

RESOLUTION NO. 6-2000

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF BENSON, ARIZONA, APPROVING THE AMENDMENT OF THAT CERTAIN LEASE AGREEMENT MADE BETWEEN THE CITY AND THE CITY OF BENSON MUNICIPAL PROPERTY CORPORATION INCREASING THE LEASE TERM TO THIRTY (30) YEARS AND ADJUSTING THE MONTHLY LEASE PAYMENT.

WHEREAS, the City has previously entered into a Lease with City of Benson Municipal Property Corporation, an Arizona non-profit corporation, said lease being dated January 15, 1999 and recorded in the Office of the County Recorder of Cochise County, Arizona, on June 15, 1999 at Fee No. 990618872, whereby the City leased from City of Benson Municipal Property Corporation certain real property to be used for construction of a wastewater treatment facility and the term of said lease was to be twenty (20) years at a monthly rental rate of not less than \$31,994.00; and,

WHEREAS, the parties to the lease now desire to extend the lease term and adjust the monthly lease payment so as to accommodate the construction bids received for the intended project; and,

WHEREAS, the proposed amendment is in the best interest of the City.

BE IT NOW HEREBY RESOLVED that the above described lease between the City of Benson and the City of Benson Municipal Property Corporation be amended as to those paragraphs of the original lease numbered "2" and "3" and that the original provisions numbered "2" and "3" of the original lease be of no further force or effect and henceforth the subject lease shall be amended to read as follows:

2. TERM - OWNER CBMPC, AGREES TO LEASE THE PROPERTY TO BENSON FOR A TERM OF THIRTY (30) YEARS, COMMENCING ON THE THIRD DAY OF JUNE, 1999, AND TERMINATING ON THE 30TH DAY OF THE MONTH 360 MONTHS THEREAFTER.

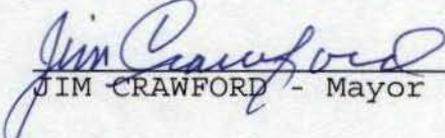
3. LEASE PAYMENT - IN CONSIDERATION OF THE RIGHTS AND PRIVILEGES GRANTED BY THIS LEASE, BENSON AGREES TO PAY TO CBMPC DURING THE TERM OF THIS LEASE, A MONTHLY RENTAL RATE OF TWENTY-NINE THOUSAND THREE HUNDRED AND SEVEN AND NO/100 DOLLARS (\$29,307.00), SAID MONTHLY LEASE PAYMENT BEING EQUAL TO THE LOAN REPAYMENT OBLIGATION ESTABLISHED BY THE UNITED STATES DEPARTMENT OF AGRICULTURE, RURAL DEVELOPMENT, FOR TIMELY REPAYMENT OF THE INDEBTEDNESS INCURRED FOR CONSTRUCTION OF THE WASTEWATER TREATMENT PLANT MENTIONED HEREINABOVE (IN THE ORIGINAL LEASE AGREEMENT). ALL RENTAL PAYMENTS DUE CBMPC SHALL BE REMITTED TO CITY OF BENSON MUNICIPAL PROPERTY CORPORATION AT ITS OFFICE LOCATED AT 160 S. HUACHUCA STREET, BENSON, ARIZONA 85602, AND SHALL BE DUE ON OR BEFORE THE FIRST

DAY OF EACH MONTH DURING THE LEASE TERM, WITH THE FULL PAYMENT BEING DUE ON THE FIRST DAY OF THE NEXT MONTH FOLLOWING EXECUTION OF THIS AGREEMENT, EXCEPT THAT NO LEASE PAYMENT SHALL BE DUE OR PAYABLE UNTIL SUCH TIME AS THERE IS A LOAN REPAYMENT INSTALLMENT DUE FROM CBMPC TO RURAL DEVELOPMENT, IT BEING UNDERSTOOD THAT THERE WILL BE A SIGNIFICANT TIME LAPSE BETWEEN THE EXECUTION OF THIS LEASE AGREEMENT AND THE DATE THE FIRST LOAN REPAYMENT INSTALLMENT WILL BECOME DUE AND PAYABLE. LEASE PAYMENTS NOT REMITTED BY THE 15TH DAY OF THE MONTH WHEN DUE, SHALL BE SUBJECT TO A LATE PAYMENT PENALTY OF TWO HUNDRED DOLLARS (\$200.00) AND SAID LATE PAYMENT PENALTY SHALL BE REMITTED WITH THE LEASE PAYMENT.

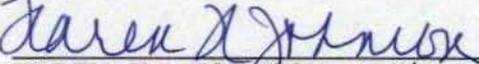
SAID LEASE AMENDMENT SHALL FURTHER PROVIDE ... "EXCEPT AS HEREIN PROVIDED, THE ORIGINAL LEASE AGREEMENT BETWEEN THE PARTIES DATED JANUARY 15, 1999, AND MORE SPECIFICALLY DESCRIBED ABOVE, SHALL REMAIN IN FULL FORCE AND EFFECT EXCEPT AS HEREIN SET FORTH".

BE IT FURTHER RESOLVED that the Mayor of the City of Benson be hereby authorized to execute any documents necessary, convenient or appropriate to implementing the lease amendment herein above described.

PASSED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF BENSON, ARIZONA, this 12th day of April, 2000.

  
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JIM CRAWFORD - Mayor

ATTEST:

  
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KAREN H. JOHNSON - City Clerk

APPROVED AS TO FORM:

  
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MARK E. BATTAGLIA - City Attorney