

**RESOLUTION NO. 2895**

**A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF PAYSON, ARIZONA, APPROVING THE GRANT AND CONVEYANCE OF A PUBLIC UTILITY EASEMENT TO ARIZONA PUBLIC SERVICE COMPANY ("APS") ON GOVERNMENT LOT 3 OF SECTION 4, AND DESCRIBED IN THE DOCUMENTS ATTACHED AS EXHIBITS "A" AND "B" TO EXHIBIT "1" HERETO.**

**WHEREAS**, the Town of Payson, a municipal corporation and a political subdivision of the State of Arizona, is located entirely in Gila County and incorporated and organized under A.R.S. §§ 9-101 and 9-231; and

**WHEREAS**, pursuant to A.R.S. § 9-240 (B)(3), the Common Council shall have power to exercise exclusive control over the streets, alley, avenue, park, public place or sidewalk and to vacate, abandon or abolish same within the town limits; and

**WHEREAS**, that portion of Government Lot 3 of Section 4 described and attached hereto with Legal Description described in Exhibit "A" and diagrammed in Exhibit "B" is being requested as a Utility Easement on behalf of APS, which has the legal authority to accept and utilize said easement; and

**WHEREAS**, the Town of Payson desires to approve the grant and conveyance of the APS Utility Easement upon duly made motion and vote to approve same by Mayor and Council; and

**WHEREAS**, it is the desire of the Town of Payson to grant and convey the Public Utility Easement as presented to Mayor and Council.

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

Section 1: That the Town of Payson does hereby approve and authorize the grant and conveyance of the APS Public Utility Easement described and depicted in Exhibits "A" and "B" to Exhibit "1" attached hereto and incorporated by reference as though set forth in full herein.

Section 2: That Kenny J. Evans, Mayor of the Town of Payson, is authorized to execute this Resolution pursuant to A.R.S. § 9-241.

Section 3: That Kenny J. Evans, Mayor of the Town of Payson, or LaRon Garrett, Town Manager, is authorized to execute the Utility Easement document in substantially the form attached and cause same to be officially recorded.

*Page 1*

*Prepared by Town of Payson Legal Department*

*HMF:drs December 30, 2015 (10:36AM)*

*O:\Civil\Resolutions\2800\2895 APS Utility Easement.doc*

**JAN 07 2016 9.4**

Section 4: That the Town of Payson is authorized to take such other and further actions as may be necessary or appropriate to carry out the intent of this Resolution and to officially grant and convey said public utility easement.

**PASSED AND ADOPTED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF PAYSON, ARIZONA, this 7<sup>th</sup> day of January, 2016, by the following vote:**

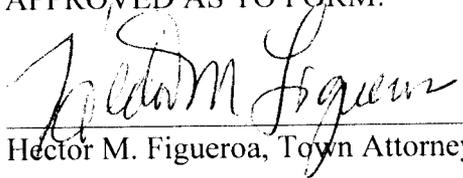
AYES \_\_\_\_\_ NOES \_\_\_\_\_ ABSTENTIONS \_\_\_\_\_ ABSENT \_\_\_\_\_

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

ATTEST:

APPROVED AS TO FORM:

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

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

**EXHIBIT "1"**

**TO**

**RESOLUTION NO. 2895**

**When recorded, please return to :**  
**APS RIGHT OF WAY DEPT.**  
**2200 E Huntington Dr.**  
**FLAGSTAFF, AZ. 86004**  
NW¼ 4 10N 10E  
34.245105, -111.334598  
APN 304-01-301G  
NE-15-157  
WA305352  
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 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 within the Easement Premises 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 clear areas that extend: 1) 3 feet from and around all edges of all switching cabinet pads and 2 feet from and around all edges of all transformer pads and other equipment pads, and 2) a clear operational area that extends 10 feet immediately in front of all transformer, switching cabinet and other equipment openings, and 3) a 6 feet by 6 feet hot-stick operating area off the front left corner of all transformers, all as shown on Exhibit "B" attached hereto and made a part hereof. No obstructions, trees, shrubs, large landscape rocks, fences, fixtures, or permanent structures shall be placed by Grantor within said clear areas; nor shall Grantor install landscape irrigation or sprinkler systems within said clear areas. Landscape irrigation or sprinkler systems installed adjacent to the clear areas shall be installed and maintained so that the transformers, switching cabinets or any other equipment do not get wet by spray or irrigation.

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.



## **EXHIBIT "A"**

### **(LEGAL DESCRIPTION OF GRANTOR'S PROPERTY) AS RECORDED IN FEE NUMBER 701586 G.C.R.**

**That portion of Government Lot 3 of Section 4, Township 10 North, Range 10 East of the Gila and Salt River Base and Meridian, Gila County, Arizona, more particularly described as follows:**

**COMMENCING at the North quarter corner of said Section 4;**

**THENCE South 00° 01' 00" East (South 00° 03' 15" East recorded), along the North-South-mid-section line of said Section 4, also being the East line of said Government Lot 3, a distance of 1182.96 feet to a non-tangent point on a curve to the right, concave to the Northeast having a radius of 363.08 feet, a central angle of 17° 36' 33" and a radial bearing of North 44° 20' 12" East;**

**THENCE Northwesterly along said curve, a distance of 111.59 feet;**

**THENCE North 28° 03' 15" West, a distance of 124.12 feet to the P.C. of a curve to the left, concave to the Southwest having a radius of 500.00 feet and a central angle of 37° 22' 58";**

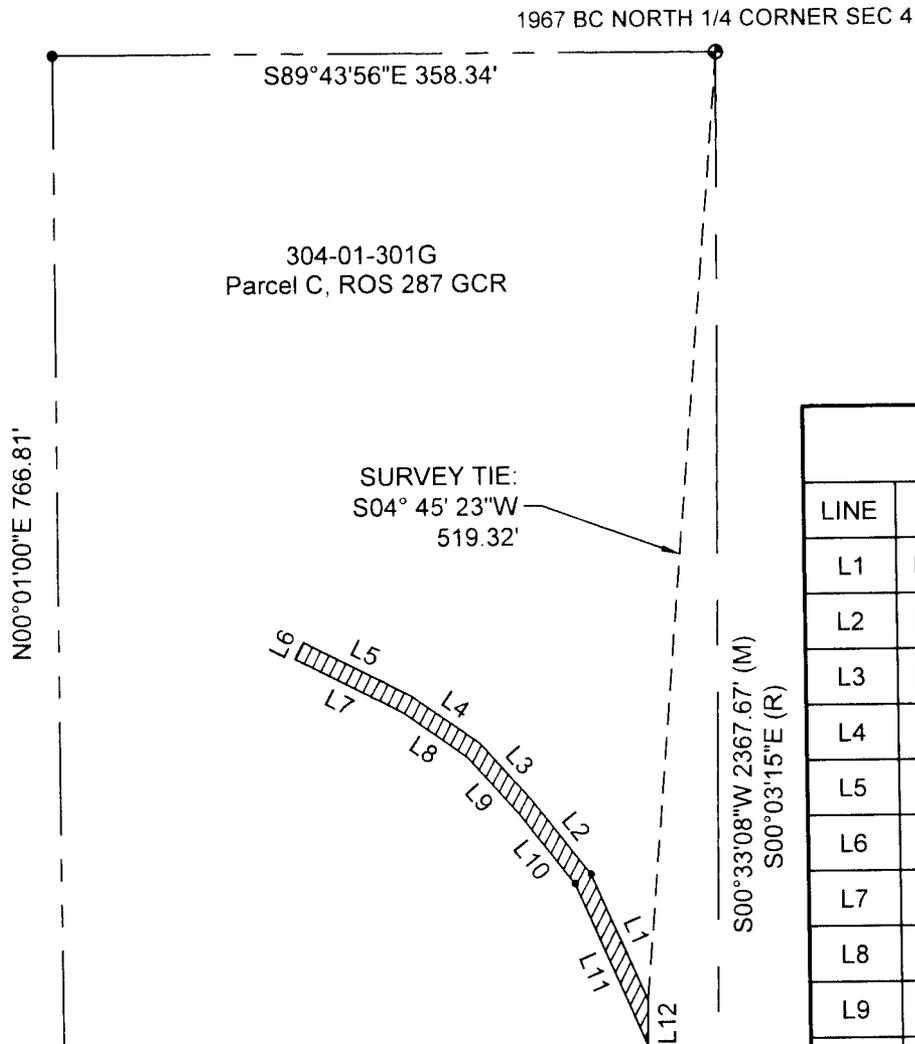
**THENCE Northwesterly along said curve a distance of 326.23 feet;**

**THENCE North 00° 01' 00" East, a distance of 766.81 feet to a point which lies on the North line of said Section 4;**

**THENCE South 89° 41' 34" East (South 89° 43' 56" East recorded), along said North line, a distance of 358.34 feet to the POINT OF BEGINNING.**

# EXHIBIT "B"

SKETCH SHOWING LOCATION AND LIMITS OF  
UTILITY EASEMENT



LINE TABLE		
LINE	BEARING	DISTANCE
L1	N23°21'46"W	75.04'
L2	N37°49'28"W	50.60'
L3	N41°21'48"W	42.62'
L4	N54°35'52"W	45.59'
L5	N62°53'35"W	64.60'
L6	S26°23'45"W	10.00'
L7	S62°53'35"E	63.75'
L8	S54°35'52"E	43.70'
L9	S41°21'48"E	41.16'
L10	S37°49'28"E	49.02'
L11	S23°21'46"E	96.59'
L12	N00°18'10"E	24.91'

THE PURPOSE OF THIS EXHIBIT IS TO DEPICT THE DIMENSIONS AND APPROXIMATE LOCATION AND ALIGNMENT OF THE ELECTRIC LINE AND TRANSFORMER. THE LOCATION AND ALIGNMENT OF THE ELECTRIC LINE AND TRANSFORMER AS ACTUALLY CONSTRUCTED SHALL TAKE PRECEDENCE OVER THE LOCATION AND ALIGNMENT SHOWN ON THIS EXHIBIT.

LEGEND	
▨▨▨▨▨	EASEMENT AREA
- - - - -	SECTION LINE
- - - - -	PROPERTY LINE
•	PROPERTY CORNER

W#:	WA305352
DATE:	12/22/15
NW 1/4 SEC 4 T 10N R 10E	
SCALE:	1"=100'
R/W:	DAM
SURVEY:	MGS
DRAWN BY:	DAM