

CITY COUNCIL AGENDA ITEM COVER MEMO

Agenda Item Number: _____

Meeting Type: Regular

Meeting Date: Nov 3, 2016

Action Requested By: Administration

Agenda Type: Resolution

Subject Matter:

Consulting Agreement

Exact Wording for the Agenda:

Resolution authorizing a Consulting Agreement between the City of Huntsville and MOVE Digital.

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

Item to be considered for: Action

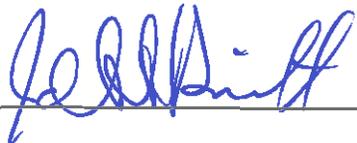
Unanimous Consent Required: _____

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.

Associated Cost: \$7440.00

Budgeted Item: Yes

MAYOR RECOMMENDS OR CONCURS: Yes

Department Head: 

Date: _____

ROUTING SLIP CONTRACTS AND AGREEMENTS

Originating Department: Administration

Council Meeting Date: 11/4/2016

Department Contact: Sharon King

Phone # 256-427-5004

Contract or Agreement: Agreement

Document Name: MOVE Digital Agreement

City Obligation Amount: \$7440.00

Total Project Budget: \$7440.00

Uncommitted Account Balance:

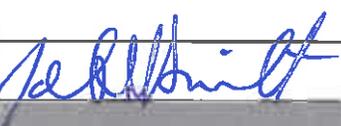
Account Number: 1000-10-10200-515370-00000000

Procurement Agreements

<u>Select...</u>	<u>Select...</u>
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Grant-Funded Agreements

<u>Select...</u>	Grant Name:
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Department	Signature	Date
1) Originating		
2) Legal		
3) Finance		
4) Originating		
5) Copy Distribution		
a. Mayor's office (1 copies)		
b. Clerk-Treasurer (Original & 2 copies)		

RESOLUTION NO. 16 - _____

BE IT RESOLVED by the City Council of the City of Huntsville, Alabama, that the Mayor be, and he is hereby authorized on behalf of the City of Huntsville, a Municipal Corporation in the State of Alabama, to enter into a Consulting Agreement by and between The City of Huntsville and MOVE Digital which said agreement is substantially in words and figures similar to that certain document attached hereto and identified as Consulting Agreement between The City of Huntsville and MOVE Digital consisting of six (6) pages with the date of November 3, 2016 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-Treasurer of the City of Huntsville, Alabama.

ADOPTED this the 3rd of November, 2016.

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

APPROVED this the 3rd day of November, 2016.

Mayor of the City of
Huntsville, Alabama

CONSULTING AGREEMENT BETWEEN
THE CITY OF HUNTSVILLE AND MOVE DIGITAL, LLC

The City of Huntsville, Alabama (the "Customer"), and Move Digital, LLC ("Move Digital") of Huntsville, Alabama (the "Consultant"), enter into this Consulting Agreement (the "Agreement") dated November 7, 2016 ("Effective Date"). The entities hereinafter may also be referred to individually as "Party" or collectively as "Parties"

IN CONSIDERATION OF the mutual benefits and obligations set forth in this Agreement, the receipt and sufficiency of which consideration is hereby acknowledged, the Customer and the Consultant agree as follows:

1. Services Provided.

The Customer hereby agrees to engage the Consultant to provide the Customer with services (the "Services") to include:

- Social Media Training - group training with individuals in various departments utilizing or initiating social media platforms as scheduled by the Director of Communications (six 1.5 hour sessions) onsite at Customer's location(s).

- Monthly Social Media Lunch and Learn attendance for 2 members of the City of Huntsville Communication Department. Consultant shall provide Customer notice of the date, time and location of each such event at least two weeks prior to the event.

2. Term of Agreement.

This Agreement will begin on the date of execution of the Agreement by the Customer and shall continue until September 30, 2017 (the "Term").

3. Compensation.

For the services rendered by the Consultant as required by this Agreement, the Customer will provide compensation (the "Compensation") to the Consultant of \$7440. Services are billed at the beginning of the year for the service year, and the invoice shall be paid within thirty (30) days of receipt. Checks should be made payable to "Move Digital."

4. Confidentiality.

a. Confidential information (the "Confidential Information") refers to any data or information relating to the business of the Customer which would reasonably be considered to be proprietary to the Customer including, but not limited to, accounting records, business processes, and client records and that is not generally known in the industry of the Customer and where the release of that Confidential Information could reasonably be expected to cause harm to the Customer.

b. The Consultant agrees that they will not disclose, divulge, reveal, report or use, for any purpose, any Confidential Information which the Consultant has obtained, except as authorized by the Customer. This obligation will survive indefinitely upon termination of this Agreement, so long as the information remains confidentially kept by Customer.

c. All written and oral information and material disclosed or provided by the Customer to the Consultant under this Agreement is Confidential Information regardless of whether it was provided before or after the date of this Agreement or how it was provided to the Consultant.

5. Ownership of Materials and Intellectual Property.

All intellectual property and related material (the "Intellectual Property") including any related work in progress that is developed or produced under this Agreement, will be the sole property of the Customer, however Consultant shall have the right to use portions of the product for exemplary materials for advertising purposes, subject to the approval of the Customer. The use of the Intellectual Property by the Customer will not be restricted in any manner.

6. Return of Property.

Upon the expiration or termination of this Agreement, the Consultant will return to the Customer any property, documentation, records, or Confidential Information which is the property of the Customer.

7. Capacity/Independent Contractor.

In providing the Services under this Agreement it is expressly agreed that the Consultant is acting as an independent contractor and not as an employee. The Consultant and the Customer acknowledge that this Agreement does not create a partnership or joint venture between them, and is exclusively a contract for service.

8. Notice.

All notices, requests, demands or other communications required or permitted by the terms of this Agreement will be given in writing and delivered to the Parties of this Agreement as follows:

CUSTOMER

The City of Huntsville, Alabama
308 Fountain Circle Huntsville , Alabama, 35801
Email: contact@huntsvilleal.gov

Move Digital
PO Box 2101
Huntsville, Alabama, 35804
Email: laurie@movehsv.com

or to such other address as any Party may from time to time notify the other in writing.

9. Insurance.

The Consultant will be required to maintain general liability insurance including coverage for bodily injury and property damage with minimum limits of \$100,000 for personal injury; \$100,000 property damage; and \$300,000 per occurrence. All insurance policies will remain materially unchanged for the duration of this Agreement.

10. Limitation of Liability.

It is understood and agreed that the Consultant will not be liable to the Customer, or any agent or associate of the Customer, for any mistake or error in judgment or for any act or omission done in good faith and believed to be within the scope of authority conferred or implied by this Agreement.

IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR SPECIAL, CONSEQUENTIAL, INCIDENTAL, INDIRECT, PUNITIVE OR EXEMPLARY DAMAGES, HOWEVER CAUSED, WHETHER FOR BREACH OF WARRANTY, CONTRACT, TORT NEGLIGENCE, STRICT LIABILITY, LOSS OF DATA, LOSS OF USE, OR OTHERWISE, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. CONSULTANT'S TOTAL LIABILITY TO CUSTOMER SHALL NOT EXCEED THE TOTAL AMOUNT ACTUALLY PAID BY CUSTOMER HEREUNDER.

11. Other Provisions.

a. This contract shall be construed using the laws of the State of Alabama. For purposes of this agreement, sole and proper venue shall of the state and federal courts of Madison County, Alabama.

12. Modification of Agreement.

Any amendment or modification of this Agreement or additional obligation assumed by either Party in connection with this Agreement will only be binding if evidenced in writing signed by an authorized representative of each Party.

13. Entire Agreement.

It is agreed that there is no representation, warranty, collateral agreement or condition affecting this Agreement except as expressly provided in this Agreement.

This constitutes the sole and entire agreement between the parties regarding the matters contained herein, and this agreement supersedes any and all other agreements between them. Waivers or modifications of this agreement, or of any covenant, condition, or limitation contained herein, are valid only if in writing duly executed by the parties.

14. Severability.

In the event that any of the provisions of this Agreement are held to be invalid or unenforceable in whole or in part, all other provisions will nevertheless continue to be valid and enforceable with the invalid or unenforceable parts severed from the remainder of this Agreement.

15. Waiver.

The waiver by either Party of a breach, default, delay or omission of any of the provisions of this Agreement by the other Party will not be construed as a waiver of any subsequent breach of the same or other provisions.

Laurie Heard
President, Move Digital, LLC

Tommy Battle
Mayor, City of Huntsville

ATTEST:

Ken Benion
Clerk-Treasurer