

**CITY OF BILOXI  
AGENDA ITEM  
FACT SHEET**

Item No.: 5 I

Council Meeting Date:

ITEM TITLE: RESOLUTION  
 INTRODUCED BY: Mayor Andrew "FoFo" Gilich  
 CONTACT PERSON: E. Michael Leonard, CAO

**SUMMARY EXPLANATION:**

Resolution authorizing MOTOTALK push-to-talk cell phone app contract with SouthernLINC for the Community Development Department

Resolution  Ordinance \_\_\_\_\_ Public Hearing \_\_\_\_\_ Routine Agenda \_\_\_\_\_

Exhibits for Review

Contract \_\_\_\_\_ Minutes \_\_\_\_\_ Plans/Maps \_\_\_\_\_ Deed \_\_\_\_\_ Lease \_\_\_\_\_

Other (Specify):

Submittal Authorization: Council President \_\_\_\_\_ Mayor

STAFF RECOMMENDATION: Staff recommends approval

COUNCIL ACTION: Motion By: \_\_\_\_\_ Second By: \_\_\_\_\_

Vote:	<u>Councilmember</u>	<u>Yes</u>	<u>No</u>	<u>Other</u>		<u>Councilmember</u>	<u>Yes</u>	<u>No</u>	<u>Other</u>
	Lawrence	_____	_____	_____		Tisdale	_____	_____	_____
	Gines	_____	_____	_____		Glavan	_____	_____	_____
	Newman	_____	_____	_____		Fayard	_____	_____	_____
	Deming	_____	_____	_____					

ACTION TAKEN:

Resolution No. \_\_\_\_\_

RESOLUTION AUTHORIZING MOTO TALK PUSH-TO-TALK CELL PHONE APP  
CONTRACT WITH SOUTHERNLINC FOR THE COMMUNITY DEVELOPMENT  
DEPARTMENT

WHEREAS, the Community Development Department within the City of Biloxi are currently using cell phones to efficiently and effectively conduct the day to day business of the City; and WHEREAS, in order to continue to allow direct communication between the field crews and Community Development Department employees it is in the best interest to enter into an agreement with SouthernLINC for the MOTOTALK push-to-talk cell phone app to be used on the existing cell phones; and

WHEREAS, SouthernLINC has offered MOTOTALK to the City of Biloxi for a rate of \$10 per month for fifteen applications and 3 radio accounts for a rate of \$20 per month for the Permit, Planning and Code Enforcement Counters, see Exhibit "A"; and

WHEREAS, the City of Biloxi will be responsible for all applicable Federal taxes plus any and all other valid and applicable miscellaneous fees charged to the City of Biloxi by SouthernLINC for the use of MOTOTALK and the SouthernLINC network; and

WHEREAS, said agreement will be for a term of one year; and

WHEREAS, if, during this one year term, the Community Development Department finds it necessary to add to additional MOTOTALK push-to-talk cell phone apps to conduct day to day business of the City it may do so up to 10 apps without having to go back to City Council for authorization, any additional units over 10 will require City Council authorization.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF BILOXI, MISSISSIPPI, THAT:

SECTION ONE: The findings, conclusions and statements of fact contained in the foregoing preamble are hereby adopted, ratified, and incorporated herein.

SECTION TWO: The Mayor be and is hereby authorized to enter into the contract with SouthernLINC, attached hereto as Exhibit "A", for the Community Development Department.

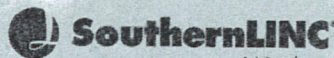
SECTION THREE: The Mayor be and is hereby authorized to accept and process the applicable federal fees and all other valid and applicable miscellaneous fees charged to the City of Biloxi by SouthernLINC for use of the MOTOTALK push-to-talk cell phone app.

SECTION FOUR: The Service Agreement term with SouthernLINC of one year be and is hereby accepted.

SECTION FIVE: At any time during the one-year contract with SouthernLINC should the Community Development Department need to add to the number of MOTOTALK push-to-talk apps that are needed to efficiently and effectively conduct the day to day business of the City it may do so up to 10 units without having to go back to City Council for authorization. Over 10 additional units will require City Council authorization.

SECTION SIX: At any time during the one year contract should a new plan become available to the City of Biloxi from SouthernLINC that would further save the City money for cell phone usage, the Mayor is hereby authorized to accept and change said plan to better suit the communication and financial needs of the City.

5555 Glenridge Connector  
Suite 500  
Atlanta, GA 30342



Wireless  
A Southern Company

1166

Government  
Customer Agreement  
(Order Page)  
G

ACCOUNT INFORMATION	Total # of Phones <b>19</b>	<b>CUSTOMER TYPE</b> <input checked="" type="checkbox"/> Municipal <input type="checkbox"/> Federal <input type="checkbox"/> County <input type="checkbox"/> State		<b>BILL TYPE</b> <input type="checkbox"/> Standard <input type="checkbox"/> Phone Detail Option		<b>TAX EXEMPTIONS</b> <input type="checkbox"/> Federal Excise Tax <input type="checkbox"/> State Sales Tax <input type="checkbox"/> County Sales Tax <input type="checkbox"/> City Sales Tax <input type="checkbox"/> AL State Telecommunications Tax <input type="checkbox"/> FL State Telecommunications Tax <input type="checkbox"/> FL Local Telecom - City <input type="checkbox"/> FL Local Telecom - County	
	<input type="checkbox"/> Contact me via email: <b>551</b>	<b>ACCOUNT TYPE</b> <input type="checkbox"/> New Customer <input type="checkbox"/> Existing Customer Acct #: <b>10700932</b>		<b>EXISTING FLEET INFO</b> Name of Customer Currently in Fleet - Required Fleet # <input type="checkbox"/> Do Not Provision CrossFleet			
SALES INFO.	Sales Person <b>Lisa Glenn</b>		Sales Rep Code		Email Address <b>laglenn@southernco.com</b>		
	Phone <b>228-518-4007</b>	Fax	LINC #		Fleet	Private ID <b>60#3329</b>	
AGENCY INFO.	Sub-Agent Sales Person		Sales Rep Code		Email Address		
	Phone	Fax	LINC #		Fleet	Private ID	
PAYMENT INFO.	Agency/Entity Name <b>City of Biloxi Community Development</b>		Billing Authorization Name <b>Eric Nolan</b>		Title <b>Trilby Trahan</b>		
	Phone <b>228-435-6280</b>	Fax <b>228-435-6188</b>					
ADDRESS INFORMATION	<input type="checkbox"/> Purchase <input type="checkbox"/> Lease - Company Name Required: _____		<input type="checkbox"/> Check ( <input type="checkbox"/> Personal <input type="checkbox"/> Corp.) - Check # Required: _____		<input type="checkbox"/> Credit Card <input type="checkbox"/> COD <input type="checkbox"/> Electronic Funds (EF) <input type="checkbox"/> Other		
	<input type="checkbox"/> Purchase Order - PO # Required: _____		<input type="checkbox"/> Money Order <input type="checkbox"/> Cashier's Check				
	Billing Address <b>Trilby Trahan</b>	Contact	Suite	Address <b>Po Box 429</b>	City <b>Biloxi</b>	State <b>ms</b>	Zip Code <b>39533</b> County <b>Harrison</b>
	Shipping Address	Contact	Suite	Address	City	State	Zip Code <b>39533</b> County <b>Harrison</b>
	Physical Address <b>676 Dr Marilla Luther</b>	Contact (Required if Billing is a PO Box)	Suite	Address <b>King Jr Blvd</b>	City <b>King Jr Blvd</b>	State <b>ms</b>	Zip Code <b>39530</b> County <b>Harrison</b>
Primary Place of Use	Contact	Suite	Address (No PO Box)	City	State	Zip Code <b>39530</b> County <b>Harrison</b>	
City Limit Designator: <input type="checkbox"/> Inside City Limits ("I") or <input type="checkbox"/> Outside City Limits ("O")							
PURCHASED EQUIPMENT	Quantity	Item #	Item Description			Price	Total
IF SALES TAX EXEMPT, ATTACH A COPY OF EXEMPTION CERTIFICATE						Pre-Tax Total (Exclude Shipping & Tax)	Installation Cost
MONTHLY SUBSCRIPTIONS	# of Phones	SERVICE PLAN*		Price/month	FEATURES		DATA
	<b>32</b>	<b>Pvt/Grp unlimited</b>		<b>20.00</b>	<b>each per month</b>		
	<b>15</b>	<b>MOTO TALK</b>		<b>10.00</b>	<b>each per month</b>		
* Coverage is only available in the SouthernLINC Wireless Regional Service Area unless your plan provides additional coverage.							
By signing below, the Customer: (1) certifies that the information provided by or on behalf of the Customer in connection with this Agreement is true and complete; (2) agrees to all the terms and conditions of this Agreement, including those set forth on the reverse side of this page; and (3) authorizes Southern Communications Services, Inc., d/b/a SouthernLINC Wireless, to check the financial status and credit history of the Customer from any sources, listed and not listed, at any time to determine creditworthiness.							
Authorized Representative (print) <b>Lisa Glenn</b>			Title	Authorizing Signature <b>X</b>		Date <b>X</b>	
Sales Person's Signature						Date	

SouthernLINC Wireless USE ONLY - IP Address:  Public  Private  
CUSTOMER SUPPORT'S TOLL FREE # 1-800-406-0151  
SLCAGov-Rev. 10/2013

White Copy: SouthernLINC Wireless  
Pink Copy: Customer

**EXHIBIT A**

## SERVICE AGREEMENT FOR GOVERNMENTAL CUSTOMER

In consideration of their respective rights and obligations under this Agreement, SouthernLINC Wireless ("us" or "we") and the Customer identified on the Order Page as ("you") agree as follows:

1. **Services.** All sales to you of phones, data equipment or accessories ("Equipment") and wireless telecommunications services, data services and software ("Services") for use on our network ("System") are made under the terms and conditions herein. Your placement of an order, or acceptance of or payment for Equipment or Services, will constitute acceptance of these terms. You will pay the cost shown for Equipment described on the Order Page, plus shipping and applicable tax. Equipment may be new or reconditioned. **YOU ACKNOWLEDGE THAT EQUIPMENT IS NOT COMPATIBLE WITH ANY OTHER TELECOMMUNICATIONS SYSTEM AND MAY ONLY BE USED WITH THIS SYSTEM.** We may provide you Services to use Equipment for the selected plan, features and data as specified on the Order Page, as further detailed on our web site at [www.southernlinc.com](http://www.southernlinc.com), or as otherwise modified by the parties. **COVERAGE IS ONLY AVAILABLE IN THE SOUTHERNLINC WIRELESS REGIONAL SERVICE AREA UNLESS YOUR PLAN INCLUDES ADDITIONAL COVERAGE.** For more information on current coverage for your plan, visit [www.southernlinc.com](http://www.southernlinc.com). Use of a Smartphone requires a data service package for the length of this Agreement or qualified contract extension. If your plan has a 2G/3G data allowance, you will not be able to use 2G/3G data beyond the allowance, but you may be able to use regional data within the SouthernLINC Wireless Regional Service Area. If you fail to log into your voicemail box within any 30 day period, we may deactivate this feature. We may not provide maintenance and support for software or applications. We may charge you to change your number. Except as provided by law, you have no proprietary rights to an assigned telephone number. If you purchase certain applications, features or software, you may be required to agree to additional terms, including but not limited to the MOTOTALK™ terms of use, available at our web site at [www.southernlinc.com](http://www.southernlinc.com).

2. **Term/Termination.** We will provide Services and associated System features to you as selected by you on the attached Order Page for an initial 12 month term and any automatic renewals of that period that you are entitled to use Equipment on the System. Either you or we may terminate this Agreement upon 30 days advance written notice prior to expiration of the then-current 12 month term. We may terminate Services on one or more units of Equipment upon a material breach by you that is not cured promptly following written notice by us, including failure to pay for Services in a timely fashion. Subject to applicable law we may modify any terms of this Agreement by providing 30 days written notice to you of the modification and the effective date. Upon receipt of notice of any material modification, you may terminate the affected Service within the 30-day period without payment of an early termination fee. Your failure to terminate the affected Service within such time period will constitute your acceptance of the modification. A material change does not include any governmental tax or charge or cost recovery fee. For information on our return policy, visit our web site at [www.southernlinc.com](http://www.southernlinc.com).

3. **Emergency Service (911).** Services provided hereunder interact with 911 and other emergency services in different manners than landline telephone service. Depending on the circumstances of a particular call, Services provided hereunder may not be able to connect you to any service provider, or to identify your subscriber identity, telephone number or location to emergency services and may not always be connected to the appropriate emergency services provider. 911 services may not be available to you, even if 911 fees are assessed by state and local authorities.

4. **Force Majeure.** Neither party will be liable for a failure or delay in its performance under this Agreement (other than payment) to the extent such failure or delay was covered by an event or occurrence beyond its reasonable control, including, without limitation, an act of God, flood, riot, fire, labor disputes, failure of telecommunications facilities or transmission links, failure of digital transmission links, Internet slow-down or failure, lightning strike or extreme temperatures.

5. **Nature of Service.** Services provided hereunder are part of a telecommunications service available to the public from a network serving all System customers in several states as an integrated system. The System routes all communications through central points of control used by other public traffic. You may experience variations in Services and access times based upon the location, other traffic on the System or conditions of the System. You may fail to obtain or maintain access due to a lack of coverage in a particular area, use of low powered portable equipment in areas where higher powered mobile equipment is needed, radio frequency propagation effects, the effects of weather, the effects of natural and constructed obstructions, equipment maintenance and upgrades, repairs and malfunctions, and public usage exceeding capacity. **SERVICES MAY BE DISRUPTED OR CANCELED DUE TO ACTIONS OF THIRD PARTY PROVIDERS AND MAY BE DISRUPTED OR CANCELED DUE TO ACTIONS OF THIRD PARTY PROVIDERS. TO THE EXTENT PERMITTED BY LAW, WE MAKE NO WARRANTIES OR GUARANTEES AS TO ANY SERVICES OR FEATURES PROVIDED BY THIRD PARTIES. WE DO NOT MAKE ANY, AND HEREBY DISCLAIM ALL WARRANTIES AND REPRESENTATIONS OF ANY KIND, STATUTORY, EXPRESS OR IMPLIED, REGARDING EQUIPMENT OR SERVICES. WITHOUT LIMITING THE FOREGOING, WE SPECIFICALLY DISCLAIM EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NONINFRINGEMENT. WE DO NOT WARRANT THAT ANY SERVICES WILL MEET ANY OF YOUR REQUIREMENTS OR THAT THE PERFORMANCE OF SERVICES OR CONTENT THEREON WILL BE UNINTERRUPTED, TIMELY, APPROPRIATE OR FREE OF ERRORS OR INACCURACIES. ANY WARRANTY FOR EQUIPMENT, SOFTWARE OR APPLICATIONS IS SOLELY PROVIDED BY THE MANUFACTURER OR DEVELOPER.**

6. **Limitation of Liability.** TO THE EXTENT PERMITTED BY APPLICABLE LAW, WE WILL NOT BE LIABLE FOR CONSEQUENTIAL, SPECIAL OR INCIDENTAL DAMAGES, WHETHER OR NOT OCCASIONED BY OUR NEGLIGENCE AND INCLUDING, WITHOUT LIMITATION, LOST PROFITS, LOST BUSINESS, LOSS OF USE OR DATA, OR LIABILITY FOR ANY LOSS OR DAMAGE RESULTING FROM INTERRUPTION OR FAILURE IN THE OPERATION OF ANY EQUIPMENT OR IN CONNECTION WITH THE USE OF SERVICES. YOU ASSUME THE ENTIRE RISK AS TO THE QUALITY AND PERFORMANCE OF EQUIPMENT OR SERVICES. IF EQUIPMENT PROVES DEFECTIVE, THEN THE COSTS OF ALL NECESSARY SERVICING AND REPAIR WILL BE BORNE BY

YOU. TO THE EXTENT WE ARE LIABLE UNDER THIS AGREEMENT, YOU HEREBY LIMIT OUR LIABILITY WITH RESPECT TO EACH UNIT AND RELATED SERVICES TO THE ANNUAL AMOUNT PAID BY YOU FOR SERVICES TO THAT UNIT. IF YOU HAVE SOVEREIGN IMMUNITY, YOU DO NOT WAIVE YOUR SOVEREIGN IMMUNITY BY AGREEING TO THIS PROVISION.

7. **Payment.** You will pay us all amounts due under this Agreement (including, without limitation, amounts due for Services, Equipment and other charges) plus applicable shipping and tax by the payment due date shown on your invoice, unless otherwise provided by the applicable purchase authorization. You will pay any federal, state, and local transactional taxes, fees or surcharges, including, without limitation, universal service fees, 911 surcharges, sales taxes, mobile communications services taxes and gross receipts taxes applicable to the sale of tangible personal property or Services.

8. **Late Fees.** You will pay to us a late charge if we do not receive payment on or before the date such payment is due equal to 1.5% (or the maximum interest rate permitted by law) per month of the overdue payment for each month that such amount remains unpaid, or the highest rate permitted by law, whichever is less. If a check, draft or similar instrument which you remit to us in payment of charges owing under this Agreement is not paid or is dishonored by a financial institution, you will pay us a fee in the maximum amount allowed by applicable law, which varies by state and is typically \$25. We may demand payment by money order, cashier's check or similarly secure form of payment at our discretion. If we disconnect Services, you must pay a reconnect fee of \$25 per unit per Service, in addition to other outstanding fees. Before we may reactivate Service, we reserve the right to modify the terms of Service as a precondition to reactivation.

9. **Customer Covenants.** You will use the Equipment, Services (including the transfer of information) and System only in the manner for which each was designed and within your permissible usage allowance in accordance with all applicable laws and our Acceptable Use Policy. For more information on our Acceptable Use Policy, visit our web site at [www.southernlinc.com](http://www.southernlinc.com). You will use only Equipment that is certified for use on our System by SouthernLINC Wireless. You will instruct your employees with access to the System in the use of Equipment and Services and its capabilities for your particular location and operations. Training assistance may be obtained by contacting customer support (1-800-406-0151). You will limit your use of the System to the manner as designed in accordance with all applicable federal and state laws and agree to use only Equipment that is certified by us for use on our System. We reserve the right to terminate the Agreement if we reasonably believe you are violating any applicable law. You are responsible for payment for all calls placed to or via your telephone number(s) regardless of any use or misuse of Service(s) by you or any third party. We may block your access to numbers (e.g., 976, 900 and international destinations) or types of calls (e.g., operator-assisted or collect calls) if we experience excessive billing, collection, fraud or other misuse of Services. All intellectual property rights remain with us or the developer and you will not modify, disclose, reproduce or reverse engineer any portion of software. Only our representatives may repair, service or otherwise access Equipment and Services. Any software loaded on your Equipment by non-representatives is done so at your own risk.

10. **Data Privacy.** To provide your requested Services, we will use and disclose information about you, including, but not limited to, your name, street address, telephone number, email and telephone account. Of this information, we will obtain and possess certain usage-related information about the quantity, type and usage patterns of services that you use, called your Customer Proprietary Network information or CPNI. Under federal law, you have the rights, and we have the duty, to protect the confidentiality of your CPNI (as defined by applicable law), which we will protect in accordance with all applicable laws, rules and regulations and our CPNI Guide. Our CPNI Guide is maintained on our web site affecting the manner in which you can access your account and we protect your CPNI. We and our agents may contact your email, SouthernLINC Wireless number and your other phone/cell numbers for any purpose, including without limitation collecting amounts due and advertisements. You acknowledge and agree that we may be obligated to disclose your information pursuant to court order or as otherwise required by law. If we are required by law or similar process to disclose your information, we may (to the extent legally permissible) provide you with written notice of such request or requirement so that you may seek an appropriate protective order. For more information on our privacy policies or CPNI Guide, visit our web site at [www.southernlinc.com](http://www.southernlinc.com).

11. **Security.** We will not intentionally jeopardize the security of your systems or Equipment and are not responsible if any software code enters your systems or Equipment through our system that disrupts, disables or self-limits hardware or software. We disclaim any liability with respect to the unauthorized use of your information to the extent permitted by law.

12. **Governing Law.** This Agreement will be construed in accordance with and governed by the laws of the state where Customer is located.

13. **Miscellaneous.** Any notices under this Agreement will be made in writing and will be deemed effective when delivered to: Southern Communications Services, Inc. d/b/a SouthernLINC Wireless, 4601 Southlake Parkway, Hoover, AL 35244. If any one or more of the provisions of this Agreement or any application of those provisions is held to be invalid in any respect, the enforceability and applicability of such provision and all other remaining provisions will continue in effect to the fullest extent permitted by law. We may modify materials referenced in this Agreement that are available on our web site from time to time by posting the then-current terms on our web site at [www.southernlinc.com](http://www.southernlinc.com). This Agreement, including all Order Pages, constitutes the entire Agreement among the parties with respect to its subject matter, and supersedes any other statement or writing not a part of this Agreement or otherwise referenced in this Agreement. Except as otherwise provided herein, this Agreement may be amended only by a writing signed by both parties. Any waiver by a party must be in writing and signed by such party.