

RESOLUTION NO. 2700

A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE A UTILITY EASEMENT IN FAVOR OF ARIZONA PUBLIC SERVICE COMPANY.

WHEREAS, the Town of Payson recently constructed a new vehicle storage building at the Town yard; and

WHEREAS, in order to furnish such building with electricity, Arizona Public Service Company requires a utility easement to the new building,

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 is hereby approved in substantially the form attached.

Section 2. That Kenny J. Evans, Mayor of the Town of Payson, is hereby authorized to execute said Utility Easement in substantially the form attached.

Section 3. That the Town of Payson be and is hereby authorized to take such other and further actions as may be necessary to carry out the intent of this Resolution.

PASSED AND ADOPTED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, this 3rd day of January, 2013, by the following vote:

AYES _____ NOES _____ ABSTENTIONS _____ ABSENT _____

ATTEST:

Silvia Smith, Town Clerk

Kenny J. Evans, Mayor

APPROVED AS TO FORM:



Timothy M. Wright, Town Attorney

When recorded, please return to :
APS RIGHT OF WAY DEPT.
2200 E Huntington Dr.
FLAGSTAFF, AZ. 86004
NW 1/4 -33-11N-10E
APN – 302-23-055
WA136054
DAM

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UTILITY EASEMENT

TOWN OF PAYSON, a 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 transformers, 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.

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EXHIBIT "A"

That portion of Government Lots 11 and 19 of Section 33, Township 11 North, Range 10 East, of the Gila and Salt River Meridian, Gila County, Arizona, more particularly described as follows:

BEGINNING at the West quarter corner of said Section 33;

THENCE North 00° 11' 46" East, along the West line of said Section 33, a distance of 387.50 feet to NW Corner of said Government Lot 11;

THENCE North 75° 59' 05" East, along the North line of said Government Lot 11 and Government Lot 19, a distance of 2,731.44 feet to a point on the North-South mid-section line of said Section 33, being the NE Corner of said Government Lot 19;

THENCE South 00° 01' 52" East, along said North-South mid-section line, 82.44 feet;

THENCE South 75° 59' 05" West, parallel with said North line of Government Lot 19, a distance of 505.81 feet to the P.C. of a curve to the left, concave to the SE, having a central angle of 39° 52' 03" and a radius of 460.00 feet;

THENCE Southwesterly, along the arc of said curve, 320.08 feet;

THENCE South 36° 07' 02" West, 826.92 feet to a point on the East-West mid-section line of said Section 33;

THENCE North 89° 59' 02" West, along said East-West mid-section line, 87.55 feet to the C-W 1/16th Corner;

THENCE South 89° 57' 37" West, along said East-West mid-section line, 1325.59 feet to the POINT OF BEGINNING.

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 that property described in Exhibit "A";
THENCE North 75°55'05" East (record) along the North boundary of said property 779.71 feet;
THENCE South 14°04'55" East, 2.25 feet to the center of an APS cabinet and the POINT OF
BEGINNING;
THENCE South 16°03'40" East, 337.35 feet to the center of an APS cabinet;
THENCE North 88°17'45" East, 91.82 feet to the center of an APS padmount transformer;
THENCE South 17°46'40" East, 21.02 feet along an APS electrical conduit;
THENCE South 89°50'43" East, 192.45 feet along an APS electrical conduit;
THENCE South 01°26'23" West, 38.56 feet to the center of an APS padmount transformer.**