City of Benson
City Council Communication

Regular Meeting **January 14, 2013**

To: Mayor and Council Agenda Item # 3

From: Vicki Vivian, CMC, City Clerk

Subject:

Resolution 1-2013 of the Mayor and Council of the City of Benson, Arizona, approving an Intergovernmental Agreement between Cochise County and the City of Benson for Election Supplies and Services

Discussion:

The attached Intergovernmental Agreement (IGA) will contract with Cochise County to provide election supplies and services for the upcoming City elections to be held in March and May of 2013. While most services will be contracted with the County, the ballots will continue to be directly ordered from the printer and the election boards will be appointed by the Council.

There have not been any fee increases since the last IGA for election services which was executed in 2011.

Staff Recommendation:

Approval of Resolution 1-2013

RESOLUTION 1-2013

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF BENSON, ARIZONA, APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN COCHISE COUNTY AND THE CITY OF BENSON FOR ELECTION SUPPLIES AND SERVICES

WHEREAS, A.R.S. §11-952 allows the City of Benson to enter into agreements with other governmental entities regarding joint exercise of powers they hold in common; and

WHEREAS, the City must hold and conduct elections; and

WHEREAS, Cochise County has qualified elections personnel, supplies and equipment available to the City; and

WHEREAS, the City wishes to engage the County to provide its qualified elections personnel, supplies and equipment to the City; and

WHEREAS, the County has drafted an Intergovernmental Agreement, attached hereto as Exhibit "A" and incorporated herein by this reference, pursuant to which the County would provide the City with the County's elections personnel, supplies and equipment, and the City would pay the County's fees for same; and

WHEREAS, the Mayor and Council of the City of Benson have determined that approval of the Intergovernmental Agreement is in the best interests of the City and its residents.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Benson, Arizona, that the City hereby approves the Intergovernmental Agreement between Cochise County and the City of Benson, and the Mayor is hereby directed to execute said Agreement on behalf of the City of Benson.

BE IT FURTHER RESOLVED that the staff of the City is hereby directed to take all actions necessary and proper to implement the Intergovernmental Agreement and further its purposes.

PASSED AND ADOPTED BY THE MAYOR AND COUNCIL OF THE CITY OF BENSON, ARIZONA, this 14th day of January, 2013.

_____
TONEY D. KING, SR., Mayor

ATTEST:

_____
VICKI L. VIVIAN, CMC, City Clerk

APPROVED AS TO FORM:

_____
MICHAEL J. MASSEE, City Attorney

Exhibit “A”
Intergovernmental Agreement between
Cochise County and the City of Benson

INTERGOVERNMENTAL AGREEMENT
FOR ELECTION SUPPLIES AND SERVICES

THIS AGREEMENT is made and entered into this _____ day of _____, 2013, by and between COCHISE COUNTY (COUNTY), a political subdivision of the State of Arizona, and the CITY OF BENSON (CITY), located at 120 W. 6th Street, P.O. Box 2223, Benson, Arizona 85602, for certain election supplies and services;

WHEREAS, it is the mutual desire of the parties to provide citizens in the region with all necessary means and opportunity to participate in elections;

WHEREAS, the COUNTY seeks to assist in the elections process by providing election supplies and services to cities, districts, or other governing bodies within the region;

WHEREAS, the parties have authority to enter into an intergovernmental agreement to provide for election supplies and services pursuant to A.R.S. § 11-952 (Intergovernmental Agreements), A.R.S. § 11-251(41) (County Lease of Personal Property), A.R.S. § 41-2632 (Cooperative Purchasing) and A.R.S. Title 16 (Elections and Electors), the parties agree as follows:

NOW, THEREFORE, in consideration of the mutual covenants, conditions, and obligations herein set forth, the parties agree:

1. COUNTY DUTIES. The COUNTY agrees contingent upon receipt of a timely, specific request as provided in Paragraph 2(C), to provide the following election services:

A. Provide ballots, including when appropriate, addition of candidate names.

B. Administrative services to include the following:
   1. Conduct logic and accuracy tests of programs and equipment
   2. Provide abstract of results of tabulation to include total ballots cast within the jurisdiction; total votes for each candidate, question or proposition.
   3. Provide election equipment and supplies

C. Arrange for consulting services to include the following:
   1. Programming for operation of tabulating equipment
   2. Printing of ballots
   3. Printing precinct register

D. Arrange for election board workers:
   1. Hire qualified election board workers to include precinct and early boards.
   2. Train and supervise election board workers
   3. Pay election board workers.

E.. Prior to or within ten (10) working days after the Cochise County Elections Officer receives notice, pursuant to Paragraph 2(C), that the CITY desires services, provide an estimate of the aggregate cost of the services and supplies.

2. CITY DUTIES. The CITY understands and agrees that:

A. The CITY retains the primary responsibility for insuring that its election is noticed, held and conducted in the manner required by applicable local, state and federal laws and that the COUNTY does not assume responsibility under this agreement for any aspects of this election other than those that are expressly stated in Paragraph 1.

B. For any specific election for which the CITY desires services and supplies pursuant to this Agreement, the CITY shall pay to the County the amounts at the rates set forth on Exhibit A hereto.

C. With respect to any specific election for which the CITY desires services and supplies pursuant to this Agreement, the CITY shall provide written notice to the Cochise County Elections Officer of the need for services or supplies, listing specific services and supplies desired, at least one hundred and twenty (120) days prior to such election. This notice shall be in the form provided in Exhibit B hereto.

D. The CITY shall inform the Cochise County Elections Officer in writing within ten (10) workings days after receiving the COUNTY estimate of the aggregate cost of elections services and supplies of the CITY's acceptance or rejection of the COUNTY'S services and supplies. Acceptance by the CITY shall constitute agreement by the CITY to pay actual costs up to ten percent (10%) over the estimate for the supplies and services provided.

E. If a recount/hand count is necessary, the CITY shall reimburse the COUNTY for administrative costs of conducting a recount at the rate of $500 per contest/questions/proposition.

F. The CITY shall pay the COUNTY in a timely manner or in any event within ninety (90) days of receipt of invoice.

3. TERM. The term of this Agreement shall begin on February 1, 2013 and continue until December 31, 2014 provided that the Agreement shall be effective only when it is executed by all parties.

4. INDEMNIFICATION. To the extent permitted by law, each party to this agreement shall indemnify, defend and hold harmless the other party, its officers, departments, employees and agents from and against any and all suits, actions, legal or administrative proceedings, claims, demands or damages of any kind or nature which results from the act or omission of the indemnifying party, its agents, officers, employees or anyone acting under its direction, control or on its behalf, whether intentional or negligent.

5. CANCELLATION DUE TO CONFLICT OF INTEREST. Pursuant to A.R.S. § 38-511, the provisions of which are incorporated herein by reference, all parties are hereby put on notice that this Agreement is subject to cancellation by the a political subdivision or its departments or agencies if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of such political subdivision is, at any time while the contract is or any extension of the contract is in effect, an

employee or agent of any other party to the contract in any capacity or a consultant to any other party of the contract with respect to the subject matter of the contract.

6. NON-DISCRIMINATION. To the extent required by law, each party to this agreement shall comply with all state and federal equal opportunity and non-discrimination requirements and conditions of employment, including the American with Disabilities Act, in accordance with A.R.S. Title 41, Chapter 9, Article 4, and Executive Order 99-4, which mandates that all persons, regardless of race, color, religion, sex, age, national origin, or political affiliation, shall have equal access to employment opportunities.

7. WORKER'S COMPENSATION. An employee of either party shall be deemed to be an "employee" of both public agencies while performing pursuant to this Agreement, for purposes of A.R.S. § 23-1022 and the Arizona Workers' Compensation laws. The primary employer shall be solely liable for any worker's compensation benefits which may accrue. Each party shall post a notice pursuant to the provisions of A.R.S. § 23-906 in substantially the following form:

> All employees are hereby notified that they may be required to work under the jurisdiction or control or within the jurisdictional boundaries of another public agency pursuant to an intergovernmental agreement or contract, and under such circumstances they are deemed by the laws of Arizona to be employees of both public agencies for the purposes of workers' compensation.

8. NOTICE. All written communications shall be addressed and mailed or personally served upon the parties, as follows:

To: COUNTY
Katie Howard, Clerk
Cochise County Board of Supervisors
1415 Melody Lane, Bldg G
Bisbee, AZ 85603

To: CITY
Vicki L. Vivian, CMC, City Clerk
Benson
PO Box 2223
Benson, AZ 85602

With copy to:
Juanita Murray, Director
Elections/Special Districts
PO Box 223
Bisbee, AZ 85603

9. GOVERNING LAW. This Agreement shall be governed and interpreted by the laws of the State of Arizona.

10. SAVINGS CLAUSE. Should any part of this Agreement be held to be invalid or void, the remainder of the Agreement shall remain in full force and effect with those offending portions omitted.

11. AGREEMENT MODIFICATION. This Agreement may only be modified in writing and must be signed by both parties and their duly authorized agents.

12. BREACH. Failure by the COUNTY and/or CITY to provide the services/ material or to provide the documentation at the time and in the manner described in this Agreement shall constitute a breach of this Agreement.

13. WAIVER OF CONFLICT. The parties to this Agreement are aware that the County Attorney's Offices represents the Cochise County Elections Department, and may or may not also represent other party (for example, Special Districts, including but not limited to Flood, Fire or School Districts) to this agreement in this and other matters. By signing this Agreement each party specifically acknowledges that it is aware of a potential conflict of interest and specifically waives any such claim based upon legal counsels' representation of other parties to this Agreement.

14. ENTIRE AGREEMENT. This Agreement contains the entire understanding of the parties hereto. There are no representations or other provisions other than those contained herein, and any amendment or modification of this Agreement shall be made in writing and signed by the parties to this Agreement.

APPROVED:

COCHISE COUNTY

BY:_____
Michael Ortega
Cochise County Administrator

ATTEST:

BY: _____
Katie Howard, Clerk
Cochise County Board of Supervisors

APPROVED:

CITY OF BENSON

BY: _____
Toney D. King, Sr.
Mayor

ATTEST:

BY:_____
Vicki L. Vivian, CMC, City Clerk

INTERGOVERNMENTAL AGREEMENT DETERMINATION

RE: Intergovernmental Agreement for election services and supplies between Benson and the County of Cochise for Elections held between February 1, 2013 and December 31, 2014.

Pursuant to A.R.S. Section 11-952, this Agreement has been reviewed by the undersigned attorney for Cochise County, who has determined that it is in proper form and is within the powers and authority granted, respectively, to the contracting bodies.

DATED this _____ day of _____, 2013.

Cochise County Attorney

By: _____
David Fifer
County Attorney

Pursuant to A.R.S. Section 11-952, this Agreement has been reviewed by the undersigned attorney for _____, who has determined that it is in proper form and is within the powers and authority granted, respectively, to the contracting bodies.

DATED this _____ day of _____, 2013.

By: _____
Michael J. Massee
City Attorney

EXHIBIT A

COCHISE COUNTY
ELECTIONS/SPECIAL DISTRICTS
FEE SCHEDULE

Pursuant to A.R.S. Sec 11-251.08 and 48-819, following is the proposed fee schedule for services provided to jurisdictions by Cochise County.

Election Services	Rate or Fee	Per
For standard countywide elections		
ADMINISTRATIVE SERVICE FEES	$ 500.00	Election
(These services include consulting or assistance given the entity, any function performed on behalf of the contracting entity, conducting the logic and accuracy test and tabulation of ballots.)		
BALLOT PROGRAMMING	$ 50.00	Issue or Candidate
BALLOT PRINTING - COUNTYWIDE BALLOT	$ 0.42	Ballot
BALLOT PRINTING - SEPARATE BALLOT	Actual cost	
CANCELLATION FEE	$ 250.00	Per Jurisdiction
For consolidated elections		
ADMINISTRATIVE SERVICE FEES	$ 1,400.00	Election
(These services include consulting or assistance given the entity, any function performed on behalf of the contracting entity, conducting the logic and accuracy test and tabulation of ballots.)		
INSTRUCTION OF ELECTION BOARDS	$ 75.00	Class
TRAVEL TO CLASS LOCATION	$ 0.42	Mile
ELECTION MANUAL	$ 5.00	Copy
ELECTION PERSONNEL	$ 12.00	Hour
(Trouble shooters, Office Temps, Delivery, Early and Night Boards)		
VOTING BOOTHS	$ 4.00	Booth
BALLOT BOX AND SUPPLIES	$ 50.00	Box
COUNTING SYSTEM ON SITE (M100 or AutoMARK)	$ 500.00	Each
MEMORY CARD BURNING	$ 50.00	Per Card
PROVISIONAL BALLOT	$ .50	Per Prov
BALLOT PROGRAMMING, LAYOUT, PRINTING, INFORMATIONAL AND PUBLICITY PAMPHLETS	Actual Cost	
POSTAGE		Actual Cost
MAPS	$ 10.00	Each
ELECTION BOARD WORKERS:		
INSPECTOR	$ 125.00	Each
JUDGES/CLERKS/MARSHAL	$ 100.00	
PREMIUM BOARD WORKERS	$ 25.00	Additional Pay
REQUIRED ELECTION CLASS	$ 15.00	
MILEAGE FOR ELECTION WORKERS	$ .42	Mile
POLLING LOCATION RENTALS	Actual Cost	Location
TRUNK RENTAL	Actual Cost	
COPIES	$ 0.30	Each
MAPS	$ 10.00	Each
OTHER SUPPLIES	Actual Cost	

EXHIBIT B

_____ requests the following election services and supplies:

Please mark appropriate services and supplies requested:

SERVICES

Provide ballots _____
Conduct logic and accuracy tests _____
Prepare voting booths _____
Set up polling places _____
Provide abstract of results of tabulation _____(includes total ballots cast, total votes per candidate and total votes per questions/propositions).
Deliver ballots, equipment and supplies _____
Pick up ballots, equipment and supplies _____
Process early ballots _____
Hire, train, oversee and pay election boards _____
Prepare instructions and conduct classes ___
Arrange for programming _____
Arrange for printing early/sample ballots _____
Arrange for printing precinct registers _____
Arrange for printing of signature rosters _____
Programming for operation of tabulating equipment _____

SUPPLIES

Lease voting booths _____
Lease ballot/supply box _____
Disposable supplies _____
Required signs _____
M100 (Precinct Count Ballot Tabulator, 1 per polling location) _____
AutoMark (Voting Accessibility equipment, 1 per polling location) _____

BY: _____ DATE: _____
(Signature and Printed name of Authorized Signatory)