City of Benson
City Council Communication

Regular Meeting **August 24, 2015**

To: Mayor and Council Agenda Item # 4

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 Planning and Zoning, Subdivision Development and Long Range Planning Services

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 planning-related activities as development occurs within the Benson City limits. Planning-related activities are limited to review of the various planning applications for conformance with Benson's adopted regulations, including Zoning Regulations, Subdivision Regulations and the General Plan. This review would not supersede any action or discussion by the local governing bodies, specifically the Planning & Zoning Commission and the Benson City Council.

Please note that Cochise County already receives information on proposed developments for comment. If used, this IGA is in addition to the formal invitation to comment.

Staff Recommendation:

Approval of the Intergovernmental Agreement with Cochise County relating to Planning and Zoning, Subdivision Development and Long Range Planning Services

INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF BENSON AND THE COUNTY OF COCHISE FOR PLANNING AND ZONING, SUBDIVISION DEVELOPMENT, AND LONG RANGE PLANNING SERVICES

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 establish a planning agency with the powers necessary to enable it to administer and enforce its planning functions pursuant to A.R.S. § 9-461; and

WHEREAS, the City's planning agency has adopted Zoning Regulations, Subdivision Development Guidelines and the City of Benson General Development Plan for long range planning; and

WHEREAS, the County has similar authorization to adopt Zoning Regulations, Subdivision Regulations and a Comprehensive Plan for long range planning within the unincorporated areas of the County, pursuant to A.R.S. §§ 11-804, 11-807, 11-811, and 11-821; 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 for the development and administration of zoning regulation, subdivision regulation, and long range planning services within the City of Benson; and

WHEREAS, pursuant to A.R.S. §§ 9.461, 11-803 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 planning and zoning, subdivision development and long range planning services under the terms and conditions of the 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, planning and zoning, subdivision development and long range planning 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 review of use applications, subdivision tentative and final plats, rezoning applications and specific plans for conformance with the City of Benson Zoning Code, the City of Benson Subdivision Development Guidelines and the City of Benson General Plan. Planning and Zoning services will be provided when the City planning staff is unavailable or if requested in writing. The City shall provide the County

with the City of Benson Zoning Code, the City of Benson Subdivision Development Guidelines and the City of Benson General Plan for use of County planners when requested in order that County staff can determine conformance with the duly adopted Benson Zoning Code, Subdivision Development Guidelines and Benson General Plan, as currently in effect, or as amended from time to time.

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

2. The City shall agree to monthly billings for any planning and zoning services or assistance conducted by County personnel at the rate of seventy five dollars ($75.00) per hour with a one hour minimum including travel time to and from any location that is deemed necessary by County employees to fulfill the services in this Agreement. Travel distance will be measured from 1415 Melody Lane, Bisbee, the County buildings, to the site where the services are rendered. Mileage will be paid based upon 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 for a term of one year following approval. 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 the 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 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 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 _____day of _____,2015.

COCHISE COUNTY ATTORNEY

By: _____
Britt Hanson
Civil Deputy 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 proper 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