



Huntsville, Alabama

308 Fountain Circle
Huntsville, AL 35801

Cover Memo

Meeting Type: City Council Regular Meeting **Meeting Date:** 5/25/2023

File ID: TMP-2984

Department: Emergency Management Agency

Subject:

Type of Action: Approval/Action

Resolution authorizing the Mayor to enter into an agreement by and between the City of Huntsville and Mobile Communications America, Inc., identified as Tornado Warning Siren Repair Agreement Between The Huntsville-Madison County EMA, and Mobile Communications America, Inc.

Resolution No.

Finance Information:

Account Number: N/A

City Cost Amount: \$140.00 per hour for repair of sirens located within the city of Huntsville. Required parts to be billed at a cost plus 25%. MCA shall invoice the City on a monthly basis, and payment shall be due within (30) days of the invoice date.

Total Cost: \$140.00 per hour for repair of sirens located within the city of Huntsville. Required parts to be billed at a cost plus 25%. MCA shall invoice the City on a monthly basis, and payment shall be due within (30) days of the invoice date.

Special Circumstances:

Grant Funded: N/A

Grant Title - CFDA or granting Agency: N/A

Resolution #: N/A

Location: (list below)

Address: 320 Fountain Cir. SW Huntsville, AL 35801

District: District 1 ☒ District 2 ☒ District 3 ☒ District 4 ☒ District 5 ☒

Additional Comments:

RESOLUTION NO. 23-_____

BE IT RESOLVED by the City of Huntsville, Alabama, that the Mayor be, and he is hereby authorized to enter into an Agreement by and between the City of Huntsville and Mobile Communications America, Inc. on behalf of the City of Huntsville, a municipal corporation in the State of Alabama, which said agreement is substantially in words and figures similar to that certain document attached hereto and identified as “Tornado Warning Siren Repair Agreement Between The Huntsville-Madison County EMA, and Mobile Communications America, Inc.”, consisting of a total of five (5) pages, and the date of May 25, 2023, appearing on the margin of the first page, together with the signature of the President or President Pro Tem of the City Council, an executed copy of said document being permanently kept on file in the Office of the City Clerk of the City of Huntsville, Alabama.

ADOPTED this the 25th day of May, 2023.

President of the City Council of
The City of Huntsville, Alabama

APPROVED this the 25th day of May, 2020.

Mayor of the City of
Huntsville, Alabama

TORNADO WARNING SIREN REPAIR AGREEMENT
BETWEEN THE HUNTSVILLE-MADISON
COUNTY EMA AND MOBILE COMMUNICATIONS AMERICA, INC.

SIREN MAINTENANCE AGREEMENT

This Siren Maintenance Agreement ("Agreement") is made and entered into as of May 1, 2023, (the "Effective Date") by Mobile Communications America – NAL ("MCA"), and Huntsville-Madison County EMA ("EMA").

AGREEMENT

In exchange for the mutual promises contained in this Agreement and other good and valuable consideration, EMA and MCA agree to the following:

1. Performance of Services. MCA shall perform needed repair services as requested by EMA for all tornado warning sirens located within the City of Huntsville.
2. Term. The initial term of this Agreement (the "Term") begins as of the Effective Date and will continue, unless renewed pursuant to Section 3, until the close of business on the first (1st) anniversary of the Effective Date.
3. Renewal. The parties may, by mutual agreement, renew this Agreement for three additional one (1)-year terms.
4. Pricing. Price is to be \$140.00 per hour for repair of sirens located within the city of Huntsville. Required parts to be billed at cost plus 25%. MCA shall invoice the City on a monthly basis, and payment shall be due within thirty (30) days of the invoice date.
5. Payment Terms. MCA shall invoice monthly for any work completed during the prior month. EMA will process promptly in order to pay on a net 30 basis.
6. Termination. Either party may terminate this Agreement with thirty (30) days written notice. EMA shall be liable to MCA for any work performed and materials ordered, if any, prior to receipt of termination notice.
7. Independent Contractors. The parties and their respective personnel, are and will be independent contractors and neither party by virtue of this Agreement will have any right, power or authority to act or create any obligation, express or implied, on behalf of the other party.
8. Insurance Coverage. MCA shall carry insurance of the following kinds and amounts in addition to any other forms of insurance or bonds required under the terms of the contract specifications. MCA shall procure and maintain for the duration of the job until final acceptance by the City, or as later indicated, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by MCA, its agents, representatives, employees or subcontractors.

The Parties agree that any form of electronic signature, including but not limited to signatures via facsimile, scanning, or electronic mail, may substitute for the original signature and shall have the same legal effect as the original signature.

President of the City Council of the
City of Huntsville, AL
Date: 5-25-23

A. MINIMUM SCOPE OF INSURANCE:

1. General Liability:

Insurance will be written on an occurrence basis. Claims-made coverage will be accepted only on an exception basis after the City's approval.

Commercial General Liability

Products and Completed Operations

Contractual

Personal Injury

Broad Form Property Damage

2. Automobile Liability:

Business Automobile Liability providing coverage for all owned, hired and non-owned autos. Coverage for loading and unloading shall be provided under either automobile liability or general liability policy forms.

3. Workers' Compensation Insurance:

Statutory protection against bodily injury, sickness or disease or death sustained by employee in the scope of employment. Protection shall be provided by a commercial insurance company or a recognized self-insurance fund authorized before the State of Alabama Industrial Board of Relations. Waivers of subrogation in favor of the City shall be endorsed to Worker's Compensation coverage.

4. Employers Liability Insurance:

Covering common law claims of injured employees made in lieu of or in addition to a worker's compensation claim.

B. MINIMUM LIMITS OF INSURANCE:

1. General Liability:

Commercial General Liability on an "occurrence form" for bodily injury and property damage:

\$ 2,000,000 General Aggregate Limit

\$ 1,000,000 Products - Completed Operations Aggregate

\$ 1,000,000 Personal & Advertising Injury

\$ 1,000,000 Each Occurrence

2. Automobile Liability:

\$ 1,000,000 Combined Single Limit per accident for bodily injury and property damage.

3. Workers' Compensation:

As Required by the State of Alabama Statute

4. Employers Liability:

\$ 100,000 Bodily Injury by Accident or Disease

\$ 500,000 Policy Limit by Disease

C. OTHER INSURANCE PROVISIONS:

EMA is hereby authorized to adjust the requirements set forth in this document in the event it is determined that such adjustment is in the EMA's best interest. If the insurance requirements are not adjusted by EMA prior to EMA's release of specifications with regard to the project in question, then the minimum limits shall apply.

The policies are to contain, or be endorsed to contain, the following provisions:

1. General Liability and Automobile Liability Coverage's Only:

a. EMA, the City of Huntsville, their elected and appointed officials, employees, agents and specified volunteers are to be covered as Additional Insureds, as their interests may appear, as respects: liability arising out of activities performed by or on behalf of MCA for products used by and completed operations of MCA; or automobiles owned, leased, hired or borrowed by MCA. Additional insured status shall be through ISO Additional Endorsement CG 20 10 11 85 or equivalent that is sufficient to provide the coverage required by this Agreement.

b. MCA's insurance coverage shall be primary insurance as respects EMA, the City of Huntsville, their elected and appointed officials, employees, agents and specified volunteers, as their interests may appear. Any insurance or self-insurance maintained by the City, its officers, officials, employees, agents or specified volunteers shall be excess of MCA's insurance and shall not contribute to it.

2. All Coverages:

a. MCA is responsible to pay all deductibles. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City. Cancellation of coverage for non-payment of premium will require ten (10) days written notice to the City.

b. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the City, its officers, employees, agents or specified volunteers.

D. ACCEPTABILITY OF INSURERS:

Insurance is to be placed with insurers with an A. M. Best's rating of no less than B+ V.

E. VERIFICATION OF COVERAGE:

The City shall be indicated as a Certificate Holder and MCA shall furnish the City with Certificates of Insurance reflecting the coverage required by this document. The A. M. Best Rating and deductibles, if applicable, shall be indicated on the Certificate of Insurance for each insurance policy. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates are to be received and approved by the City before work commences.

F. CONSULTANTS AND/OR SUBCONTRACTORS WORKING FOR THE CONTRACTOR:

MCA shall include all subcontractors and/or consultants as insureds under its policies or shall furnish separate certificates and/or endorsements for each subcontractor and/or consultant.

G. HOLD HARMLESS AGREEMENT:

MCA, to the fullest extent permitted by law and up to payable proceeds of MCA's general liability insurance, shall indemnify and hold harmless EMA, the City of Huntsville, their elected and appointed officials, employees, agents and specified volunteers against all claims, damages, losses and expenses, including, but not limited to, reasonable attorney's fees, to the extent caused by the performance of the work, provided that any such claim, damage, loss or expense (1) is attributable to personal injury, including bodily injury sickness, disease or death, or to injury to or destruction of tangible property, including loss of use resulting therefrom, and (2) is caused by any negligent act or omission of MCA or any of their consultants, or anyone directly or indirectly employed by them or anyone for whose acts they are legally liable. Such obligation should not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this paragraph.

9. Waiver. No waiver of any provision hereof or of any right or remedy hereunder will be effective unless in writing and signed by the party against whom such waiver is sought to be enforced. No delay in exercising, no course of dealing with respect to, and no partial exercise of any right or remedy hereunder will constitute a waiver of any other right or remedy, or future exercise thereof.

10. Severability. If any provision of this Agreement is determined to be invalid under any applicable statute or rule of law, it is to that extent to be deemed omitted, and the balance of the Agreement will remain enforceable.

11. Notice. All notices will be in writing and will be deemed to be delivered when received by certified mail, postage prepaid, return receipt requested, or when sent by facsimile or e-mail confirmed by call back.

12. Amendment. No amendment, change, waiver or discharge hereof will be valid unless in writing and signed by both parties.

13. Assignment. Neither party shall assign any of its rights or obligations under this Agreement whether voluntarily or by operation of law without the written consent of the other party.

14. No Third Party Beneficiaries. Nothing contained in this Contract shall create, or be interpreted to create, privity or any other contractual agreement between the City and person or entity other than MCA.15. Entire Agreement. This Agreement, together with Schedule "A" which is hereby incorporated in this Agreement by reference, represents the complete and exclusive statement of all mutual understandings between the parties with respect to the subject matter of this Agreement and supersedes all prior or contemporaneous proposals, communications and understandings, oral or written. If there is a conflict between this Agreement and the specifications set forth on Exhibit A to this Agreement, then the terms of Exhibit A will govern.

IN WITNESS WHEREOF, the parties have signed and delivered this Agreement with the intention of being bound effective as of the Effective Date.

Mobile Communications America - NAL

By: _____

Frank Vanderbilt

Title: COO

Huntsville-Madison County EMA:

By: Jeff Brindwell

Title: Director

City of Huntsville, Alabama

By: _____

Title: _____