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10 Attorneys for Plaintiff Town of Star Valley

11
12 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
13 IN AND FOR THE COUNTY OF GILA

14 TOWN OF STAR VALLEY, a municipal
15 corporation of the State of Arizona,

16 Plaintiff,

17 v.

18 PAYSON WATER CO., INC., an Arizona
19 corporation; COUNTY OF GILA, a
20 political subdivision of the State of Arizona;
21 JOHN DOES 1 through 10; and BLACK
22 AND WHITE PARTNERSHIPS 1 through
23 10,

24 Defendants.

No. CV 2011-00438

**STIPULATED FINAL JUDGMENT
IN CONDEMNATION**

(Hon. Peter J. Cahill)

23 This matter came before the Court pursuant to the complaint to condemn a portion
24 of the system of Payson Water Co., Inc., an Arizona corporation (“PWC”), by Plaintiff,
25 the Town of Star Valley, a municipal corporation (the “Town”). After considering the
26 complaint, the Court noting the consent of the parties to entry of this judgment, it

1 appearing that other than Gila County, there are no persons other than PWC having any
2 right, title, claim or interest in and to the property and/or title, claim, or interest in and to
3 the property and/or assets which are the subject of this condemnation proceeding and this
4 Stipulated Final Judgment in Condemnation, and good cause appearing, hereby finds and
5 concludes as follows:

6 NOW, THEREFORE, IT IS ORDERED, ADJUDGED, AND DECREED that
7 judgment be, and the same is, hereby entered as follows:

8 1. That the Town have judgment condemning for its sole use, possession, and
9 ownership all of the plant, system, and business of PWC, including, but not limited to, all
10 fee and/or leaseholds in real property legally described in **Exhibit A** attached hereto, all
11 easements, water wells, pumps, water plants, substations, water distribution systems,
12 customer accounts, books and records used and useful in providing water utility services,
13 and all tangible, intangible, personal, or real property rights or interests in any way related
14 to PWC (the "Town System"). The Town System also includes that portion of the PWC
15 Certificate of Convenience and Necessity as shown the "Star/Quail Valley" system on the
16 map attached hereto as **Exhibit B**. PWC shall, upon satisfaction of this Stipulated Final
17 Judgment in Condemnation, be forever barred from asserting any right, title, or interest
18 contrary to the sole and exclusive ownership and possessory interest vested in the Town in
19 said property;

20 2. That the Town shall pay by wire transfer into escrow the total sum of
21 \$775,000.00 to be released to PWC on May 1, 2012 at 9:00 a.m., in accordance with the
22 Escrow Instructions attached hereto as **Exhibit C**;

23 3. That Gila County will receive from escrow the sum of \$2,494.53 for any
24 property taxes due and unpaid relating to the Town System for the period ending May 1,
25 2012. This sum will be applied to parcel 941-01-005 (which consists of parcels 302-57-
26

1 036, 302-60-004E, 302-60-052A, and 302-80-138). Other than as set forth in this
2 Paragraph, all claims to property tax by Gila County for the Town System (parcels 302-
3 57-036, 302-60-004E, 302-60-052A, and 302-80-138) are extinguished.

4 4. That said payment shall constitute full, fair, and final just compensation to
5 PWC for the condemnation of its property in its “as is, where is, with all faults” condition,
6 and no further payments of any kind by the Town to PWC for the Town System shall be
7 required. Provided, however, that the foregoing is limited by the representations and
8 warranties of PWC set forth in Paragraph 6 of the Settlement Memorandum entered into
9 on or about December 29, 2011 (attached as **Exhibit D**) by and between PWC and the
10 Town, and that the provisions of the said Paragraph 6 are incorporated herein by
11 reference.

12 5. That each party shall bear its own attorneys’ fees, costs, and expenses in
13 connection with this action;

14 6. That PWC shall, upon payment from escrow of the sum specified in
15 Paragraph 2 (less any taxes claimed by Gila County), promptly execute a Satisfaction of
16 Judgment with regard to the Stipulated Final Judgment in Condemnation and deliver same
17 to the Town, which Satisfaction of Judgment shall be promptly filed with this Court;

18 7. That the Court shall, upon the filing of the Satisfaction of Judgment, enter
19 the Stipulated Final Order of Condemnation in the form attached hereto as **Exhibit E**,
20 vesting in the Town sole use, possession, and ownership to all of the property and
21 property rights described in Paragraph 1, free and clear of any and all claims by, through,
22 or on behalf of PWC and without the necessity of any other consents, orders, or approvals
23 by any governmental entities;

24 8. That this Stipulated Final Judgment in Condemnation constitutes a final and
25 conclusive determination as to all issues raised in the Town’s complaint, and all matters
26 pertaining to just compensation due for the taking of the PWC property and property

1 rights, including, without limitation, any claims for damages of any kind or other relief
2 resulting from this proceeding, and shall constitute the final judgment in this proceeding
3 in all respects. To the extent necessary, PWC specifically waives any right it may
4 otherwise possess, in law or in equity, to appeal this Stipulated Final Judgment in
5 Condemnation;

6 9. That PWC shall execute such documents and take such further action as
7 may be reasonably required and necessary to fully implement the intent of the parties and
8 as may be reasonably required and necessary to fully effectuate the provisions set forth in
9 this Stipulated Final Judgment in Condemnation.

10 10. That PWC shall surrender possession of the Town System to the Town on
11 May 1, 2012 at 9:00 AM, and that the Town shall be authorized to take possession of the
12 Town System on the same time and date.

13 11. That as of May 1, 2012, at 9:00 AM, that portion of PWC's Certificate of
14 Convenience and Necessity for the Town System (as shown the "Star/Quail Valley"
15 system on the map attached hereto as **Exhibit B**) be forever terminated and extinguished.

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DONE IN OPEN COURT this ____ day of _____, 2012.

Hon. Peter J. Cahill
Judge of the Superior Court

1 APPROVED AS TO FORM AND CONTENT:

2 TOWN OF STAR VALLEY

3

4 By: _____

5 Timothy W. Grier
6 Town Attorney
7 Town of Star Valley
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9 Star Valley, Arizona 85541
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9 and

9

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15 Attorneys for Plaintiff Town of Star Valley

16 FENNEMORE CRAIG, P.C.

17

18

19 _____
20 Jay L. Shapiro
21 Attorneys for Defendant Payson Water Co., Inc.

20

21 GILA COUNTY, ARIZONA
22 Daisy Flores, County Attorney

22

23 By: _____

24 Bryan B. Chambers
25 Chief Deputy County Attorney

25

26

1 ORIGINAL of the foregoing filed
2 this ___ day of _____, 2012 with:

3 Clerk of the Court
4 Gila County Superior Court
5 1400 E. Ash Street
6 Globe, Arizona 85501

7 COPY of the foregoing hand-delivered
8 this ___ day of _____, 2012 with:

9 Hon. Peter J. Cahill
10 Judge of the Superior Court
11 Gila County Superior Court
12 1400 E. Ash Street
13 Globe, Arizona 85501

14 COPY of the foregoing mailed
15 this _____ day of _____, 2012, to:

16 Jay Shapiro, Esq.
17 Fennemore Craig, P.C.
18 3003 North Central Avenue, Suite 2600
19 Phoenix, Arizona 85012

20 Attorneys for Defendant Payson Water Co., Inc.

21 Bryan B. Chambers, Esq.
22 Gila County Attorney's Office
23 1400 E. Ash Street
24 Globe, Arizona 85501

25 Attorneys for Defendant Gila County, Arizona

26 _____