

RESOLUTION NO. 2535

A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE AN INTERGOVERNMENTAL AGREEMENT BETWEEN GILA COUNTY AND THE TOWN OF PAYSON REGULATING THE CONSTRUCTION OF PUBLIC PROPERTY IMPROVEMENTS IN EACH OTHER'S RESPECTIVE JURISDICTIONS.

WHEREAS, The Town of Payson ("Payson"), pursuant to A.R.S. §9-240 and Title 9, Chapter 7, Article 1, Arizona Revised Statutes, and Gila County ("County") pursuant to A.R.S. §11-861 et seq., are each authorized to regulate the quality, type of material and workmanship of all aspects of building construction and to adopt uniform codes regulating such construction within their respective jurisdictions; and

WHEREAS, Payson and the County wish to enter into an agreement whereby each will be responsible for the issuance of the appropriate permits and the design and construction compliance of its public buildings and other structures within the territorial jurisdiction of the other in accordance with the other's building, plumbing, electrical, fire prevention and mechanical codes,

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

Section 1. That the Intergovernmental Agreement between Gila County and the Town of Payson ("IGA"), attached hereto as Exhibit A and incorporated herein as though set forth in full at this point, be and is hereby approved in substantially the form as set forth in said Exhibit A.

Section 2. That Kenny J. Evans, Mayor of the Town of Payson, be and is hereby authorized to execute such IGA in substantially the form as set forth in Exhibit A.

Section 3. That the Town of Payson be and hereby is authorized to take such other and further actions as are necessary or appropriate to carrying out the purposes of said IGA.

PASSED AND ADOPTED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON this _____ day of _____, 2009, 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

Added 12-9-09, 8:40am DEC 10 2009 G.S

Exhibit A
to
Resolution 2535

**Intergovernmental Agreement
Between Gila County and the Town of Payson
Regulating the Construction of Public Property Improvements
Within Each Other's Jurisdictional Territory**

This Intergovernmental Agreement is entered into pursuant to A.R.S. 11-952 by and between Gila County, a body politic and corporate of the State of Arizona, (the "County") and the Town of Payson, a political subdivision of the State of Arizona, (the "Town") (collectively the "Parties") for the purpose of regulating the construction and improvement by the Parties of public property within each other's jurisdictional territory.

Recitals

- A. The Town, pursuant to A.R.S. §9-240 and Title 9, Chapter 7, Article 1, Arizona Revised Statutes, and the County pursuant to A.R.S. §11-861 *et seq.*, are each authorized to regulate the quality, type of material and workmanship of all aspects of building construction and to adopt uniform codes regulating such construction in their jurisdictional territory.
- B. The County and the Town may contract for services and enter into agreements with one another for joint or cooperative action pursuant to A.R.S. §11-951, *et seq.*
- C. The purpose of this Intergovernmental Agreement ("IGA") is to establish jurisdictional authority for compliance with building and development codes for each public property owned by the County and the Town in each other's jurisdictional territory.
- D. Town and County wish to enter into this IGA whereby each party will be responsible for the issuance of the appropriate permits and the design and construction compliance of its public buildings and other structures within the territorial jurisdiction of the other in accordance with the other's building, plumbing, electrical, fire prevention and mechanical codes.

NOW THEREFORE, the County and the Town pursuant to the above and in consideration of the matters and things hereinafter set forth, do mutually agree as follows:

1. Obligations of the Parties

- a. ***Town.*** For all public buildings and improvements built or caused to be built by the Town located within the jurisdictional territory of the County, the Town shall be responsible for the permitting, design and construction compliance with the County's adopted building, plumbing, electrical, fire prevention and mechanical codes, and any inspections related thereto.
- b. ***County.*** For all public buildings and improvements built or caused to be built by the County located within the jurisdictional territory of the Town, the County shall be

responsible for the permitting, design and construction compliance with the Town's adopted building, plumbing, electrical, fire prevention and mechanical codes, and any inspections related thereto.

2. **Fees.** For all public buildings and structures covered by this IGA, the permitting entity and inspecting entity shall be entitled to any applicable fees including, but not limited to, plan review fees and inspection fees
3. **Term.** The term of this IGA shall be from the date it is recorded with the Gila County Recorder and shall terminate on June 30, 2014, unless sooner terminated or further extended pursuant to the provisions of this IGA. The parties may renew this IGA for up to four additional five year periods or any portion thereof. Such extension shall be by formal written amendment executed by the parties.
4. **Compliance with All Laws.** The Parties shall comply with all federal, state and local laws, rules, regulations, standards and Executive Orders, without limitation to those designated within this IGA. Any changes in the governing laws, rules and regulations during the terms of this IGA shall apply but do not require an amendment.
5. **Responsibility.** To the extent permitted by law, each party agrees to be responsible for the acts and omissions of its officers, agents and employees taken pursuant to this IGA.
6. **Non-Discrimination** This IGA is subject to Executive Order 75-5, as amended by Executive Order 99-4, which is incorporated into this IGA by reference as if set forth in full herein.
7. **Dispute Resolution.** This IGA shall be governed and construed in accordance with the internal laws of the State of Arizona. With the written consent of both Parties, any dispute, controversy, claim, or cause of action arising out of or related to this IGA may, but in no event need, be settled by submission to binding arbitration in accordance with the rules of the American Arbitration Association and the Arizona Uniform Arbitration Act, A.R.S. § 12-1501, et seq.; and judgment upon any award rendered by the arbitrator(s), if filed in Arizona Superior Court, shall be filed in the Superior Court of Gila County, Arizona; or any such dispute, controversy, claim, or cause of action may be submitted to mediation or maybe litigated in the Superior Court. Neither Party shall be entitled to recover from the other party any of its attorneys' fees, costs, or expert witness fees incurred in any such dispute, controversy, claim, or cause of action, but each party shall bear its own attorneys' fees without contribution from the other party, whether the same is resolved through arbitration, mediation, litigation in a court, or otherwise.
8. **Severability.** If any provision of this IGA is held to be invalid or unenforceable, the remaining provisions shall continue to be valid and enforceable to the full extent permitted by law.
9. **Liability and Insurance.** Each Party shall bear the risk of its own actions, as it does with day-to-day operations, and shall be solely responsible for any injury to its employees and/or for claims of injury or legal harm asserted by others, from the performance of any obligation

under this IGA. Both Parties agree to maintain a policy of general liability insurance (or a comparable policy with a risk pool) with a combined single limit of not less than one million dollars (\$1,000,000) per occurrence and in the aggregate that insures the activities under this IGA. Each Party shall have the right of contribution against the other to the extent of the liability caused by the other Party's employees in activities creating joint liability under this IGA.

10. 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 IGA may be modified, amended, altered or extended only by a written amendment signed by the parties.

11. Authority. The Parties acknowledge and warrant that each of them is fully authorized and empowered to execute this IGA by and through the individual(s) executing hereinafter.

12. Notification. All notices or demands upon any party to this IGA 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
Town Manager
303 North Beeline Highway
Payson, Arizona 85442*

*Gila County
County Manager
1400 East Ash Street
Globe, Arizona 85501*

13. Termination.

a. Termination for convenience. Either party may, at any time and without cause, cancel this IGA by providing 30 days written notice to the other party of intent to cancel.

b. Termination for Cause. If, in the judgment of either party to this IGA, the other party does not perform in accordance with the conditions of this IGA, or is otherwise in default of any provision of this IGA, the party claiming nonperformance or default shall give written notice to the other party specifying the nature of the non-performance or default. If the non-performance or default is not corrected within 30 days after receipt of such written notice, or if the nonperforming or defaulting party fails to diligently pursue remedies for corrections which require more than 30 days to complete, the party claiming nonperformance or default may terminate this IGA.

c. Cancellation (A.R.S. §38-511). This IGA is subject to the provisions of A.R.S. § 38-511 which provides for cancellation of contracts by political subdivisions of the state for certain conflicts of interest.

d. Non-appropriation. Notwithstanding any other provision in this IGA, this IGA may be terminated if, for any reason, the Gila County Board of Supervisors or the Payson Town Council does not appropriate sufficient monies for the purpose of maintaining this IGA.

GILA COUNTY, ARIZONA

TOWN OF PAYSON

By: _____
Chairman, Board of Supervisors

By: _____
Kenny J. Evans, Mayor

APPROVED AS TO FORM:

APPROVED AS TO FORM:

Gila County Attorney

Samuel I. Streichman, Town Attorney

ATTEST:

ATTEST:

Clerk of the Board

Silvia Smith, Town Clerk