

RESOLUTION NO. 2718

A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE THE 2013 AMENDMENT TO THE COMMERCIAL GROUND LEASE FOR A FIXED BASE OPERATOR FOR THE TOWN OF PAYSON MUNICIPAL AIRPORT (AVIATION FUELING OPERATIONS).

WHEREAS, on December 3, 1993, the Town of Payson ("Town") executed a Commercial Ground Lease for a Fixed Base Operator ("FBO") for the Town of Payson Municipal Airport ("the Lease"); and

WHEREAS, with the Town's consent, the Lease was later assigned to subsequent FBOs; and

WHEREAS, the Lease is set to expire on December 1, 2013; and

WHEREAS, in anticipation of the expiration of the Lease, the Town is preparing to seek bids for a new Fixed Base Operator Lease (Fueling Operations); and

WHEREAS, pursuant to Article X, Section (B) of the Lease, if the Town "authorizes a call for bids," as of the date of such authorization, the Lease shall be "fully terminated;" and

WHEREAS, both the Town and the current FBO, CAVU Aviation, L.L.C., dba Payson Aviation ("CAVU"), desire to amend the Lease to authorize CAVU to continue operating as the Fueling FBO through December 1, 2013 regardless of the call for bids,

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

Section 1. That the 2013 Amendment to the Commercial Ground Lease for a Fixed Base Operator for the Town of Payson Municipal Airport (Aviation Fueling Operations) (the "2013 Amendment"), attached hereto marked 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 2013 Amendment in substantially the form attached.

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

PASSED AND ADOPTED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, this 6th day of June, 2013, by the following vote:

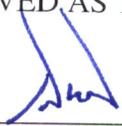
AYES _____ NOES _____ ABSTENTIONS _____ ABSENT _____

Kenny J. Evans, Mayor

ATTEST:

APPROVED AS TO FORM:

Silvia Smith, Town Clerk



Timothy M. Wright, Town Attorney

Exhibit A
to
Resolution 2718

**2013 AMENDMENT TO THE COMMERCIAL GROUND
LEASE FOR A FIXED BASE OPERATOR FOR
THE TOWN OF PAYSON MUNICIPAL AIRPORT
(AVIATION FUELING OPERATIONS)**

BACKGROUND:

- A. On December 3, 1993, the Town of Payson ("the Town") and Peter Paige executed a Commercial Ground Lease for a Fixed Base Operator ("FBO") for the Town of Payson Municipal Airport ("the Lease").
- B. The initial term of the Lease was through December 1, 2003. The Lease also provided for two 5 year extensions. Both 5 year extensions were exercised; and therefore the final expiration date of the Lease is December 1, 2013.
- C. As allowed in the Lease, Peter Paige assigned his interest in the Lease Payson Aviation. Payson Aviation then assigned their interest in the Lease to ACD Aviation, which later assigned its interest to CAVU Aviation, LLC, doing business as Payson Aviation, the current leasee.
- D. In anticipation of the Lease's expiration, the Town is preparing to put out a request for bids for a new Fixed Base Operator Lease (Fueling Operations).
- E. Pursuant to Article X, Section (B) of the Lease, if the Town "authorizes a call for bids," as of the date of such authorization, the Lease shall be "fully terminated."
- F. Both the Town and Payson Aviation desire to amend the Lease to authorize CAVU Aviation, LLC to continue operating as the Fueling FBO through the end of 2013 regardless of the call for bids.

AMENDMENT:

NOW, THEREFORE, in consideration of the promises and agreements herein set forth, the Town and Payson Aviation do hereby agree as follows:

- 1. Article X, Section B shall read as follows:

Reserved.
- 2. The expiration date of the second and final Lease extension shall be extended through December 31, 2013 at midnight.
- 3. All other terms and conditions of the Lease, except as specifically amended herein, shall remain in full force and effect and are affirmed and restated.

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IN WITNESS WHEREOF, the Parties have executed this 2013 Amendment, or caused this Extension to be executed by their duly authorized representative, to be effective this _____ day of _____, 2013.

TOWN OF PAYSON,

PAYSON AVIATION

By _____
Kenny J. Evans, Mayor

By _____
Robert Oswald

Approval as to Form

By  _____
Timothy M. Wright
Payson Town Attorney