

CITY COUNCIL AGENDA ITEM COVER MEMO

Agenda Item Number: \_\_\_\_\_

Meeting Type: Regular

Meeting Date: May 8, 2014

Action Requested By: Water Pollution Control

Agenda Type: Resolution

Subject Matter:

Modification No. 1 to Agreement with Sharp Communications, Inc.

Exact Wording for the Agenda:

Resolution authorizing the Mayor to modify the agreement with Sharp Communications, Inc. for Radio Tower Sublease Agreement, by Modification No. 1

09-1161

Note: If amendment, Please state title and number of the original

Item to be considered for: Action

Unanimous Consent Required: No

Briefly state why the action is required; why it is recommended; what council action will provide, allow and accomplish and; any other information that might be helpful.

This contract modification is to extend the agreement termination date for annual sublease agreement for pump station SCADA in the amount of \$6,000.00 per year for five (5) years for a total contract amount of \$30,000.00. New end date: May 31, 2019. Account No. 02-8000-0811-1338.

Associated Cost: \_\_\_\_\_

Budgeted Item: \_\_\_\_\_

MAYOR RECOMMENDS OR CONCURS: \_\_\_\_\_

Department Head: 

Date: 5-7-2014



# ROUTING SLIP CONTRACTS AND AGREEMENTS

Originating Department: **Water Pollution Control** Council Meeting Date: **5/8/2014**

Department Contact: **Shane Cook**

Phone # **256-883-3719**

Contract or Agreement: **Modification No. 1**

Document Name: **Sharp-Radio Tower Lease Agmt**

City Obligation Amount: **\$6,000.00**

Total Project Budget: **\$30,000.00**

Uncommitted Account Balance: **0**

Account Number: ~~02-8000-0811-1338~~  
**0608-2109**

## Procurement Agreements

<b><u>Not Applicable</u></b>	<b><u>Not Applicable</u></b>
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## Grant-Funded Agreements

<b><u>Not Applicable</u></b>	<b>Grant Name:</b>
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Department	Signature	Date
1) Originating	<i>Shane Cook</i>	<i>5-1-2014</i>
2) Legal	<i>Mary O. Cook</i>	<i>5/5/2014</i>
3) Finance <i>CC</i>	<i>[Signature]</i>	<i>5/5</i>
4) Originating		
5) Copy Distribution		
a. Mayor's office (1 copies)		
b. Clerk-Treasurer (Original & 2 copies)		

**RESOLUTION NO. 14-**

**BE IT RESOLVED** by the City Council of the City of Huntsville, Alabama, that the Mayor be, and is hereby authorized, in Huntsville, Alabama, on behalf of the City of Huntsville, a municipal corporation in the State of Alabama to enter into Modification No. 1 to the Agreement with Sharp Communications, Inc., adopted and approved on the 3rd day of December, 2009, by the City Council of the City of Huntsville, Alabama by Resolution No. 09-1161, as attached hereto.

**BE IT FURTHER RESOLVED** that the current lease that terminates at midnight on May 30, 2014, and is hereby modified to terminate on May 31, 2019. Agreement is substantially in words and figures similar to that document attached hereto and identified as "Modification No. 1 to Agreement between City of Huntsville and Sharp Communications, Inc. for Radio Tower Sublease Agreement, as adopted by Resolution No. 09-1161 of December 3, 2009" consisting of a total of three (3) pages plus two (2) additional pages consisting of Attachment "A", and the date of May 8, 2014, appearing on the margin of the first page, together with the signature of the President or President Pro Tem of the City Council, and 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 8th day of May, 2014.

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

**APPROVED** this the 8th day of May, 2014.

\_\_\_\_\_  
Mayor of the City of Huntsville,  
Alabama

STATE OF ALABAMA     )  
COUNTY OF MADISON    )

Modification No. 1 to Agreement between  
the City of Huntsville and Sharp  
Communication, Inc. for Radio Tower  
Sublease Agreement, as adopted by  
Resolution No. 09-1161 of December 3,  
2009

**THIS IS MODIFICATION NO. 1 TO AN AGREEMENT** entered in on the 3rd day of December, 2009. The original Agreement is hereby amended by Modification No. 1 dated May 8, 2014, by and between the City of Huntsville, Alabama, a municipal corporation in the State of Alabama (Owner) and SHARP COMMUNICATION, INC., (LANDLORD).

**WITNESSETH**

**WHEREAS**, the firm identified as the LANDLORD to the Agreement dated December 3, 2009, has proposed a change, identified as Attachment "A" to the Original Agreement. This modification delineates a change to annual sublease agreement for pump station SCADA to extend the agreement termination date.

**WHEREAS**, the Owner desires that the LANDLORD's current lease end date be altered to be consistent with Attachment "A" hereto.

**NOW THEREFORE**, in consideration of the mutual covenants set forth herein, the Owner and the LANDLORD agree to the following modifications to the agreement:

1. Sharp Communications, Inc. will extend current lease agreement from June 1, 2014 to May 31, 2019.
2. Item #1 shall be performed in accordance with the original agreement dated December 3, 2009, and approved by the City Council by Resolution No. 09-1161, and as described in the amendment from Thomas A. Sharp, III. to Shane Cook, dated April 3, 2014, shown as Attachment "A".
3. The terms of this contract modification and the execution thereof is not in any way to be viewed as a waiver on the part of the Owner of any of its rights pursuant to the Contract.
4. All other terms and conditions remain unchanged.

\_\_\_\_\_  
President of the City Council of the City of  
Huntsville, AL  
Date:           May 8, 2014

**IN WITNESS WHEREOF**, the parties have entered their hands and seals and attest to the same with the signature of the Mayor being the official act of the said municipality in accordance with his duly constituted authority.

**THE CITY OF HUNTSVILLE, ALABAMA,**  
a municipal corporation

By: \_\_\_\_\_  
**Tommy Battle**  
Its Mayor

**ATTEST:**

\_\_\_\_\_  
**Charles E. Hagood**  
City Clerk-Treasurer

STATE OF ALABAMA     )  
COUNTY OF MADISON    )

I, the undersigned, a notary public in and for said County, in said State, hereby certify that Tommy Battle and Charles E. Hagood, whose names as Mayor and City Clerk-Treasurer of the City of Huntsville, a municipal corporation, are signed to the foregoing instrument, and who are known to me, acknowledged before me on this day that, being informed of the contents of the instrument, they, in their capacity as such officers, executed the same with full authority for and as the act of said corporation on the day the same bears day.

GIVEN under my hand and official seal this the \_\_\_\_ day of \_\_\_\_\_ 2014.

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

**AMENDMENT**

This Amendment dated this 3rd day of April, 2014, is made by and between Sharp Communication, Inc. ("Landlord") and City of Huntsville Water Pollution Control ("Tenant").

**RECITALS**

A. Landlord and Tenant are parties to that certain Radio Tower Lease Agreement dated December 3, 2009 (the "Agreement") covering certain real and personal property owned or operated by Landlord and described more particularly in the Agreement (the "Property").

B. Landlord and Tenant now desire to modify the terms of the Agreement as hereinafter provided and do therefore enter into this Amendment.

Based upon the foregoing recitals, and in consideration of the terms and conditions as set forth herein, the parties agree as follows:

**Modifications.** The Agreement is hereby modified as follows:

1. **Term.** The new term of this Lease shall be for five (5) years (the "Term") and shall commence on June 1, 2014 and terminate on the day before the fifth (5<sup>th</sup>) anniversary of the Commencement Date, subject to extensions as set forth in Section 6 below. Commencement Date: June 1, 2014.
2. **Rent.** Beginning June 1, 2014, Tenant shall pay to Landlord an annual rental of Six Thousand Dollars (\$6,000.00).
3. **Extensions.** That portion of Paragraph 6 Extension that reads "Landlord's current lease ends at midnight on May 30, 2014" is changed to read "May 31, 2021".

**Survival of Agreement.** Except as expressly provided for by this Amendment, all remaining terms and conditions of the Agreement shall continue in full force and effect and unaltered. In the event of a conflict between this Amendment and the Agreement, this Amendment shall control. Except as otherwise defined in this Amendment, all terms used herein shall have the same meaning as is ascribed to them under the Agreement.

**Entire Agreement.** This Amendment and the Agreement, as may be amended from time to time, constitute the entire agreement between the parties in regard to Tenant's use of the Property, and supersede all other prior or contemporaneous agreements, promises, representations and understandings, if any.

IN WITNESS WHEREOF, the parties hereto have duly executed this Amendment on the date first written above.

"LANDLORD"

Sharp Communication, Inc.

By: 

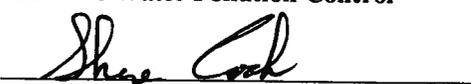
Name: Thomas A. Sharp, III.

Title: CEO

Date: March 24, 2014

"TENANT"

City of Huntsville Water Pollution Control

By: 

Name: Shane Cook

Title: Director of Water Pollution Control

Date: 4-10-14

