



Huntsville, Alabama

308 Fountain Circle
Huntsville, AL 35801

Cover Memo

Meeting Type: City Council Regular Meeting **Meeting Date:** 4/27/2023

File ID: TMP-2876

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 Baron Weather, Inc., a Delaware corporation ("Baron").

Resolution No.

Finance Information:

Account Number: N/A

City Cost Amount: \$2,040.00 per year for Two (2) Seats for a period of Three (3) years

Total Cost: \$2,040.00 per year for Two (2) Seats for a period of Three (3) years

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 Baron Weather, Inc., a Delaware corporation (Baron), on behalf of the Huntsville-Madison County Emergency Management Agency, which said agreement is substantially in words and figures similar to that certain document attached hereto and identified as “Agreement by and between the City of Huntsville and Baron Weather, Inc., a Delaware corporation (Baron),” consisting of a total of two (2) pages, and the date of April 27, 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 27th day of April, 2023.

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

APPROVED this the 27th day of April, 2023.

Mayor of the City of Huntsville,
Alabama

BARON THREAT NET LICENSE AGREEMENT

CW 4-17-23

This Baron Threat Net License Agreement (the "**Agreement**") is made by and between Baron Weather, Inc., a Delaware corporation ("**Baron**"), with principal place of business at 4930 Research Drive, Huntsville, AL 35805, and **Huntsville-Madison County Emergency Management Agency**, ("**Client**") with a principal place of business and billing address at **Huntsville-Madison County Emergency Management Agency, 320 Fountain Cir. SW, Huntsville, AL 35801**. Each of Baron and the Client is sometimes referred to individually as a "**Party**" or collectively, the "**Parties**."

RECITALS

WHEREAS, Baron provides a web-based, weather data software product ("**Baron Threat Net**"); and

WHEREAS, Client desires Baron to license access to Baron Threat Net as further provided herein; and

NOW THEREFORE, in consideration of the covenants and promises contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

AGREEMENT

1. **Subscription and License.** Client hereby subscribes to the right to use Baron Threat Net by no more than Two (2) Client employees at any given time ("**Seat**"). Each seat shall have a separate login and password and each seat permits Two (2) devices to login simultaneously. Subject to the terms and conditions of this Agreement, Baron hereby grants to Client a limited, non-transferable, royalty-free, non-sub licensable license to use Baron Threat Net for no more than Two (2) Seats during the Term of this Agreement (the "**License**").
2. **License Fee.** During the Term, Client shall pay to Baron a license fee of **\$2,040.00 per year for Two (2) Seats for a period of Three (3) years, effective May 1, 2023 – April 30, 2026.**
3. **Each User Seat License includes:**
 - a. Full access to Baron Threat Net website with use on two (2) concurrent devices*
 - b. Custom stored preferences, map, and data views
 - c. Ten (10) custom alert locations with email/text alerting
 - d. One (1) Threat Net Mobile application for use on iOS and Android mobile phones*
 - e. Seven (7) Rolling Days of Historical Weather for select products
 - f. Custom Training on setup and use

*Baron Threat Net is supported on all commonly used web browsers connected to the internet. The Threat Net app is available for free download from the Apple and Android App stores. (Individual users will log in with their subscription credentials)

 - g. Assurance that subscription fees will not increase during the three-year term.
4. **Incorporation by Reference.** The Baron Threat Net terms and conditions and privacy policy (the "**Incorporated Documents**", which are available on the Baron Threat Net website are incorporated into this agreement by reference and shall have the same force and effect as if they were fully set forth in this Agreement. In the event of any conflict between this Agreement and the Incorporated Documents, this Agreement shall control.

 President of the City Council of the
 City of Huntsville, AL
 Date: _____

5. **Term and Termination.** This Agreement shall commence on **May 1, 2023** (the "**Effective Date**") and shall continue for a period of Thirty-Six (36) months (the "**Initial Term**"). For convenience either party may terminate this Agreement effective as of the anniversary of the Initial Invoice Date by giving written notice to Baron of such termination at least 60 days prior to the expiration of the anniversary of the Initial Invoice Date.

(a) The Term of this Agreement shall expire on April 30, 2026, unless Client has terminated the agreement earlier as stated above. Prior to the expiration of the full Thirty-Six (36) months term, Client may provide written notice to Baron of its desire to continue the subscription under a new Agreement to be entered into between the two parties.

(b) If either Party is in breach of this Agreement, the breaching Party shall have thirty (30) days to cure such breach following receipt of written notice from the non-breaching Party setting forth the nature of such breach. In the event the breaching Party fails to cure such breach within the thirty (30) day period, then the non-breaching Party may terminate the Agreement upon written notice to the breaching Party. The breaching Party shall further be responsible for all attorney's fees and collection costs incurred by the non-breaching Party as a result of the breach.

6. **Governing law; Jurisdiction and Venue.** This Agreement, including all exhibits, schedules, attachments and appendices attached to this Agreement and thereto, and all matters arising out of or relating to this Agreement, are governed by, and construed in accordance with, the laws of the State of Alabama, United States of America, without regard to the conflict of law's provisions thereof to the extent such principles or rules would require or permit the application of the laws of any jurisdiction other than those of the State of Alabama. Each Party irrevocably and unconditionally agrees that it will not commence any action, litigation or proceeding of any kind whatsoever against the other Party in any way arising from or relating to this Agreement, including all exhibits, schedules, attachments and appendices attached to this Agreement and thereto, and all contemplated transactions, including contract, equity, tort, fraud and statutory claims, in any forum other than the courts of the State of Alabama, County of Madison, and any appellate court from any thereof. Each Party irrevocably and unconditionally submits to the exclusive jurisdiction of such courts and agrees to bring any such action, litigation or proceeding only in the courts of the State of Alabama, County of Madison. Each Party agrees that a final judgment in any such action, litigation or proceeding is conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

BARON WEATHER, INC.

DocuSigned by:

By: Christy Bechtel

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Its: Director of Business Development

HUNTSVILLE-MADISON COUNTY EMA

Signed By: _____

Printed Name: _____

Title: _____

Date: _____