City of Benson
City Council Communication

Regular Meeting **January 25, 2016**

To: Mayor and Council Agenda Item # 6

From: Paul F. Moncada, Chief of Police
Keith Spangler, Fire Chief

Subject:

Discussion and possible action regarding Resolution 5-2016 of the Mayor and Council of the City of Benson, Arizona, approving a Mutual Aid Agreement with a number of Cochise County based Fire Districts, Fire Departments, Fire and Rescue Agencies, Law Enforcement Agencies, and Public Works Departments

Discussion:

This is a Mutual Aid Agreement between all Fire Districts and Municipalities in Cochise County, which enables each agency to call upon the other agencies for assistance in case an emergency arises where additional resources may be needed. It does not require any agency to respond if they do not have the resources to spare. There is no initial cost to participate.

Staff Recommendation:

Approval of Resolution 5-2016

RESOLUTION 5-2016

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF BENSON, ARIZONA, APPROVING A MUTUAL AID AGREEMENT WITH A NUMBER OF COCHISE COUNTY BASED FIRE DISTRICTS, FIRE DEPARTMENTS, FIRE AND RESCUE AGENCIES, LAW ENFORCEMENT AGENCIES, AND PUBLIC WORKS DEPARTMENTS

WHEREAS, the City of Benson wants to ensure sufficient resources in the event of an emergency of such magnitude that its resources are inadequate; and

WHEREAS, the above can be accomplished by entering into a mutual aid agreement with other Cochise County fire districts, fire departments, fire and rescue agencies, law enforcement agencies, and public works departments.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Benson as follows:

1. The "Cochise County Public Safety Mutual Aid Agreement" attached hereto as Exhibit A, is hereby approved and adopted.

2. The City Manager is hereby authorized to execute the above-titled Agreement on behalf of the City of Benson.

3. City Staff are directed to take such necessary and reasonable actions to put into effect the terms and conditions of the above-titled Agreement.

PASSED AND ADOPTED BY THE MAYOR AND COUNCIL OF THE CITY OF BENSON, ARIZONA, this 25th day of January, 2016.

_____
TONEY D. KING SR., Mayor

ATTEST:

_____
VICKI L. VIVIAN, CMC, City Clerk

APPROVED AS TO FORM:

_____
MESCH, CLARK & ROTHSCHILD
By GARY J. COHEN
City's Attorney

Cochise County Public Safety Mutual Aid Agreement

The undersigned parties, both governmental and other public-safety agencies, each conducting business in Cochise County, and wishing to improve the delivery and coordination of emergency services within the County, and thereby better carry out their mutual responsibilities, do mutually agree to the following conditions and covenants, including pursuant to A.R.S. § 11-952, 48-805, and all other empowering statutes, as applicable:

l. Scope of the Agreement

This agreement is entered into between the undersigned Cochise County-based fire districts, fire departments, fire and rescue agencies, law enforcement agencies, and public works departments 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, for a period of five (5) years 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 the provisions of A.R.S. § 38-511, any party may terminate its participation in this Agreement upon giving thirty (30) days' written notice to all other then-currently participating parties 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 part y 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 chief operations officer 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 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 chief operations officer 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; however, any expenses recoverable from third parties shall be equitably distributed among responding parties. Nothing herein shall operate to bar any recovery of funds from any state or federal agency under any existing statutes. 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. Each party shall procure and maintain insurance coverage including comprehensive liability, personal injury, property damage, vehicle and general liability.

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 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 this 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 AR .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. Counsel Conflict of Interest

Those County agencies, including fire districts and fire departments in unincorporated county communities, who are parties to this Agreement understand that the Cochise County Attorney represents all County agencies in the county and the parties hereby waive any claim of conflict of interest with respect to said joint representation.

14. ADA and Non-Discrimination

The parties shall comply with all anti-discrimination laws, both state and federal, including 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 this Agreement.

COUNTERPART SIGNATURE PAGE
TO THE
COCHISE COUNTY PUBLIC SAFETY MUTUAL AID AGREEMENT

This Counterpart Signature Page is and forms a part of the Participating Agencies of the Cochise County Public Safety Mutual Aid Agreement. The undersigned adopts and agrees to the terms of the Agreement.

APPROVED: (Agency) _____

Date: _____

Signature: _____

Printed Name: _____

Title: _____

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

_____
AGENCY ATTORNEY SIGNATURE

_____
(Printed Name)

2015 Cochise County Mutual Aid Agreement

Jurisdiction	Date Signed
Babocomar FD	?
Benson, City of	soon
Bisbee, City of	10/21/15
Bowie FD	09/10/15
Cascabel FD	
Chirichaua Trails FD	09/25/15
Cochise County	10/20/15
Douglas, City of	10/16/15
Elfrida FD	soon
Fry FD	09/16/15
Ft. Huachuca FD	?
Huachuca City	09/10/15
Mescal-J6 FD	09/08/15
Naco FD	soon
Palominas FD	10/21/15
Pirtlville FD	soon
Pomerene FD	?
Portal FD	09/15/15
San Jose FD	10/07/15
San Simon FD	
Sierra Vista, City of	10/22/15
Sonoita-Elgin FD	09/28/15
St. David FD	soon
Sundance FD	09/24/15
Sunnyside FD	09/25/15
Sunsites Pearce FD	soon
Tombstone, City of	09/08/15
Whetstone FD	soon
Willcox Rural FD	10/13/15
Willcox, City of	09/17/15