RESOLUTION NO. 2580

A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, GRANTING A UTILITY EASEMENT TO ARIZONA PUBLIC SERVICE COMPANY, AND AUTHORIZING THE MAYOR TO EXECUTE THE APPROPRIATE INSTRUMENT TO CONVEY SAID EASEMENT (FIRE STATION NUMBER 13).

WHEREAS, Arizona Public Service Company has requested that the Town of Payson grant it a utility easement over and across certain real property owned by the Town of Payson; and

WHEREAS, the Town of Payson desires to grant said utility easement to Arizona Public Service Company,

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

Section 1. That the utility easement attached hereto marked Exhibit "A" and made a part hereof by this reference as though set forth in full at this point, be and is hereby granted and approved.

Section 2. That Kenny J. Evans, Mayor of the Town of Payson, be and is hereby authorized to sign the utility easement in substantially the form attached as Exhibit "A".

Section 3. That the Town of Payson be and is authorized to take such other and further measures and actions as are necessary or appropriate to carrying out the terms, provisions, and intents of this Resolution, including, but not limited to, the recording in the Office of the Gila County Recorder of the utility easement attached hereto as Exhibit "A".

PASSED AND ADOPTED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON this 7th day of October, 2010, by the following vote:

AYES _____ NOES _____ ABSTENTIONS _____ ABSENT _____

_____
Kenny J. Evans, Mayor

ATTEST:

_____
Silvia Smith, Town Clerk

APPROVED AS TO FORM:

_____
Timothy M. Wright, Town Attorney

Prepared by Town of Payson Legal Department
SIS:drs October 1, 2010 (8:52am)
C:\MyFiles\Resolutions\2500s\2580 Granting UE to APS for Fire Station #13.wpd

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EXHIBIT "A"

to Resolution No. 2580

When recorded, please return to :
APS RIGHT OF WAY DEPT.
2200 E Huntington Dr.
FLAGSTAFF, AZ. 86004
NE¼-2-10N-10E
APN – 304-61-142C
W501533
DAM

UTILITY EASEMENT

TOWN OF PAYSON, an Arizona municipal corporation, (hereinafter called "Grantor"), is the owner of the following described real property located in Gila County, Arizona (hereinafter called "Grantor's Property"):

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

Grantor, for and in consideration of One Dollar ($1.00) and other valuable consideration, receipt of which is hereby acknowledged, does hereby grant and convey to **ARIZONA PUBLIC SERVICE COMPANY**, an Arizona corporation, (hereinafter called "Grantee"), and to its successors and assigns, a non-exclusive right, privilege, and easement 8 feet in width at locations and elevations, in, upon, over, under, through and across, a portion of Grantor's Property described as follows (herein called the "Easement Premises"):

SEE EXHIBIT "B" ATTACHED HERETO AND MADE A PART HEREOF

Grantee is hereby granted the right to: construct, reconstruct, replace, repair, operate and maintain electrical lines, together with appurtenant facilities and fixtures for use in connection therewith, for the transmission and distribution of electricity to, through, across, and beyond Grantor's Property; install, operate and maintain telecommunication wires, cables, conduits, fixtures and facilities incidental to supplying electricity or for Grantee's own use (said electrical and telecommunication lines, facilities and fixtures collectively herein called "Grantee Facilities"); utilize the Easement Premises for all other purposes connected therewith; and permit the installation of the wires, fixtures, conduits, or cables of any other company.

Grantee is hereby granted the right, but not the obligation, to trim, prune, cut, and clear away trees, brush, shrubs, or other vegetation on, or adjacent to, the Easement Premises whenever in Grantee's judgment the same shall be necessary for the convenient and safe exercise of the rights herein granted.

Grantee shall at all times have the right of full and free ingress and egress to and along the Easement Premises for the purposes herein specified.

Grantor shall maintain a clear area that extends 2 feet from and around all edges of all transformer pads and other equipment pads, 3 feet from and around all edges of all switching cabinet pads and a clear operational area that extends 10 feet immediately in front of all transformer, switching cabinet and other equipment openings. No obstructions, trees, shrubs, fixtures, or permanent structures shall be placed by Grantor within said areas.

Grantor shall not locate, erect or construct, or permit to be located, erected or constructed, any building or other structure or drill any well within the limits of the Easement Premises; nor shall Grantor plant or permit to be planted any trees within the limits of the Easement Premises without the prior written consent of Grantee. However, Grantor reserves the right to use the Easement Premises for purposes that are not inconsistent with Grantee's easement rights herein conveyed and which do not interfere with or endanger any of the Grantee Facilities, including, without limitation, granting others the right to use all or portions of the Easement Premises for utility or roadway purposes and constructing improvements within the Easement Premises such as paving, sidewalks, landscaping, and curbing. Notwithstanding the foregoing, Grantor shall not have the right to lower by more than one foot or raise by more than two feet the surface grade of the Easement Premises, and in no event shall a change in the grade compromise Grantee's minimum cover requirements or interfere with Grantee's operation, maintenance or repair.

Grantee agrees that following any installation, excavation, maintenance, repair, or other work performed by Grantee within the Easement Premises, the affected area will be restored by Grantee to as close to original condition as is reasonably possible, at the expense of Grantee; and that Grantee shall indemnify Grantor, to the extent required by law, for any loss, cost or damage incurred by Grantor as a result of any negligent installation, excavation, maintenance, repair or other work performed by Grantee within the Easement Premises.

The easement granted herein shall not be deemed abandoned except upon Grantee's execution and recording of a formal instrument abandoning the easement.

The covenants and agreements herein set forth shall extend and inure in favor and to the benefit of, and shall be binding on the heirs, administrators, executors, successors in ownership and estate, assigns and lessees of Grantor and Grantee.

[THE REST OF THIS PAGE IS INTENTIONALLY LEFT BLANK.]

IN WITNESS WHEREOF, **TOWN OF PAYSON**, an Arizona municipal corporation, has caused this Utility Easement to be executed by its duly authorized representative, this _____ day of _____, 201__.

TOWN OF PAYSON, an Arizona municipal corporation

By: _____

Its: _____

_____
(Signature)

STATE OF _____ }
} ss.
County of _____ }

This instrument was acknowledged before me this ____ day of _____, 201__

by _____ (Grantor).

IN WITNESS WHEREOF I hereunto set my hand and official seal.

Notary Seal:

_____
Notary Public Signature

EXHIBIT "A"

Parcel "E3" as shown on Record of Survey/Minor Land Division recorded September 16, 2009 in Survey Map No. 3758, records of Gila County, Arizona.

EXHIBIT "B"

APS CENTERLINE EASEMENT DESCRIPTION:

This easement is to lie 4 feet each side of the following centerline described as follows:

COMMENCING at the Northwest corner of Parcel "E3" as shown on Record of Survey/Minor Land Division recorded September 16, 2009 in Survey Map No. 3758, records of Gila County, Arizona;

THENCE South 00° 25' 22" West, a distance of 4.85 feet to the POINT OF BEGINNING;

THENCE South 30° 14' 09" East, a distance of 20.98 feet;

THENCE South 03° 56' 25" East, a distance of 72.59 feet;

THENCE South 45° 27' 40" West, a distance of 78.96 feet;

THENCE North 87° 44' 09" East, a distance of 46.45 feet;

THENCE North 80° 46' 53" East, a distance of 84.43 feet;

THENCE North 33° 17' 04" West, a distance of 43.83 feet.