

RESOLUTION NO. 2594

A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE AMENDMENT NUMBER TWO TO THE INTERGOVERNMENTAL AGREEMENT BETWEEN THE STATE OF ARIZONA AND THE TOWN OF PAYSON RELATING TO CONSTRUCTION OF A ROUNDABOUT AT THE INTERSECTION OF HIGHWAY 87 AND AIRPORT/AIRLINE ROAD, AND DECLARING AN EMERGENCY (PROVIDING FOR REFUND TO THE TOWN OF PAYSON OF \$390,000.00).

WHEREAS, on or about March 10, 2010, the Town of Payson (“Town”) entered into an intergovernmental agreement (the “Agreement”) with the State of Arizona, Department of Transportation (“ADOT”) for construction of a roundabout at the intersection of State Route 87 and Airport/Airline Road; and

WHEREAS, on or about August 2, 2010, ADOT and the Town executed Amendment No. One to said Agreement to decrease the amount of local funding and to define the maintenance responsibility; and

WHEREAS, ADOT and the Town desire to amend the Agreement again to allow ADOT to refund the Town’s \$390,000.00 deposit; and

WHEREAS, for such purpose, Amendment No. Two to Intergovernmental Agreement Between the State of Arizona and the Town of Payson has been prepared,

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

Section 1. That Amendment No. Two to Intergovernmental Agreement between the State of Arizona and the Town of Payson (the “Amendment”), attached hereto marked Exhibit “A”, 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 the Amendment in substantially the form attached as Exhibit “A”.

Section 3. That the Town of Payson be and is hereby authorized to take and perform such other and further actions as are necessary or appropriate to carrying out the purposes of this Resolution and the terms of the Amendment.

Section 4. Whereas, it is necessary for the preservation of the peace, health, and safety of the Town of Payson, Arizona, an emergency is declared to exist, and this Resolution shall become immediately operative and in full force and effect from and after the date of its enactment.

Prepared by Town of Payson Legal Department

TMW:drs March 25, 2011 (1:44pm)

C:\MyFiles\Resolutions\2500s\2594 Approving Amendment #2 to IGA w-ADOT re Roundabout.wpd

Page 1

APR 07 2011 G.3

PASSED AND ADOPTED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, this 7th day of April, 2010, by the following vote:

AYES _____ NOES _____ ABSTENTIONS _____ ABSENT _____

Kenny J. Evans, Mayor

ATTEST:

APPROVED AS TO FORM:

Silvia Smith, Town Clerk



Timothy M. Wright, Town Attorney

ADOT File No.: IGA/JPA 09-0421
AG Contract No.: P0012010000580
Project No:
Project
Section: SR 87 at Airport Ariline and
North approach of the SR 87
Tyler Parkway Roundabout
TRACS No.: H730401C
TIP/STIP No.:
Budget Source Item No.: N/A

**AMENDMENT NO. TWO
TO
INTERGOVERNMENTAL AGREEMENT**

**BETWEEN
THE STATE OF ARIZONA
AND
THE TOWN OF PAYSON**

THIS AGREEMENT, entered into this date _____, 2011, Amendment No. **Two** amending JPA No. **09-042**, A.G. Contract No.: **P0012010000580** and executed August 2, 2010, pursuant to the Arizona Revised Statutes § 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the TOWN OF PAYSON, acting by and through its MAYOR and TOWN COUNCIL (the "Town"). The State and the Town are collectively referred to as "Parties".

I. RECITALS

1. The State is empowered by Arizona Revised Statutes § 28-401 to enter into this Agreement and has delegated to the undersigned the authority to execute this Agreement on behalf of the State.

2. The Town is empowered by Arizona Revised Statutes § 48-572 to enter into this Agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of the Town.

The purpose of this Amendment is to reimburse the Town for the total amount of \$390,000.00 previously deposited for this project.

Article I, Paragraph 4 and 5, are deleted and replaced in full as follows:

4. The Town deposited an amount of **\$390,000.00** with the State after the original agreement was executed on March 10, 2010. As of April 2010 the local funds were approved to be funded by the Highway Safety Improvement Program (HSIP) funding. The State will reimburse the Town for the full amount of **\$390,000.00** that was previously deposited.

5. The Parties hereto agree to and acknowledge the following conditions: **a)** the estimated monetary amounts referenced in this Agreement are subject to change and can change substantially before completion of the Project; **b)** the Parties shall perform their responsibilities consistent with this Agreement; and **c)** any change or modification to the Project will only occur with the mutual written consent of both Parties.

THEREFORE, in consideration of the mutual Agreements expressed herein, this Agreement is amended as follows:

II. SCOPE OF WORK

Article II, Paragraph j. has been deleted. Article II, Paragraph k. has been deleted and replaced in full as follows

1. The State will:

k. Upon execution of this Amendment, and within 30 days of receipt and approval of an invoice, reimburse the Town for the total amount of \$390,000.00 previously deposited with the State.

Article II, Paragraph d. have been deleted and replaced in full as follows

2. The Town will:

d. Upon execution of this Amendment, and within 30 days, invoice the State for the previously deposited amount o f \$390,000.00.

III. MISCELLANEOUS PROVISIONS

3. This Agreement shall become effective upon signing and dating of the Determination Letter by the State's Attorney General.

ALL NOTICES OR DEMANDS upon any party to this Agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation
Joint Project Administration
205 S. 17th Avenue, Mail Drop 637E
Phoenix, Arizona 85007
(602) 712-7124
(602) 712-3132 Fax

Town of Payson
Attn: LaRon Garrett
303 N. Beeline Hwy
Payson, Arizona 85541
(928) 474-6242
(928) 472-7490 Fax

For Town Financial Matters:
Vendor No. : 860287228 02
Hope Cribb, Finance Manager
303 N. Beeline Hwy.
Payson, Arizona 85541
(928) 474-5242
hcribb@paysonaz.gov

PURSUANT TO ARIZONA REVISED STATUTES§ 11-952 (D), attached hereto and incorporated herein, is the written determination of each party's legal counsel that the parties are authorized under the laws of this State to enter into this Agreement and that the Agreement is in proper form.

EXCEPT AS AMENDED herein, **ALL OTHER** terms and conditions of the original Agreement remain in full force and effect.

IN WITNESS WHEREOF, the Parties have executed this Amended Agreement the day and year first above written.

TOWN OF PAYSON

STATE OF ARIZONA
Department of Transportation

By _____
KENNY J. EVANS
Mayor

By _____
SAM MAROUFKHANI, P.E.
Deputy State Engineer, Development

ATTEST:

By _____
SILVIA SMITH
Clerk

ATTORNEY APPROVAL FORM FOR THE TOWN OF PAYSON

I have reviewed the above referenced Intergovernmental Agreement between the State of Arizona, acting by and through its DEPARTMENT OF TRANSPORTATION, and the TOWN OF PAYSON, an Agreement among public agencies which, has been reviewed pursuant to A.R.S. § 11-951 through § 11-954 and declare this Agreement to be in proper form and within the powers and authority granted to the Town under the laws of the State of Arizona.

No opinion is expressed as to the authority of the State to enter into this Agreement.

DATED this _____ day of _____, 2011.

Town Attorney