

RESOLUTION NO. 2604

A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE A CONSENT TO MEMORANDUM OF MODIFICATION BETWEEN CANAL SENIOR APARTMENTS, L.P., AND NATIONAL BANK OF ARIZONA, N.A.

WHEREAS, in March of 2005, the Town of Payson and Canal Senior Apartments, L.P. ("Canal") entered into a Deferred Water Development Fee Agreement ("the Agreement") that is secured by a Deed of Trust; and

WHEREAS, in April of 2005, the Town executed a Subordination Agreement allowing its rights under the Agreement and the Deed of Trust to be subordinate to a note executed by Canal in favor of National Bank of Arizona, N.A. ("National Bank"); and

WHEREAS, Canal and National Bank have negotiated a Memorandum of Modification to allow Canal to receive a lower interest rate on the note; and

WHEREAS, Canal and National Bank have requested that the Town consent to the Memorandum of Modification and reaffirm the full force and effectiveness of the Subordination Agreement; and

WHEREAS, for such purpose, a Consent has been prepared,

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

Section 1. That the Consent attached as Exhibit "A" is hereby approved in substantially the form attached.

Section 2. That Kenny J. Evans, Mayor of the Town of Payson, is hereby authorized to execute said Consent in substantially the form attached.

Section 3. That the Town of Payson is hereby authorized to take such other and further actions as may be necessary or appropriate to fulfilling the intent of this Resolution.

PASSED AND ADOPTED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, this ____ day of _____, 2011, 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

