

RESOLUTION 21-2009

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 COCHISE COUNTY ("COUNTY") TO DEFINE THE EMPLOYMENT RELATIONSHIPS BETWEEN CITY AND COUNTY, FOR THE PURPOSE OF WORKERS' COMPENSATION, WHEN PARTICIPATING IN JOINT ACTIVITIES.

WHEREAS, the City believes that it would be in the public interest to enter into an Intergovernmental Agreement with County for the purpose of defining the employment relationships between City and County, for the purpose of Workers' Compensation, when participating in joint operations or activities when in the jurisdiction of one another; and

WHEREAS, the staffs of the City and County have 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 County 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

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 Agreement is in the best interests of the City and its residents.

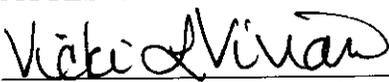
NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of Benson, that the City hereby approves the Intergovernmental Agreement between the City of Benson and Cochise County, attached hereto as Exhibit "A," and the Mayor is hereby directed to execute said Agreement on behalf of the City and City staff is hereby authorized to take all steps necessary and proper to carry out its purposes.

PASSED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF BENSON, ARIZONA, this 9th day of March, 2009.



MARK M. FENN, Mayor

ATTEST:



VICKI L. VIVIAN, City Clerk

APPROVED AS TO FORM:



THOMAS A. BENAVIDEZ, City Attorney

Exhibit "A"
Intergovernmental Agreement

**INTERGOVERNMENTAL AGREEMENT
REGARDING WORKERS' COMPENSATION
IN JOINT ACTIVITIES**

WHEREAS, the Parties (as defined in Section IV below) hereby enter into this Agreement in order to define for the purposes of Workers' Compensation the nature of the relationship between themselves as employers when employees of one Party are participating in intergovernmental operations or activities within the jurisdiction of another Party or in cooperation with the employees of another Party; and

WHEREAS, the Parties are authorized to enter into this Agreement pursuant to A.R.S. § 11-951 et seq.; and

WHEREAS, participation in this Agreement has been approved by appropriate action of the governing body of each Party,

NOW, THEREFORE, the Parties agree as follows:

I. PURPOSE

- A. The purpose of this Agreement is to define, for the purposes of Workers' Compensation in the State of Arizona and in accordance with A.R.S § 23-1022(D), the employment relationship that exists between the Parties as employers when the employees of one Party are participating in intergovernmental operations or activities within the jurisdiction of another Party or in cooperation with the employees of another Party. Such operations or activities may be general activities, law enforcement specific activities or public works specific activities as described below.
1. General activities include, but are not limited to, traveling while on official business, providing and/or attending training, membership on joint committees, providing mutual aid in governmental services, or any other non-specific activity that involves employees from two or more Parties.
 2. Law enforcement specific activities include, but are not limited to, participating in criminal or administrative investigations, providing back-up assistance in daily operations, providing assistance in pursuits, participating in patrol and detention academies and follow-on training, participation in task forces and/or tactical teams, travel while on official business, transportation of arrestees and/or inmates, providing any type of mutual law enforcement assistance, or any other activity that requires a coordinated law enforcement effort by two or more Parties, to include any and all patrol and detention operations.

3. Public works specific activities include, but are not limited to, any type of joint roadway maintenance operation, participation in training, travel while on official business, providing any type of mutual public works assistance, or any other activity that requires a coordinated public works effort by two or more Parties.
- B. This Agreement works in tandem with, and does not supplant, any existing intergovernmental agreement(s) that may be in effect between any two or more of the Parties. In the absence of another agreement, or in the absence of a Workers' Compensation provision in the other agreement, the provisions of this Agreement shall apply.

II. WORKERS' COMPENSATION LIABILITY

- A. For the purposes of Workers' Compensation, an employee of a Party to this Agreement, who works under the jurisdiction or control of, or who works within the jurisdictional boundaries of, another Party pursuant to this Agreement or to another specific intergovernmental agreement having no Workers' Compensation provision, is deemed to be an employee of both the Party who is the employee's primary employer and the Party under whose jurisdiction or control or within whose jurisdictional boundaries the employee is then working, as provided in A.R.S. § 23-1022(D).
1. The primary employer Party of such employee shall be solely liable for the payment of Worker's Compensation benefits payable as the result of the employee's participation in such activity.
 2. Each Party to this Agreement shall comply with the provisions of A.R.S. § 23-1022(E) by posting the required public notice.
- B. The employees of each Party to this Agreement shall remain under the ultimate control of said Party notwithstanding their participation in intergovernmental operations or activities. Employees of a Party participating in intergovernmental operations or activities are not considered employees of any other Party for any purpose except as described in paragraph II.A above. Each Party shall remain responsible for its employees' salaries and employee-related benefits, discipline and similar matters and shall be solely responsible for its employee's civil wrongs, and each employee shall be deemed to be performing regular duties for the primary employer Party while engaged in intergovernmental activities.

III. RECORDS RETENTION

The Parties agree to comply with the records retention requirements of A.R.S. § 35-214 as applicable.

IV. PARTIES

- A.** As used herein, the terms "Party" and "Parties" refer to those public agencies (as defined in A.R.S. § 11-951) which have evidenced their intention to be bound by the terms and conditions of this Agreement by the duly authorized execution of a "Signature Page" in the form attached hereto. Signature Pages may be executed in counterpart, and additional Parties may be added from time to time by the execution of Signature Pages without the consent or approval of the other Parties.
- B.** The original of this Agreement and all Signature Pages shall be maintained by the Arizona Counties Insurance Pool, 1905 W. Washington, Suite 200 Phoenix, AZ 85009, which shall provide periodic updates to the Parties as new Parties are added.

V. DURATION

- A.** This Agreement becomes effective when executed by two or more Parties. As to each Party, this Agreement becomes effective when said Party executes and delivers to the Arizona Counties Insurance Pool a Signature Page as described in paragraph IV.A above. It shall remain in effect as to said Party unless and until said Party notifies the Arizona Counties Insurance Pool in writing of its intent to withdraw from participation, or until a majority of the Parties agree in writing to terminate this Agreement.
- B.** Any amendment to this Agreement shall be in writing and executed by all Parties.
- C.** This Agreement is subject to cancellation pursuant to A.R.S. § 38-511, the terms of which are hereby incorporated by reference.
- D.** If any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions shall continue to be valid and enforceable to the full extent permitted by law.

SIGNATURE PAGE

IN WITNESS WHEREOF, the undersigned Parties agree to be bound by the terms and conditions of the foregoing Intergovernmental Agreement Regarding Workers' Compensation In Joint Activities. Each Party warrants that each individual executing this Agreement on its behalf has been duly authorized to do so by resolution or other appropriate action of its governing body and that, when so executed, this Agreement shall constitute a valid and binding obligation of said Party. Each Party further warrants that this Agreement has been reviewed by its legal counsel and has been determined to be in proper form and within the scope and authority of the Party.



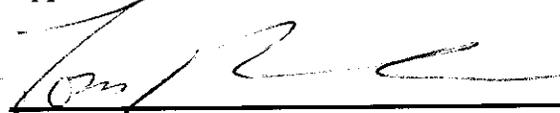
Party

Signature of Authorized Signatory

Mark M. Fenn, Mayor, City of Benson
Title

3-24-09
Date

Approved as to form and authority:



Attorney for Party

3-23-09
Date

NOTICE TO EMPLOYEES

In accordance with ARS § 23-1022(E), all employees are hereby notified that they may be required to work under the jurisdiction or control of 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.