

**RESOLUTION NO. 2909**

**A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, APPROVING THE GILA COUNTY INTERGOVERNMENTAL AGREEMENT NO. 032716 WITH THE TOWN OF PAYSON FOR PARTIAL PAVING OF HOUSTON MESA ROAD AND AUTHORIZING THE MAYOR TO EXECUTE SUCH AGREEMENT.**

**WHEREAS**, pursuant to A.R.S. § 9-240 (A) and (B), the Common Council shall have control of the finances of the municipal corporation and shall appropriate money and provide for the payment of its debts and expenses; and

**WHEREAS**, pursuant to A.R.S. § 9-240 (B)(3), the Common Council shall also have power to exercise exclusive control over the streets and to regulate, grade, or otherwise improve the same within the town limits; and

**WHEREAS**, pursuant to A.R.S. § 9-240 (B)(6), the Common Council shall also have power to provide the Town with water, to construct public wells, cisterns, and reservoirs in the streets and other public and private places within the town and beyond the limits thereof and to supply the same with pumps and conducting pipes or ditches; and

**WHEREAS**, pursuant to A.R.S. § 9-571 (A), the Town may construct, acquire from a willing seller, or improve a demonstration ASR project or nonpoint source project with monies borrowed from or financial assistance provided by the Water Infrastructure Finance Authority of Arizona (“WIFA”); and

**WHEREAS**, the Town of Payson has undertaken the CC Cragin Water Project construction, leading to wear and tear to the Houston Mesa Road that now requires partial paving; and

**WHEREAS**, the Town of Payson desires to enter into an IGA with Gila County to jointly undertake the partial paving of one lane of the Houston Mesa Road along the Raw Water Penstock Phase I pipe installation project; and

**WHEREAS**, the Town of Payson has and will be using funds provided under WIFA Loan No. 920257-15 to fund the project; and

**WHEREAS**, the Town of Payson and Gila County desire to enter into Intergovernmental Agreement No. 032716 for the purpose of utilizing the Town’s general contractor to pave 2140 lineal feet of Houston Mesa adjacent to the pavement to be done by 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 Gila County Intergovernmental Agreement No. 032716, a copy of which is attached hereto marked Exhibit “A” and made a part hereof by this reference, be and is hereby approved in substantially the form as attached.

Section 2: That Kenny J. Evans, Mayor of the Town of Payson, be and is hereby authorized to execute said Agreement attached as Exhibit "A" in substantially the form as attached.

Section 3: That the Town of Payson and Town Officials are hereby authorized to take such other and further actions as may be necessary or appropriate to carry out the terms and intent of said Intergovernmental Agreement.

**PASSED AND ADOPTED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON** this \_\_\_ day of April, 2016, by the following vote:

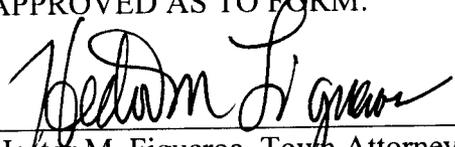
AYES \_\_\_\_\_ NOES \_\_\_\_\_ ABSTENTIONS \_\_\_\_\_ ABSENT \_\_\_\_\_

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

ATTEST:

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

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Hector M. Figueroa, Town Attorney

**EXHIBIT "A"**

**TO**

**RESOLUTION NO. 2909**

**INTERGOVERNMENTAL AGREEMENT NO. 032716**  
**BETWEEN**  
**GILA COUNTY**  
**AND**  
**TOWN OF PAYSON**  
**PARTIAL PAVING OF HOUSTON MESA ROAD IN PAYSON, AZ**

**THIS INTERGOVERNMENTAL AGREEMENT**, referred to as "IGA", is made and entered into effective this \_\_\_\_\_ day of \_\_\_\_\_, 2016, by and between Gila County, hereinafter referred to as "the County" and the Town of Payson, Arizona hereinafter referred to as "the Town".

**RECITALS**

**WHEREAS**, the Town has contracted with a general contractor for the C.C. Cragin Reservoir Water Supply Project, Raw Water Penstock Phase 1, and that contract, referred to as "the Contract", is incorporated into this IGA. The Contract provides for the installation of a waterline along a portion of Houston Mesa Road, which is a road maintained by the County north of the Town. As part of the waterline installation one lane of the road will require new pavement; and

**WHEREAS**, the County desires additional paving to be performed on the remainder of Houston Mesa Road in the construction area, not impacted by the Town's waterline project; and

**WHEREAS**, the County and the Town have already executed a cooperative agreement in September, 2009 in order to conserve resources and reduce procurement costs; and A.R.S. § 41-2632 authorizes the County and the Town to participate in a cooperative purchasing agreement for construction services; and

**WHEREAS**, the Contract complied with the competitive bidding requirements of A.R.S. § 11-254.01; and

**WHEREAS**, pursuant to A.R.S. § 41-2632 and the cooperative agreement with the Town, the County desires to use the same general contractor hired by the Town to pave the remainder of Houston Mesa Road in the construction area while the general contractor is performing paving services for the Town on an adjoining portion of Houston Mesa Road.

**SCOPE**

**THEREFORE**, it is the intent of the County, to enter into this IGA for the purpose of using the general contractor hired by the Town, to pave 2,140 linear feet of Houston Mesa Road, north of the Town; adjacent to the pavement impacted by the Town's waterline project.

**NOW, THEREFORE**, in consideration of the mutual promises contained in this agreement, and of the mutual benefits to result therefrom, the parties agree as follows:

1. The County will pay the Town \$201,363.07 to use the contract which the Town has entered into with T&T Construction, Inc., referred to as "T&T" to pave 2,140 linear feet of Houston Mesa Road for the County, thereby conserving the County's resources and reducing procurement costs to the County.
2. The Town will enter into a change order in the Contract with T&T for T&T to pave 2,140 linear feet of Houston Mesa Road adjacent to the pavement impacted by the Town's waterline project. The end result will be that T&T will pave the entire width of Houston Mesa Road adjacent to the waterline project. The Town shall ensure that T&T complies with all terms and conditions of the Contract, including the change order.
3. Notices  
All notices or demands upon any party to this agreement shall be in writing, unless other forms are designated elsewhere, and shall be delivered in person or sent by mail addressed as follows:

Town of Payson  
Attn: Town Manager  
303 N. Beeline Highway  
Payson, Arizona 85542

Gila County Board of Supervisors  
Attn: County Manager  
1400 E. Ash Street  
Globe, Arizona 85501

#### **GENERAL TERMS**

1. Indemnification: The Town shall indemnify, defend, and hold harmless, the County, its officers, employees, and agents from and against any and all suits, actions, legal or administrative proceedings, claims, or demands, and costs attendant thereto, arising out of any act, omission, fault or negligence by the Town, its agents, employees, or anyone under its direction or control or on its behalf in connection with performance of this agreement.
2. Termination: Prior to the distribution of the funds described herein from the County to the Town, either party may rescind this agreement by providing written notice to the other party. The parties do not expect that there shall be any property owned by the parties that will be comingled that will need to be disposed of after termination of the agreement under this provision.
3. Cancellation: This Agreement may be canceled pursuant to the provisions of A.R.S. § 38-511.
4. Compliance with All Laws: The parties shall comply with all federal, state, and local laws; these include rules, regulations, standards, and executive orders, and are not limited to those designated within this agreement. Any changes in the governing laws, rules and regulations during the term of this agreement shall apply but do not require an amendment.
5. Entire Agreement: This document constitutes the entire agreement between the parties pertaining to the subject matter hereof, and all prior or contemporaneous agreements and understandings, oral or written, are hereby superseded and merged herein. This agreement may be modified, amended, altered, or extended only by a written amendment signed by the parties.

6. **Non-Appropriation:** Notwithstanding any other provision in this agreement, this agreement may be terminated if, for any reason, the County does not appropriate sufficient monies for the purpose of maintaining this agreement.
7. **Immigration Law Compliance Warranty:** As required by A.R.S. § 41-4401, each party hereby warrants its compliance with all federal immigration laws and regulations that relate to its employees and A.R.S. § 23-214(A). Each party further warrants that after hiring an employee, it verifies the employment eligibility of the employee through the e-verify program. If either party uses any subcontractors in performance of the Agreement, subcontractors shall warrant their compliance with all federal immigration laws and regulations that relate to its employees and A.R.S. § 23-214(A), and subcontractors shall further warrant that after hiring an employee, such subcontractor verifies the employment eligibility of the employee through the e-verify program. A breach of this warranty shall be deemed a material breach of the Agreement subject to penalties up to and including termination of this Agreement. A party shall not be deemed in material breach if it and its subcontractors establish compliance with the employment verification provisions of Sections 274A and 274B of the federal Immigration and Nationality Act and the e-verify requirements contained in A.R.S. § 23-214(A). Each party retains the legal right to inspect the papers of the other party and its subcontractors engaged in performance of this Agreement to ensure that the other party and its subcontractors are complying with the warranty. Any inspection will be conducted after reasonable notice and at reasonable times. If state law is amended, the parties may modify this paragraph consistent with state law.
8. **Finances and Budgetary Matters:** Pursuant to A.R.S. §11-952(B)(3), the establishment and maintenance of a budget for this Intergovernmental Agreement, and the financing for it, shall be approved by the County and the Town through its respective board or council; financing may include commitment of general funds, grant funds, or other available financing.

**IN WITNESS THEREOF**, three (3) identical copies of this contract shall be executed. Each counterpart shall include original signatures and shall be deemed an original.

**GILA COUNTY**

Date: \_\_\_\_\_

\_\_\_\_\_  
Michael A. Pastor, Chairman  
Gila County Board of Supervisors

**ATTEST**

Date: \_\_\_\_\_

\_\_\_\_\_  
Marian Sheppard, Clerk of the Board of Supervisors

**APPROVED AS TO FORM:**

Date: \_\_\_\_\_

\_\_\_\_\_  
Jefferson R. Dalton, Deputy Gila County Attorney  
Civil Bureau Chief  
for Bradley D. Beauchamp, County Attorney

**TOWN OF PAYSON**

Date: \_\_\_\_\_

\_\_\_\_\_  
Kenny J. Evans, Mayor  
Town of Payson

**ATTEST**

Date: \_\_\_\_\_

\_\_\_\_\_  
Sylvia Smith, Town Clerk

**APPROVED AS TO FORM:**

Date: \_\_\_\_\_

\_\_\_\_\_  
Hector Figueroa, Town Attorney