City of Benson
City Council Communication

Regular Meeting **April 22, 2013**

To: Mayor and Council Agenda Item # 7

From: Keith Spangler, Fire Chief

Subject:

Resolution 11-2013 of the Mayor and Council of the City of Benson, Arizona, approving a Mutual Aid Agreement with the Rincon Valley Fire District

Discussion:

This is a Mutual Aid agreement between Rincon Valley Fire District and Benson Fire Department for assistance with Emergency Scene calls for service. We will be able to assist each other with training and other administration and operational tasks.

Staff Recommendation:

Approval of Resolution 11-2013

RESOLUTION 11-2013

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF BENSON, ARIZONA, APPROVING A MUTUAL AID AGREEMENT WITH THE RINCON VALLEY FIRE DISTRICT

WHEREAS, the Rincon Valley Fire District has requested that the City of Benson approve an intergovernmental agreement to coordinate delivery of emergency services between the Benson Fire Department and the Rincon Valley Fire District, otherwise known as a mutual aid agreement; and

WHEREAS, the Fire Chief recommends approving the proposed agreement, attached hereto as Exhibit "A," as being in the best interest of the City of Benson and its residents.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Benson, Arizona, that the Inter-Governmental Agreement to Improve the Coordination and Delivery of Emergency Services between the Benson Fire Department and the Rincon Valley Fire District, attached hereto as Exhibit A, is hereby adopted and approved.

BE IT FURTHER RESOLVED that the City Manager is hereby authorized to execute said Agreement and the Fire Chief and City staff are authorized and directed to follow the procedures of the Agreement when requesting additional resources in the event of a City emergency and as a means to respond to requests for use of Benson's resources from the Rincon Valley Fire District, keeping in mind the City's own needs for these resources.

PASSED AND ADOPTED BY THE MAYOR AND COUNCIL OF THE CITY OF BENSON, ARIZONA, this 22nd day of April, 2013.

_____
TONEY D. KING, Sr., Mayor

ATTEST:

_____
VICKI L. VIVIAN, CMC, City Clerk

APPROVED AS TO FORM:

_____
MICHAEL J. MASSEE, City Attorney

Inter-Governmental Agreement to Improve
The Coordination and Delivery of Emergency Services between
Benson Fire Department and Rincon Valley Fire District

The undersigned parties, Benson Fire Department and Rincon Valley Fire District, wishing to improve the delivery and coordination of emergency services and thereby better carry out their mutual responsibilities, do mutually agree to the following conditions and covenants, as authorized under A.R.S. § 11-952 and A.R.S. § 48-805:

1. Scope of the Agreement

This agreement is entered into between Benson Fire Department and Rincon Valley Fire District, which, through their duly authorized representatives, are signatory to this Agreement, below.

This Agreement shall be effective upon recordation with the Cochise County Recorder and shall remain in effect and shall be subject to automatic renewal on January 1 of each succeeding year unless and until terminated by all of the parties pursuant to terms of Paragraph 2, below.

This Agreement supersedes any and all former Agreements on this subject between the parties to this Agreement, except that any Automatic Aid Agreements that may have been independently previously entered into by any of the parties or hereafter entered into by any of the parties shall remain in effect.

2. Voluntary Termination

a. Notwithstanding provisions of A.R.S. § 38-511, any party may terminate its participation in this Agreement upon giving thirty (30) days' written notice to either participating party to it, with said notice to be recorded with the Cochise County Recorder before becoming effective.

b. This Agreement terminates upon the election of all parties thereto to terminate their participation in it, pursuant to subparagraph a, above,

3. Cancellation for Conflict of Interest

Pursuant to A.R.S. § 38-511, the State, its political subdivisions or any Department or Agency of either may, within three years after its execution, cancel any contract, without penalty or further obligation, made by the State, its political subdivisions, or any of the Departments or Agencies of either if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the State, its political subdivisions or any of the Departments or Agencies of either is, at any time while the contract 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. A cancellation made pursuant to this provision shall be effective when the non-cancelling party receives written notice of the cancellation unless the notice specifies a late time.

4. Requests for Assistance

Any party to this Agreement, through its Fire Chief or other authorized agent, may request assistance from one or more of the other parties to this Agreement if the requesting party makes a determination that there exists an emergency is of such magnitude that the resources of the requesting party are, for any reason, inadequate. The parties shall hereafter develop and adopt formal policies concerning procedures for making and responding to requests and dispatching and redeployment of emergency service units.

5. Response to Request

The Fire Chief or authorized agent of any party to this Agreement who receives a request for assistance under this Agreement from another party thereto shall be the sole judge of the extent of assistance, if any, that said agency will provide. Any party receiving a request for assistance from another party shall not provide such assistance if it is determined that doing so would impair the safety of citizens or property within its own service area. No party shall be liable to any other party for failing to respond to a request for assistance, or for any deficiency in the nature or extent of assistance that is provided.

6. Incident Command

A party which responds to a request for assistance from another party to this Agreement shall work under the direction of the designated Incident Commander of the incident. All parties shall utilize a command structure compliant with requirements of the Federal National Incident Management System. Parties shall make every effort to insure common communications frequencies are utilized. After any incident involving mutual aid, all parties participating in that incident shall make available to each other upon request all reports arising out of such operations.

7. Equipment and Personnel

Each party shall be responsible for providing and maintaining its own equipment and for any and all of its personnel and equipment costs when acting under this Agreement. Each party shall retain ownership of any equipment or property it brings when responding to a request for assistance from another party to this Agreement. No party shall be reimbursed by any other party for any costs incurred pursuant to this Agreement. All parties shall comply with Arizona Workers Compensation Law. For purposes of Workers Compensation under A.R.S. § 23-1022(D), an injured Employee's primary Employer shall be solely responsible for the payment of benefits.

8. Indemnification

To the extent permitted by law, each party to this Agreement agrees (as indemnitor) to indemnify, defend and hold harmless every other party (as indemnitee) from and against any and all claims, losses, liability, costs or expenses (including reasonable attorney's fees) arising out of bodily injury of any person (including death) or property damage, but only to the extent that such claims which result in vicarious or derivative liability to the indemnitee, are caused by the act, omission or negligence, misconduct, or other fault of the indemnitor, its officers, officials, agents, employees or volunteers.

9. Severability

If any provision of the Agreement, or any application thereof to the parties or to any person or circumstances, is held invalid, such invalidity shall not affect other provisions or applications of this Agreement, which may be given effect without the invalid provision or application, and to this end each of the provisions of this Agreement are declared to be severable.

10. Arbitration

The parties to this Agreement agree to resolve all disputes arising out of or relating to this Agreement through arbitration, after exhausting applicable administrative review, to the extent required by A.R.S. § 12-1518, except as may be required by other applicable statutes.

11. Other Contractual Arrangements

Nothing in this Agreement shall limit the ability of any one or more parties to it from entering and/or participating in more specific contracts for services, or mutual or automatic aid with other parties to this Agreement, or from entering and/or participating in other contracts with or providing emergency assistance to any other jurisdiction or government entity which is not a participant to this Agreement.

12. Modification

This written Agreement may not be changed or modified except by an instrument in writing, signed by a duly authorized representative of each of the parties, except as specifically provided otherwise in this Agreement. Any such change or modification becomes effective and binding on the parties only upon recordation of said change or modification with the Cochise County Recorder.

13. ADA and Non-Discrimination

The parties shall comply with all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable Federal regulations under the Act, including 28 CFR Parts 35 and 36. This Agreement is subject to Executive Order 75-5, amended by Executive Order 99-4, incorporated into the Agreement.

APPROVED:

Agency: Benson Fire Department

By:_____

Printed Name:_____

Title: Mayor

APPROVED:

Agency: Rincon Valley Fire District

By:

Printed Name: Kirsten Schlepker

Title: Board Chairperson

Approved as to form pursuant to
A.R.S.§ 11-952(D)

_____
Michael J. Massee
City Attorney

Donna M. Anerson Jan. 2, 2013
Attorney for Rincon Valley Fire District