SUMMARY OF AGENDA ITEM

DATE: 05-07-08 **SUBMITTED BY: LaRon Garrett**

RESOLUTION/ORDINANCE # 2378

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"

PURPOSE:

To accept a drainage easement in the Payson Ranchos area to allow the installation of underground storm drain to address a neighborhood drainage issue. This easement is from Hector and Marie Nevarez.

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 Payson Ranchos 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. 2378

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 Hector Nevarez, Sr. and Marie Carmen Nevarez, 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

_____
F. Robert Edwards, Mayor

ATTEST:

_____
Silvia Smith, Town Clerk

APPROVED AS TO FORM:

_____
Samuel I. Streichman, Town Attorney

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EXHIBIT "1"

to Resolution No. 2378

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

DRAINAGE EASEMENT

KNOW ALL MEN BY THESE PRESENTS:

In consideration of one dollar ($1.00) and other valuable considerations paid to HECTOR NEVAREZ, SR. and MARIA CARMEN NEVAREZ, 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 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 1 day of May, 2008.

Hector Nevarez
GRANTOR

Carmen Nevarez
GRANTOR

STATE OF ARIZONA)
) ss.
County of Gila)

The drainage easement was acknowledged before me this 1 day of May, 2008, by Hector Nevarez.

Donna Kay Tucker
Notary Public

My commission expires: December 2, 2011

OFFICIAL SEAL
DONNA KAY TUCKER
NOTARY PUBLIC - ARIZONA
GILA COUNTY
My Commission Expires December 2, 2011

STATE OF ARIZONA)
) ss.
County of Gila)

The foregoing drainage easement was acknowledged before me this 1 day of May, 2008, by Maria De Carmen Nevarez.

Donna Kay Tucker
Notary Public

My commission expires:
December 2, 2011

OFFICIAL SEAL
DONNA KAY TUCKER
NOTARY PUBLIC - ARIZONA
GILA COUNTY
My Commission Expires December 2, 2011

EXHIBIT "A"

That part of Lot 83 of Payson Ranchos subdivision in Payson on Plat Map No. 167 in the Office of the Recorder of Gila County, Arizona more particularly described as follows:

Beginning at the North most corner of Lot 83;
Thence South 40°53'34" East a distance of 73.97 feet along the northeast line to the east corner of Lot 83;
Thence South 33°43'51" West a distance of 107.43 feet along the southeast line to the southeast corner of Lot 83;
Thence along the street right-of-way along a nontangent curve with radius of 100.00 feet concave open to the southwest a distance of 10.02 feet whose chord length is 10.01 feet and chord bears North 59°08'00" West.
Thence North 33°43'51" East a distance of 100.31;
Thence North 40°53'34" West a distance of 68.60 feet;
Thence North 61°47'50" East a distance of 10.25 feet along the northwest line of Lot 83 to the Point of Beginning.

Reference: Naverez

REGISTERED LAND SURVEYOR
CERTIFICATE NO.
37758
CURTIS A.
WARD
Date Signed 4/21/08
ARIZONA, U.S.A.
Expires 06/30/08