement and to the use and control thereof, including, but not limited to, the maintenance thereof.

**PASSED AND ADOPTED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON** this \_\_\_\_\_ day of \_\_\_\_\_, 2008, by the following vote:

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

\_\_\_\_\_  
Kenny J. Evans, Mayor

ATTEST:

APPROVED AS TO FORM:

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

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

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**EXHIBIT "1"**  
to Resolution No. 2439

When recorded, return to:  
Silvia Smith, Town Clerk  
Town of Payson  
303 North Beeline Highway  
Payson, Arizona 85541

**UNDERGROUND DRAINAGE EASEMENT**

KNOW ALL MEN BY THESE PRESENTS:

In consideration of one dollar (\$1.00) and other valuable considerations paid to CLIFFORD W. BUCHER AND JOYCE J. BUCHER, husband and wife, (hereinafter referred to as GRANTORS) by the Town of Payson, an Arizona municipal corporation, the receipt of which is hereby acknowledged, GRANTORS do hereby grant, bargain, sell, transfer and convey unto the Town of Payson, an Arizona municipal corporation (hereinafter referred to as GRANTEE), its successors and assigns, a perpetual easement with the right to install and maintain underground drainage improvements, together thereafter with a right to use, operate, inspect, repair, maintain, alter or remove trees and shrubs to the extent necessary, replace and remove facilities as necessary, together with the rights of ingress, egress and access over, across and through the land of the GRANTORS described on Exhibit "A" attached hereto and made a part hereof.

The consideration herein above recited shall constitute payment in full for the value of the interest granted herein and for any damages to the land of GRANTORS, their successors and assigns, by reason of the installation, operation and maintenance of the structures or improvements referred to herein. GRANTEE covenants to maintain the easement in good repair so that no unreasonable damage will result from its use to the adjacent land of GRANTORS, their successors and assigns.

The grant and other provisions of this easement shall constitute a covenant running with the land for the benefit of GRANTEE, their successor and assigns.

IN WITNESS WHEREOF, the GRANTORS have executed this instrument this 9<sup>th</sup> day of September, 2008.

Clifford W. Bucher  
GRANTOR

Joyce J. Bucher  
GRANTOR

STATE OF ARIZONA        )  
  ) ss.  
County of Gila            )

The foregoing drainage easement was acknowledged before me this 9<sup>th</sup> day of September, 2008, by Clifford and Joyce Bucher.

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My commission expires: 10-19-08

Tracie K. Bailey  
Notary Public  
OFFICIAL SEAL  
**TRACIE K. BAILEY**  
NOTARY PUBLIC - State of Arizona  
GILA COUNTY  
My Comm. Expires Oct. 19, 2008

EXHIBIT "A"

That part of excluded portion of Rancho Del Tonto Number Two resubdivision in Payson on Plat Map No. 187 in the Office of the Recorder of Gila County, Arizona more particularly described as follows:

Beginning at the east most corner of Lot 21 of above subdivision;  
Thence Northwesterly along the east line of Lot 21 to the dedicated street shown on the plat as the southwest corner of Forest Blvd and Forest Lane;  
Thence Northeasterly along the southline of Forest Blvd a distance of 50.0 feet;  
Thence southwesterly to the east most corner of Lot 21, the Point of Beginning.

Reference: Bucher

