

RESOLUTION NO. 2844

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF PAYSON, ARIZONA, APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE AMENDMENT NO. TWO TO INTERGOVERNMENTAL AGREEMENT BETWEEN THE STATE OF ARIZONA AND THE TOWN OF PAYSON RELATING TO THE EAST BONITA STREET PHASE II PROJECT.

WHEREAS, on June 20, 2013, the Mayor and Council passed Resolution Number 2727 approving an Intergovernmental Agreement (“IGA”) with the State of Arizona, Department of Transportation (“ADOT”) for the design of East Bonita Street, from Highway 87 to South Bentley Street (the “Project”); and

WHEREAS, on June 5, 2014, the Mayor and Council passed Resolution Number 2788 approving Amendment No. One to the IGA to allow use of additional funds for the design portion of the Project; and

WHEREAS, additional federal funds have become available for the right-of-way acquisition and the scoping/design of the Project; and

WHEREAS, the Town and ADOT desire to amend the IGA to allow use of the additional federal funding,

NOW, THEREFORE, THE MAYOR AND TOWN 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, attached hereto marked Exhibit A is approved in substantially the form attached.

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

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

PASSED AND ADOPTED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF PAYSON, ARIZONA, this 16th day of April, 2015, by the following vote:

Prepared by Town of Payson Legal Department

TMBW.dcs April 9, 2015 (10:16am)

O: Civil Resolutions 2800 2844 Amendment No. 2 to IGA re Bonita St Project Phase II.wpd

Page 1

APR 16 2015 3

AYES _____ NOES _____ ABSTENTIONS _____ ABSENT _____

Kenny J. Evans, Mayor

ATTEST:

APPROVED AS TO FORM:

Silvia Smith, Town Clerk



Hector M. Figueroa, Town Attorney

Exhibit A

to

Resolution No. 2844

ADOT File No.: IGA/ JPA 13-0000836-I
Amendment No. Two: 15-0005193-I
AG Contract No.: P0012013001617
Project: E. Bonita St. Phase II
Section: Highway 87 to S. Bentley St.
Federal-aid No.: PAY-0(203)T
ADOT Project No.: SZ068 01D 03D
TIP/STIP No.: PAY 13-01D(B)
CFDA No.: 20.205 - Highway Planning
and Construction
Budget Source Item No.: N/A

**AMENDMENT NO. TWO
TO
INTERGOVERNMENTAL AGREEMENT**

BETWEEN
THE STATE OF ARIZONA
AND
TOWN OF PAYSON

THIS AMENDMENT NO. TWO to INTERGOVERNMENTAL AGREEMENT (the "Amendment No. Two"), entered into this date _____, 2015, pursuant to 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 Town and State are collectively referred to as the "Parties."

WHEREAS, the INTERGOVERNMENTAL AGREEMENT, JPA/IGA 13-0000836-I, A.G. Contract No. P0012013001617, was executed on July 05, 2013, (the "Original Agreement") and Amendment No. One 14-0004125 executed on June 2013, 2014 ("Amendment One");

WHEREAS, the State is empowered by Arizona Revised Statutes § 28-401 to enter into this Amendment No. Two and has delegated to the undersigned the authority to execute this Amendment No. Two on behalf of the State;

WHEREAS, the Town is empowered by Arizona Revised Statutes § 9-240 to enter into this Amendment No. Two and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this Amendment No. Two and has authorized the undersigned to execute this Amendment No. Two on behalf of the Town; and

NOW THEREFORE, in consideration of the mutual agreements expressed herein, the purpose of this Amendment No. Two is to add funding for the right-of-way acquisition phase of the Project. The Parties desire to amend the Original Agreement and Amendment One, as follows:

EXHIBIT A
to Resolution No. 2844

I. RECITALS**Section I. Paragraph 7. is revised as follows:**

7. The federal funds will be used for the right-of-way (ROW) acquisition and the scoping/design of the Project. The estimated Project design costs are revised as follows:

SZ068 01D (ADOT Project Management & Design Review (PMDR) Cost):

Federal-aid funds @ 94.3% (federal aid)	\$ 30,000.00
Town's match @ 5.7% (non-federal aid)*	<u>\$ 1,813.00</u>
Subtotal – PMDR	\$ 31,813.00

SZ068 03D (scoping/design):

Federal-aid funds @ 94.3% (capped)	\$ 640,000.00
Town's match @ 5.7%	<u>\$ 38,685.00</u>
Subtotal – Scoping/Design**	\$ 678,685.00

SZ068 01R Right-Of-Way (ROW) Acquisition:

Federal-aid funds @ 94.3% (capped)	\$ 424,464.00
Town's match @ 5.7%	<u>\$ 25,657.00</u>
Subtotal – ROW Acquisition	\$ 450,121.00
TOTAL Estimated Project Cost	\$1,160,619.00
Total Estimated Town Funds*	\$ 66,155.00
Total Federal Funds	\$1,094,464.00

* (Included in the Town Estimated Funds)

Consistent with the Original Agreement and Amendment One, the Town has been invoiced and has paid, to the State, a total of \$48,685.00. The State will invoice the Town for the Town's additional match estimated at \$25,657.00. In addition invoice the Town in increments of \$5,000.00 to cover projected PMDR costs if, during the development of the design, additional funding from the Town is required. Once the Project cost has been finalized, the State will either invoice or reimburse the Town for the difference between the estimated and the actual cost.

II. SCOPE OF WORK**Section II, Paragraph 1.b. is revised and Paragraph 1.h. is added as follows:**

1. The State will:

h. Upon execution of this Agreement, invoice the Town for the Town's share of ROW acquisition costs, estimated at **\$25,657.00** Once the costs have been finalized, the State will either invoice or reimburse the Town for the difference between estimated and actual ROW acquisition costs.

Section II, Paragraph 2.b. is revised and Paragraph 2.j. is added, as follows:

2. The Town will:

j. Within thirty (30) days of receipt of an invoice from the State, pay the ROW acquisition costs, estimated at **\$25,657.00**. Be responsible for any difference between the estimated and actual ROW acquisition costs of the Project.

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

THIS AMENDMENT NO. TWO shall become effective upon signing and dating of the Determination Letter by the State's Attorney General.

IN ACCORDANCE WITH Arizona Revised Statutes § 11-952 (D) attached hereto and incorporated herein is the written determination of each Party's legal counsel and that the Parties are authorized under the laws of this State to enter into this Amendment No. Two and that the Amendment No. Two is in proper form.

IN WITNESS WHEREOF, the Parties have executed this Amendment No. Two the day and year first above written.

TOWN OF PAYSON

STATE OF ARIZONA

Department of Transportation

By _____
KENNY EVANS
Mayor

By _____
STEVE BOSCHEN, P.E.
ITD Division Director

ATTEST:

By _____
SILVIA SMITH
Clerk

ATTORNEY APPROVAL FORM FOR THE TOWN OF PAYSON

I have reviewed the above referenced Amendment No. Two to the Original 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 Arizona Revised Statutes §§ 11-951 through 11-954 and declare this Amendment No. Two 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 Amendment No. Two.

DATED this _____ day of _____, 2015.

Hector M. Figueroa, Town Attorney