City of Benson
City Council Communication

Regular Meeting May 22, 2017

To: Mayor and Council Agenda Item # 3

From: William D. Stephens, City Manager

Subject:

Discussion and possible action regarding a contract for Prosecutorial Services between Ann P. Roberts and the City of Benson

Discussion:

The City Prosecutor's contract is set to expire June 30, 2017. This contract is being brought before you at this time to better fit with the budget process. Ms. Roberts has indicated she is willing and able to continue providing prosecutorial services to the City of Benson under the same terms.

The contract before you is the same except with the date changes. The contract amount now reflects a 3% COLA, as given to other City employees, in FY17. This contract supersedes the April 13, 2015 contract and will be effective July 1, 2017.

Staff Recommendation:

Approval of the contract for Prosecutorial Services between Ann P. Roberts and the City of Benson

CONTRACT FOR PROSECUTORIAL SERVICES

City of Benson, Arizona

This Contract is entered into this 22nd day of May, 2017, and becomes effective on the 1st day of July, 2017, under the following terms and conditions, by and between **THE CITY OF BENSON**, an Arizona body politic, hereinafter referred to as **"CITY"** and **ANN P. ROBERTS**, an attorney licensed to practice law in the State of Arizona, hereinafter referred to as **"ROBERTS"**.

WHEREAS, the **CITY** has entered into an agreement with **COCHISE COUNTY** to consolidate the City Magistrate Court and the Justice of the Peace Court for Precinct No. III, located at 126 W. 5th Street, Suite 1, Benson, Arizona;

WHEREAS, the terms of the Court Consolidation Agreement executed between the City of Benson and Cochise County effective July 1, 2004, require the **CITY** to provide all prosecutorial services for the Justice of the Peace for Precinct No. III;

WHEREAS, **CITY** requires certain prosecutorial services on a continuing basis and ROBERTS is willing and licensed by the State of Arizona to provide the necessary prosecuting services in the consolidated City Municipal Court and County Justice of the Peace Court Precinct No. III.

THEREFORE, FOR THE CONSIDERATION SET FORTH HEREIN, IT IS HEREBY MUTUALLY AGREED AS FOLLOWS:

1. The terms of this Contract establish the agreement under which **ROBERTS** will be available to the **CITY** for up to twenty (20) hours a week to provide prosecutorial legal services to the **CITY** in accordance with the mutually agreed upon **Scope of Services as shown on Exhibit "A"**, attached hereto and by reference incorporated herein.

2. **ROBERTS** shall be reappointed to the position of City Prosecutor as of the effective date of this Contract and shall be available to **CITY** to handle those legal matters required of the City Prosecutor within the **scope of work** as described on **Exhibit "A"**, in accordance with the terms of the Court Consolidation Agreement executed between the City of Benson and Cochise County.

3. **ROBERTS** shall be compensated at an annual rate of **FIFTY-SEVEN THOUSAND TWO HUNDRED EIGHTY-THREE DOLLARS AND TWENTY CENTS ($57,283.20)** and said payment shall commence July 1, 2017, and **ROBERTS** shall be compensated at the minimum weekly rate of **ONE THOUSAND ONE HUNDRED ONE DOLLARS AND SIXTY CENTS ($1,101.60)**.

4. During the term of this Contract, **ROBERTS'** employment classification shall continue as a part time employee of the City of Benson and **CITY** shall pay the then appropriate matching contribution to **ROBERTS'** account with the Arizona State Retirement System and all related payroll taxes, including but not limited to Social Security, Medicare, Federal and State withholding, State unemployment and worker's compensation.

5. **ROBERTS** shall serve as the City Prosecutor pursuant to the terms of this Agreement beginning on July 1, 2017 through June 30, 2019, except that the City shall have the option to extend this Contract for three (3) additional, one-year periods or any portion thereof. The terms of this Contract shall supersede the terms of any prior contract between the **CITY** and **ROBERTS** regarding attorney services.

6. The annual rates set forth hereinabove for **ROBERTS** shall be reviewed prior to the **CITY's** exercise of any extension and may be subject to annual increase as negotiated between **ROBERTS** and the City Council. In the event there is no salary increase negotiated in the annual rate, **ROBERTS'** annual salary shall be increased to reflect any cost of living salary adjustments granted to other **CITY** employees.

7. Either party may terminate this Agreement by sixty (60) days written notice to the other delivered in person or by mail addressed to their usual business address.

8. This Contract shall be governed by the laws of the State of Arizona.

9. This Contract is an integrated agreement; adopted by the parties as a complete and exclusive statement of the terms of the agreement, to be a final expression of the parties agreement, and a full integration of the bargained for terms. Any modification or extension of the Contract shall be by formal written amendment executed by the parties hereto and must be approved by the Mayor and City Council, before any amended legal services commence.

10. Either party may pursue any remedies provided by law for the breach of this Contract. No right or remedy is intended to be exclusive or any other right or remedy and each shall be cumulative and in addition to any other right or remedy existing in law or equity by virtue of this Contract.

11. Each provision of this Contract stands alone, and if any provision of this Contract is held, in whole or in part, to be unenforceable for any reason, the remainder of the provision and of the entire Contract will be severable and will remain in effect.

12. Any notice required to be given under this Contract shall be in writing and shall be delivered served by personal delivery or by certified mail upon the other party at the following address:

CITY: City Manager 120 W. 6th Street Benson, Arizona 85602	ROBERTS: Ann P. Roberts P.O. Box 2315 Benson, Arizona 85602
APPROVED and ACCEPTED: **ANN P. ROBERTS**	**APPROVED:** **CITY OF BENSON**
_____ ANN P. ROBERTS	_____ TONEY D. KING, SR. Mayor
_____ DATE	_____ DATE
APPROVED AS TO FORM	ATTEST:
_____ Gary J. Cohen, City Attorney	_____ Vicki L. Vivian, CMC, City Clerk City of Benson

EXHIBIT "A" - Scope of Work

ROBERTS shall provide the following services to the CITY:

1. Shall serve and perform all functions of the City Prosecutor for the City of Benson in accordance with the terms of the Court Consolidation Agreement executed between the City of Benson and Cochise County.

2. Work time shall include but is not limited to travel, research, trials, casework and interviews. Training and associated travel are not included, except upon prior pre-approval by the City Manager.

3. Shall supervise and direct the work, using her best skills and attention.

4. Shall be free to establish and control her time of performance of the work, so long as all work matters are handled to the satisfaction of the CITY Magistrate and Chief of Police.

5. Shall not be required to serve as General Counsel for the City of Benson.

6. Shall not be required to attend City Council meetings.

7. Shall not be required to perform legal research or legal memoranda or legal briefs, except as to Criminal Prosecution.

8. Shall not be required to represent the City before administrative boards and local and appellate courts in civil actions, but shall prosecute criminal cases in municipal courts and their appeals.

9. Shall not be required to provide legal advice or representation to the CITY on any matter other than criminal.

10. Shall not be required to provide services as Special Counsel as may be required by the City in areas such as planning, zoning and land use; human resources and equal opportunity laws; elections, insurance and liability, litigation, environmental law; finance, and municipal risk pool.

11. City shall provide all necessary research materials, clerical assistance, printing and copying as may be required to comply with this scope of work. City personnel, specifically the Legal Assistant, will be available to provide necessary research assistance to legal counsel as may be required to allow ROBERTS to perform services for the City.

12. ROBERTS is not required to perform work exclusively for the CITY during the term of this Contract.