City of Benson
City Council Communication

Regular Meeting **August 24, 2015**

To: Mayor and Council Agenda Item # 5

From: Bradley J. Hamilton, P.E. Director of Public Works/City Engineer

Subject:

Discussion and possible action regarding the Intergovernmental Agreement with Cochise County relating to Building Code Inspection and Plan Review

Discussion:

This intergovernmental agreement (IGA) was proposed by Cochise County Community Development to assist the City of Benson. The proposed IGA allows the City to call upon County resources for Building Code Inspection and Plan Review as development occurs within the Benson City limits.

Please note that this service can not start until the current City building codes are updated to the same adopted building codes of Cochise County.

Staff Recommendation:

Approval of the Intergovernmental Agreement with Cochise County relating to Building Code Inspection and Plan Review

INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF BENSON AND THE COUNTY OF COCHISE FOR BUILDING CODE INSPECTION AND PLAN REVIEW

This Agreement is made and entered into this ____ day of _____, 2015, by and between the City of Benson, a municipal corporation of the State of Arizona, hereinafter referred to as "the City," and the County of Cochise, a political subdivision of the State of Arizona, hereinafter referred to as "the County," pursuant to the authority of A.R.S § 11-952, et seq.

WHEREAS, the City is authorized to adopt and enforce building, electrical, mechanical and other similar health and safety codes pursuant to A.R.S. § 9-801 and the City Code; and

WHEREAS, the City has implemented certain uniform building and safety codes within the City of Benson; and

WHEREAS, the County has similar authorization to adopt and enforce building codes within the unincorporated areas of the County, pursuant to A.R.S. § 11-861, et seq., and the County has implemented a regulatory system for the enforcement of these codes within certain areas of the County's jurisdiction; and

WHEREAS, at certain times, due to the limited staff which the City has available for this work, the City is in need of assistance to provide building inspection and plan review services within the City of Benson; and

WHEREAS, pursuant to A.R.S. §§ 11-863 and 11-952, the County and the City are authorized to enter into agreements such as this for the joint exercise of authority common to the parties and for the performance of services for each party; and

WHEREAS, the County has the resources available to assist the City in the performance of certain building inspections and plan review under the terms and conditions of this Agreement,

IT IS HEREBY AGREED THAT:

1. The County agrees to provide, subject to the availability of its resources and upon the request of the City, building and inspection and plan review services for the City of Benson, to be performed by qualified County personnel.

The services to be provided by the County shall be limited to building inspections based on plans approved by the City Plans Examiner. Plan review services and technical assistance will be provided when the City Plans Examination staff is unavailable or if requested in writing. The City shall provide building code books and local amendments for the use of County Plans Examiners when requested to determine compliance with the

duly enacted City building and safety codes, as currently in effect, or as these may be amended from time to time.

This Agreement shall not obligate or authorize the County personnel to take any regulatory action, in either an administrative or judicial forum, to enforce compliance with any such City code. The City shall retain the full responsibility for all such enforcement actions.

2. The City shall agree to monthly billings for any inspection, plan review services or technical assistance conducted by County personnel at the rate of Sixty ($60.00) per hour with a one hour minimum including travel time to and from an inspection. Travel distance will be measured from the Melody Lane County Buildings to the inspection site. Mileage will be paid based on the current federal government travel rate. The City will make all such payments within thirty (30) days of the receipt of an itemized bill for authorized services.

3. This Agreement shall become effective following its approval by both parties. It shall remain in effect through June 30, 2016. Thereafter, this Agreement shall automatically be renewed for successive one-year terms, unless the Agreement is terminated earlier as provided in this Agreement.

4. This Agreement may be terminated, with or without cause, by either party upon written notification of intent to terminate, provided not less than sixty (60) days prior to the effective date of such termination. This Agreement shall also be subject to termination pursuant to the provisions of A.R.S. § 38-511, which provides for termination of a contract in the event of certain conflicts of interest.

5. 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.

6. To the fullest extent allowed by law, the City shall defend, hold harmless, and indemnify the County, its officers, agents and employees, from all claims, demands, suits, damages and loss ("claims") which result from the negligence or intentional torts of the City, its agents, officers and employees, in the performance of this Agreement, but only to the extent that such claims arise from such negligence or intentional torts. To the fullest extent allowed by law, the County shall defend, hold harmless, and indemnify the City, its officers, agents and employees, from all claims, demands, suits, damages and

loss ("claims") which result from the negligence or intentional torts of the County, its agents officers and employees, in the performance of this Agreement, but only to the extent that such claims arise from such negligence or intentional torts. The extent of the foregoing liabilities shall be limited to and determined by the respective fault of the parties, their officers, agents and employees, in comparison with others (including, but not limited to, the other party) who may have contributed to or in part caused any such claim to arise.

7. This Agreement shall be governed by the laws of the State of Arizona. The parties hereby agree that the venue for the resolution of any dispute under this Agreement shall be and shall remain in Cochise County.

APPROVED BY THE BOARD OF SUPERVISORS OF COCHISE COUNTY, ARIZONA ,

this ____ day of _____, 2015.

ATTEST:	**COCHISE COUNTY BOARD OF SUPERVISORS**
_____	_____
Arlethe G. Rios Clerk of the Board	Patrick Call Chair of the Board

APPROVED BY MAYOR AND COUNCIL OF THE CITY OF BENSON, ARIZONA,

this ____ day of _____, 2015.

ATTEST:	**CITY OF BENSON**
_____	_____
Vicki L. Vivian, CMC City Clerk	Toney D. King, Sr. Mayor

ATTORNEY CERTIFICATION

The attached agreement, which is an agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952 by the undersigned Deputy County Attorney who has determined that it is in proper form and is within the powers and authority granted under the laws of the State of Arizona to Cochise County.

APPROVED AS TO FORM this 10th day of June, 2015.

COCHISE COUNTY ATTORNEY

By: Britt Hanson
Britt Hanson, Chief Civil Deputy
Cochise County Attorney

In accordance with A.R.S. § 11-952, this agreement has been reviewed by the undersigned who has determined that this agreement is in appropriate form and within the powers and authority granted to the City of Benson, State of Arizona.

APPROVED AS TO FORM this _____ day of _____, 2015.

CITY OF BENSON

By:_____
Mesch, Clark & Rothschild, P.C.,
City Attorney