# City of Benson
# City Council Communication

**Regular Meeting** **May 5, 2014**

To: Mayor and Council Agenda Item # 1

From: Paul F. Moncada
Chief of Police

Subject:

Discussion and possible action on Resolution 9-2014 of the Mayor and Council of the City of Benson, Arizona, approving and authorizing the execution of an amended Intergovernmental Agreement between the City of Benson and the State of Arizona through its Department of Public Safety for the City Police Department to participate the Arizona Vehicle Theft Task Force

Discussion:

On April 14, the Mayor and Council approved an Intergovernmental Agreement (IGA) with the Department of Public Safety to allow the Chief of Police to assign an officer to the Vehicle Theft Task Force. The Attorney General's Office modified the approved IGA with some "housekeeping" updates. The Chief of Police is requesting the Mayor and Council approve the amended IGA.

Changes from the IGA presented and approved by Council are as follows:

IV. Nondiscrimiation – Governor's Executive Order changed from 99-4 to 2009-09
V. Sudan/Iran – This section was removed
VIII. Immigration Compliance – Governor's Executive Order changed from 2005-30 to A.R.S. §§ 23-214 and 41-4401
IX. Termination – mail notification for DPS changed from Major to Daniel Lugo, Captain and for the City was changed Chief and Agency to Paul Moncada, Chief, Benson Police Department, P.O. Box 2287, Benson, AZ 85602

The agreement date was also changed to reflect 2014 and the Agency signature line was updated to include Chief of Police, Paul Moncada's signature.

Staff Recommendation:

Approval of Resolution 9-2014

**RESOLUTION 9-2014**

**A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF BENSON, ARIZONA, APPROVING AND AUTHORIZING THE EXECUTION OF AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF BENSON ("CITY") AND THE STATE OF ARIZONA THROUGH ITS DEPARTMENT OF PUBLIC SAFETY ("DPS") FOR THE CITY POLICE DEPARTMENT TO PARTICIPATE IN THE ARIZONA VEHICLE THEFT TASK FORCE**

WHEREAS, the City believes that it would be in the public interest to enter into an Intergovernmental Agreement with the DPS for the purpose of enhancing law enforcement services concerning the vehicle theft through the cooperative efforts of the City and the DPS; and

WHEREAS, the DPS has developed an Intergovernmental Agreement (the "Agreement"), which is attached hereto as Exhibit "A" and incorporated herein by this reference, to effectuate this purpose; and

WHEREAS, the City and the DPS desire to avail themselves of all provisions of law applicable to the Agreement and desire to jointly exercise their powers as provided for in A.R.S. § 11-951, *et seq*. and A.R.S. § 41-1713(B)(3); and

WHEREAS, the Mayor and Council of the City of Benson have reviewed the terms and conditions of the Agreement and 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 the City of Benson and the State of Arizona through its Department of Public Safety, attached hereto as Exhibit "A", and the Benson Police Chief is hereby directed to execute said Agreement on behalf of the City and City staff is hereby authorized to take all steps necessary and property to carry out its purposes.

PASSED AND ADOPTED BY THE MAYOR AND COUNCIL OF THE CITY OF BENSON, ARIZONA, this 5th day of May, 2014.

_____
TONEY KING, Mayor

ATTEST:

_____
VICKI L. VIVIAN, City Clerk

APPROVED AS TO FORM:

_____
MESCH, CLARK & ROTHSCHILD, PC
By Gary J Cohen, City's Attorney

Exhibit “A”
Intergovernmental Agreement

**DPS CONTRACT NO. _____**

# INTERGOVERNMENTAL AGREEMENT
# REGARDING
# ARIZONA VEHICLE THEFT TASK FORCE

This Intergovernmental Agreement ("IGA") is entered into between the State of Arizona, through its Department of Public Safety, hereinafter referred to as "DPS", and the City of Benson Police Department, hereinafter referred to as "Agency."

The purpose of this Agreement is to enhance law enforcement services concerning vehicle theft through the cooperative efforts of the parties to this Agreement.

DPS is authorized and empowered to enter into this IGA pursuant to A.R.S. § 41-1713 B.3; both parties are authorized and empowered to enter into this IGA pursuant to A.R.S. § 11-952.

Now, in consideration of the mutual promises set forth herein, the parties hereby agree to the following terms and conditions:

## I. Participation

The Agency agrees to assign one (1) P.O.S.T. certified sworn law enforcement officer, herein referred to as "officer", to the Arizona Vehicle Theft Task Force on a full-time basis, for such assignments within the purposes of this contract, as directed by DPS. During this assignment, DPS and the Agency agree to allow the officer to maintain all benefits, rights and privileges available to the officer as if the officer were assigned on a full-time basis to the Agency. The officer must abide by all of the applicable rules and regulations of the Agency and is subject to the Agency's disciplinary process. In the event the officer is involved in a critical incident, as defined by DPS policy, the Agency agrees to cooperate with, and participate in, any investigation and/or critical incident review conducted by DPS for the purpose of evaluating the policies and procedures utilized by the Task Force.

## II. Reimbursement

DPS agrees to reimburse the Agency on a quarterly basis, for 75% of the salary of the assigned police officer and 100% of pre-authorized Task Force related overtime hours per month (depending upon funding by the Arizona Automobile Theft Authority), based on DPS weekly time accounting summary. The Agency agrees to provide to DPS the following information: the officer's annual and hourly rate of pay, the officer's hourly overtime rate of pay and associated ERE (employee related expenses) costs. DPS is not obligated to reimburse the Agency for salary raises or modifications to base salaries unless the Agency notifies DPS at least ninety (90) calendar days prior to the effective date of such modification. All approved travel expenses will be reimbursed directly to the officer by DPS under the employee travel reimbursement guidelines established by the Arizona Department of Administration. DPS shall assign and maintain a vehicle which will be provided in accordance with DPS vehicle policy to the Agency officer assigned to the Task Force. The maintenance and use of the DPS vehicle will be in conformance and compliance with all DPS rules and regulations.

## III. Availability of Funds

Every payment obligation of DPS under this agreement is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of the agreement, the agreement may be terminated by DPS at the end of the period for which funds are available. No liability shall accrue to DPS in the event this provision is exercised, and DPS shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

## IV. Nondiscrimination

All parties agree to comply with the non-discrimination provisions of the Governor's Executive Order 2009-09.

## V. Indemnification

Each party (as 'indemnitor') agrees to indemnify, defend, and hold harmless the other party from and against any and all claims, losses, liability, costs, or expenses, including reasonable attorney's fees, arising out of the bodily injury of any person or property damage, but only to the extent that such claims are caused by the act, omission, negligence, misconduct, or other fault of the indemnitor, its officers, agents, or employees.

## VI. Drug Free Workplace

Any officer assigned to the task force will be subject to random and/or for cause drug and alcohol testing in accordance with the Agency's guidelines and the DPS Drug Free Workplace Program guidelines. Each assigned officer shall be subject to the responsibilities of and shall retain all rights as provided for in the DPS Drug Free Workplace Program Manual, DPS Form Number DPS 932-02056. DPS shall not charge any fee or cost to the Agency for any assigned officer who undergoes testing. Officer may be removed from the task force for failure to comply with the Agency's guidelines/drug screening requirement or for his/her failure to comply with DPS program/drug screening requirements.

## VII. Immigration Compliance

All parties agree to comply with all applicable federal immigration laws and regulations of the Governor's Executive Order A.R.S. §§ 23-214 and 41-4401.

## VIII. Termination

Either party may terminate this Agreement for convenience or cause with thirty (30) calendar days written notice to the other party. Upon termination, DPS shall pay the Agency all outstanding amounts up through the time at which the termination becomes effective. All property shall be returned to the owning party upon termination.

Any notice required to be given under this Agreement will be provided by mail to:

Daniel Lugo, Captain
Arizona Department of Public Safety
P. O. Box 6638
Phoenix, Arizona 85005

Paul Moncada, Chief
Benson Police Department
P. O. Box 2287
Benson, AZ 85602

## IX. Cancellation

All parties are hereby put on notice that this contract is subject to cancellation for conflicts of interest, pursuant to A.R.S. § 38-511.

## X. Recordkeeping

All records regarding this Agreement, including officer's time accounting logs, must be retained for five (5) years after completion of this Agreement, in compliance with A.R.S. § 35-214.

## XI. Fees

Neither party may charge the other for any administrative fees for work performed pursuant to this Agreement.

## XII. Jurisdiction

DPS gives prior consent to extend law enforcement authority of the participating Agency to the jurisdiction of DPS, pursuant to A.R.S. § 13-3871. The Agency agrees to permit their officer to work outside of their regular jurisdictional boundaries, as any peace officer can in the State of Arizona.

## XIII. Limitations

This agreement does not relieve either agency of its official duties and shall not be construed as limiting or expanding the statutory responsibilities of the parties.

## XIV. Arbitration

In the event of a dispute under this IGA, the parties agree to use arbitration to the extent required under A.R.S. §§ 12-1518 and 12-133.

## XV. Effective Date/Duration

This Agreement shall become effective upon the execution of two (2) originals by the parties. This Agreement shall be for a term of one (1) year after the Agreement becomes effective, but shall automatically renew itself on July 1st of each year if DPS sends out a written notice of funding availability to the Agency within thirty (30) calendar days prior to the end of each year. All prior agreements regarding the task force are canceled as of the effective date of this agreement.

## XVI. Worker's Compensation Benefits

Pursuant to A.R.S. § 23-1022 D, for the purposes of worker's compensation coverage, all employees covered by this Agreement shall be deemed to be an employee of both agencies. The primary employer shall be solely liable for payment of worker's compensation benefits.

IN WITNESS WHEREOF, THE PARTIES HEREBY subscribe their names this _____ day of _____, 2014.

State of Arizona

By: _____
Robert C. Halliday, Director
Arizona Department of Public Safety

Date: _____

Approved as to Form:

_____
Assistant Attorney General

_____
Date

Agency

By: _____
Paul Moncada, Chief
Benson Police Department

Date: _____

Approved as to Form:

_____

_____
Date