

CITY OF COLUMBIA, ILLINOIS

ORDINANCE NO. 2935

**AN ORDINANCE TO AUTHORIZE THE CITY OF COLUMBIA,
ILLINOIS, TO ENTER INTO AN AGREEMENT WITH
MERCURY COMMUNICATIONS, INC. FOR THE
CONSTRUCTION OF A RADIO COMMUNICATIONS TOWER
ADJACENT TO THE POLICE DEPARTMENT BUILDING**

**Adopted by the
City Council
of the
City of Columbia, Illinois
this 21st day of February, 2012**

**Published in pamphlet form by
authority of the City Council
of the City of Columbia,
Illinois, this 21st day
of February, 2012**

FEB 21 2012


City Clerk

ORDINANCE NO. 2935

AN ORDINANCE TO AUTHORIZE THE CITY OF COLUMBIA, ILLINOIS, TO ENTER INTO AN AGREEMENT WITH MERCURY COMMUNICATIONS, INC. FOR THE CONSTRUCTION OF A RADIO COMMUNICATIONS TOWER ADJACENT TO THE POLICE DEPARTMENT BUILDING

WHEREAS, the Federal Communications Commission (“FCC”) has mandated changes that will disallow the use of current radio broadcast frequencies for Public Safety Radio Systems on or after January 1, 2013; and

WHEREAS, all Emergency Service Providers using any Public Safety Radio System, including the City of Columbia, Illinois (“City”), must comply with standards as established by the FCC in order to broadcast their signals on or after January 1, 2013; and

WHEREAS, the standards established by the FCC encompass signals transmitted by mobile radios, portable systems, paging systems and base stations; and

WHEREAS, a determination has been made that the City needs a radio communications tower to be constructed at a height that will allow the transmission of radio signals in compliance with such broadcasting standards established by the FCC, and to be able to access the Monroe County, Illinois radio system, as well as the statewide trunked-digital voice radio network, the STARCOM21 Network (which is operated by Motorola Solutions, Inc.), for Public Safety Radio Systems communications; and

WHEREAS, the City Council of the City of Columbia, Illinois, at its regularly held City Council Meeting on January 17, 2012, approved the bid proposal of Mercury Communications, Inc. for the construction of a radio communications tower, adjacent to the City’s Police Department building, to allow the transmission of radio signals as described in the previous paragraph; and

WHEREAS, the City Council of the City of Columbia, Illinois, has determined and hereby declares that it is in the City’s best interests and appropriate to enter into an Agreement with Mercury Communications, Inc. for the construction of a radio communications tower pursuant to the bid proposal approved on January 17, 2012.

NOW, THEREFORE, BE IT ORDAINED, by the City Council of the City of Columbia, Illinois, as follows:

Section 1. The recitals contained above in the preamble of this Ordinance are hereby incorporated herein by reference, the same as if set forth in this Section of this Ordinance verbatim, as findings of the City Council of the City of Columbia, Illinois.

Section 2. The City Council of the City of Columbia, Illinois, does hereby authorize and direct the City Administrator to execute and deliver the Radio Communications Tower Construction Agreement, in the form attached hereto between the City and Mercury Communications, Inc., for the construction of a radio communications tower adjacent to the City's Police Department building to allow the City to broadcast Public Safety Radio System signals in compliance with FCC mandated broadcasting standards, which Radio Communications Tower Construction Agreement is hereby approved as to form, in as many counterparts as said City Administrator shall determine.

Section 3. This ordinance shall be in full force and effect following its passage and publication in pamphlet form, as provided by law.

Alderman Reis moved the adoption of the above and foregoing Ordinance; the motion was seconded by Alderman Ebersohl, and the roll call vote was as follows:

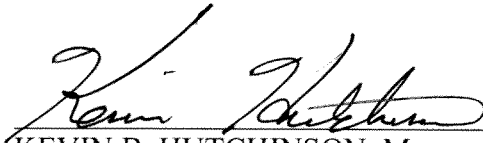
YEAS: Aldermen Ebersohl, Agne, Niemietz, Roessler, Huch, Piazza and Reis.

NAYS: None.

ABSENT: Alderman Mathews.

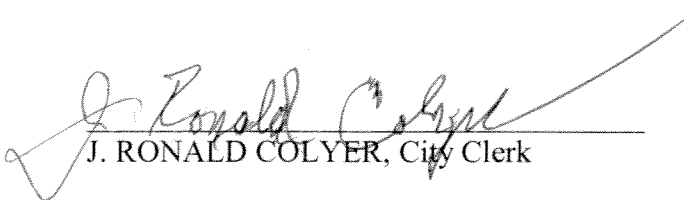
ABSTENTIONS: None.

PASSED by the City Council and APPROVED by the Mayor this 21st day of February, 2012.



KEVIN B. HUTCHINSON, Mayor

ATTEST:



J. RONALD COLYER, City Clerk

(SEAL)

STATE OF ILLINOIS)
) SS
COUNTY OF MONROE)

CERTIFICATE OF PUBLICATION

I, J. Ronald Colyer, certify that I am the duly elected and acting City Clerk of the City of Columbia, Illinois.

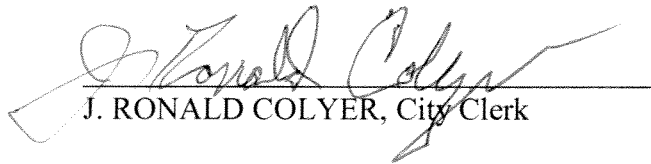
I further certify that on the 21st day of February, 2012, the Corporate Authorities of the City of Columbia, Illinois, passed and approved Ordinance No. 2935 entitled:

“AN ORDINANCE TO AUTHORIZE THE CITY OF COLUMBIA, ILLINOIS, TO ENTER INTO AN AGREEMENT WITH MERCURY COMMUNICATIONS, INC. FOR THE CONSTRUCTION OF A RADIO COMMUNICATIONS TOWER ADJACENT TO THE POLICE DEPARTMENT BUILDING”

which provided by its terms that it should be published in pamphlet form.

The pamphlet form of Ordinance No. 2935, including the ordinance and a cover sheet thereof, was prepared, and a copy of such ordinance was posted in the Columbia City Hall, commencing on February 22, 2012 and continuing for at least ten (10) days thereafter. Copies of such ordinance were also made available for public inspection upon request in the office of the City Clerk.

DATED at Columbia, Illinois this 21st day of February, 2012.



J. RONALD COLYER, City Clerk

(SEAL)

STATE OF ILLINOIS)
) SS
COUNTY OF MONROE)

CERTIFICATE OF TRUE COPY

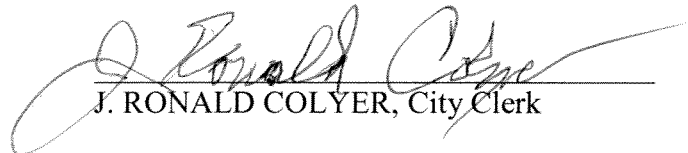
I, J. Ronald Colyer, hereby certify that I am the duly elected and acting City Clerk of the City of Columbia, Illinois, and as such I am the keeper of the books, records, files and corporate seal of said City.

I do further certify that Ordinance No. 2935, entitled:

“AN ORDINANCE TO AUTHORIZE THE CITY OF COLUMBIA, ILLINOIS, TO ENTER INTO AN AGREEMENT WITH MERCURY COMMUNICATIONS, INC. FOR THE CONSTRUCTION OF A RADIO COMMUNICATIONS TOWER ADJACENT TO THE POLICE DEPARTMENT BUILDING”

to which this certificate is attached, is a true, perfect, complete and correct copy of said ordinance as adopted at a regular meeting of the Columbia, Illinois, City Council held on the 21st day of February, 2012.

IN WITNESS WHEREOF, I have made and delivered this certificate for the uses and purposes hereinabove set forth this 21st day of February, 2012.



J. RONALD COLYER, City Clerk

(SEAL)

F R O M	Mercury Communications Inc 315 Lemay Ferry Road Suite 114 St. Louis, Missouri 63125 314-544-1107 (BUSINESS) 314-544-0708 (FAX)		Page No. 1
			of <u>2</u> Pages

Contract SUBMITTED TO: City of Columbia, IL		DATE: 2/13/12	
NAME: City of Columbia		JOB NAME: Police Department Radio Communications Tower Construction Project	
STREET: 1020 North Main Street		STREET: 1020 North Main Street	
CITY: Columbia	CITY: Columbia	STATE: IL	
STATE: IL		PHONE: 618-281-7144	

We hereby submit specifications and estimates for:

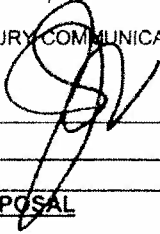
Supply and install new radio tower according to specifications dated 11/2/11 and Q/A provided via email 11/29/11.

We hereby propose to furnish labor and materials - complete in accordance with the above specifications, for the sum of:

Total: \$ 110,630.00 and 00/100

All material is guaranteed to be as specified. Mercury Construction agrees to substantially perform this Agreement in a workmanlike manner. Any alteration or deviation from above specifications involving extra costs will be executed only upon written change orders, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accident or delays beyond our control. This proposal subject to acceptance within 30 days and it is void thereafter at the option of the undersigned.

MERCURY COMMUNICATIONS, INC. d/b/a MERCURY CONSTRUCTION

Authorized Signature: 

ACCEPTANCE OF PROPOSAL

The above Proposal, together with the terms on the reverse side of this Proposal, are hereby accepted by the below referenced Customer(s). Mercury Construction is authorized to do the work as specified. Customer(s) shall make payment as outlined above.

ACCEPTED: _____ Signature: _____
Printed Name: _____

DATE: _____ Signature: _____
Printed Name: _____

NOTICE TO OWNER

FAILURE OF THIS CONTRACTOR TO PAY THOSE PERSONS SUPPLYING MATERIAL OR SERVICES TO COMPLETE THIS CONTRACT CAN RESULT IN THE FILING OF A MECHANIC'S LIEN ON THE PROPERTY WHICH IS THE SUBJECT OF THIS CONTRACT PURSUANT TO THE LAWS OF THE STATE OF ILLINOIS. TO AVOID THIS RESULT YOU MAY ASK THIS CONTRACTOR FOR "LIEN WAIVERS" FROM ALL PERSONS SUPPLYING MATERIAL OR SERVICES FOR THE WORK DESCRIBED IN THIS CONTRACT. FAILURE TO SECURE LIEN WAIVERS MAY RESULT IN YOUR PAYING FOR LABOR AND MATERIAL TWICE.

THIS AGREEMENT IS BETWEEN MERCURY COMMUNICATIONS, INC. D/B/A MERCURY CONSTRUCTION, HEREIN REFERRED TO AS "COMPANY" AND CITY OF COLUMBIA, IL CUSTOMER(S). THIS AGREEMENT WILL BE SUBJECT TO ALL APPROPRIATE LAWS OF THE STATE OF ILLINOIS, THE LOCAL JURISDICTION, AND THE CITY IN WHICH IT IS SPECIFIED, AND THE FOLLOWING TERMS AND CONDITIONS:

1. FOR THIS AGREEMENT AND ALL RELATED AGREEMENTS TO BE EFFECTIVE AND BINDING THOSE AGREEMENTS ARE SUBJECT TO THE APPROVAL OF A MANAGER OF THE COMPANY.
2. ANY STATEMENTS, REPRESENTATIONS OR OTHER COMMUNICATIONS NOT CONTAINED IN THIS AGREEMENT ARE AGREED TO BE IMMATERIAL AND NOT RELIED ON BY EITHER PARTY AND DO NOT SURVIVE THE EXECUTION OF THIS AGREEMENT.
3. THE QUOTED AMOUNT OF THIS AGREEMENT INCLUDES THE EXPENSES INCURRED BY THE COMPANY FOR BOND OR INSURANCE PREMIUMS OR COSTS BEYOND NORMAL INSURANCE COVERAGE. SAID EXPENSES SHALL BE THE RESPONSIBILITY OF CUSTOMER(S).
4. ANY REVISIONS OR AMENDMENTS TO THIS AGREEMENT SHALL BE IN WRITING AND SIGNED BY BOTH PARTIES.
5. COMPANY RESERVES THE RIGHT TO REVISE ANY PRICING AFTER 30 DAYS OR GREATER IN RELATION TO THE CURRENT COSTS OF MATERIALS AND LABOR AT THAT TIME. COMPANY RESERVES THE RIGHT TO REVOKE THIS PROPOSAL AT ANY TIME WITHIN THE 30 DAY PERIOD FROM THE DATE OF PROPOSAL.
6. THE COMPANY SHALL HAVE NO RESPONSIBILITY FOR DAMAGES DUE TO RAIN, FIRE, TORNADO, WIND OR OTHER NATURAL DISASTERS.
7. DURING THE DURATION OF THE WORK, CUSTOMER WILL BE RESPONSIBLE FOR ANY INTERIOR/EXTERIOR DAMAGE AS LONG AS THE COMPANY HAS TAKEN THE APPROPRIATE PRECAUTIONS TO PREVENT DAMAGE AND PROTECT THE PROPERTY.
8. IF THE MATERIAL HAS TO BE REORDERED OR RESTOCKED BECAUSE OF A CANCELLATION BY THE CUSTOMER, THERE WILL BE A RESTOCKING FEE EQUAL TO TWENTY-FIVE PERCENT (25%) OF THE AGREEMENT AMOUNT.
9. IN THE EVENT THAT DEFAULT OF PAYMENT SHOULD OCCUR, CHARGES SHALL BE ADDED FROM THE DATE THEREOF AT A RATE OF ONE AND ONE-HALF PERCENT (1.5%) PER MONTH. IF ANY LEGAL ACTION IS REQUIRED FOR THE COLLECTION OF PAST DUE MONIES, ALL ATTORNEY FEES, AND COLLECTION COSTS SHALL BE PAID BY CUSTOMER.
10. PAYMENT SCHEDULE OF THIS AGREEMENT IS THE CLOSEST WHOLE DOLLAR AMOUNT. ALL PAYMENTS MUST BE MADE TO THE COMPANY AND ONLY THOSE PAYMENTS MADE TO AND RECEIVED BY THE COMPANY WILL BE CONSIDERED SATISFACTION OF THE PAYMENTS OF THIS AGREEMENT. THE PAYMENT SCHEDULE CANNOT BE AMENDED WITHOUT THE PRIOR WRITTEN APPROVAL OF A MANAGER OF THE COMPANY.
11. AFTER COMMENCEMENT OF THE WORK DESCRIBED IN THIS AGREEMENT, THIS AGREEMENT CANNOT BE CANCELLED EXCEPT BY MUTUAL CONSENT OF BOTH PARTIES.
12. COMPANY IS NOT RESPONSIBLE FOR PRE-EXISTING CONSTRUCTION DEFECTS THAT BECOME APPARENT DURING THE CONSTRUCTION PROCESS. IF A CONSTRUCTION PROBLEM IS IN EXISTENCE AND DISCUSSED PRIOR TO CONSTRUCTION, COMPANY WILL TRY TO ASSIST CUSTOMER(S) IN CORRECTING THE PROBLEMS ON A TIME AND MATERIAL BASIS.
13. ANY UPGRADES OR ADDITIONAL WORK REQUESTED BY CUSTOMER(S) WILL BE CUSTOMER'S FINANCIAL RESPONSIBILITY AND WILL BECOME PART OF THIS AGREEMENT.
14. IF ANY PORTION OF THIS AGREEMENT SHOULD BE HELD TO BE INVALID OR UNENFORCEABLE THE VALIDITY AND ENFORCEABILITY OF THE REMAINING PROVISIONS OF THIS AGREEMENT SHALL NOT BE COMPROMISED THEREBY.
15. COMPANY SHALL NOT BE LIABLE FOR FAILURE OF PERFORMANCE DUE TO LABOR CONTROVERSIES, STRIKES, NATURAL DISASTERS, UNAVAILABLE MATERIALS FROM USUAL SOURCES, OR ANY OTHER CIRCUMSTANCES BEYOND THE CONTROL OF COMPANY.
16. CUSTOMER(S) SHALL PROVIDE COMPANY AN OPPORTUNITY TO CORRECT ANY WORK BEFORE FILING ANY CLAIM AGAINST COMPANY.
17. THIS AGREEMENT IS COMPRISED OF THE BACK OF THIS PAGE, THE FRONT SIDE OF THE AGREEMENT AND ALL MATERIALS INCORPORATED HEREIN BY REFERENCE AND SHALL BE CONSIDERED THE ENTIRE AGREEMENT BY ALL PARTIES.
18. WARRANTY: (1) WARRANTIES APPLY EXCLUSIVELY TO THE LABOR AND MATERIAL, EQUIPMENT, AND OTHER ITEMS SUPPLIED BY THE CONTRACTOR; (2) WARRANTY DOES NOT APPLY TO MATERIAL, FIXTURES, EQUIPMENT AND OTHER ITEMS SUPPLIED BY OTHERS; (3) WARRANTY DOES NOT APPLY TO EXTENSIONS OR ADDITIONS TO THE ORIGINAL INSTALLATION IF MADE BY OTHERS; (4) WARRANTY SHALL COMMENCE FROM THE FINAL INSPECTION DATE FOR A MAXIMUM PERIOD OF ONE (1) YEAR. WARRANTY DOES NOT APPLY IF ANY PAYMENTS ACCORDING TO THIS PROPOSAL BECOME PAST DUE INCLUDING CHANGE ORDERS.
19. MATERIALS AND EQUIPMENT: ALL MATERIAL AND EQUIPMENT SHALL BE AS WARRANTED BY THE MANUFACTURER AND WILL BE INSTALLED IN A MANNER CONSISTENT WITH STANDARD PRACTICES AT THIS TIME. IT IS AGREED THAT TITLE TO ALL MATERIAL REQUIRED ACCORDING TO THIS PROPOSAL WILL REMAIN THE PROPERTY OF THIS CONTRACTOR UNTIL PAID IN FULL. IT IS UNDERSTOOD THAT THIS CONTRACTOR SHALL HAVE THE AUTHORIZATION TO ENTER UPON OWNER/CONTRACTOR PROPERTY FOR THE PURPOSE OF REPOSSESSING MATERIAL AND EQUIPMENT WHETHER OR NOT INSTALLED WITHOUT LIABILITY TO OWNER/CONTRACTOR FOR TRESPASS OR ANY OTHER REASON.
20. NATIONAL AND LOCAL CODES: INSTALLATION SHALL MEET ALL APPLICABLE CODES. ERRORS IN DESIGN BY THE ARCHITECT AND/OR ENGINEER ARE NOT THE RESPONSIBILITY OF THE CONTRACTOR.
21. CONTRACTOR SHALL NOT BE RESPONSIBLE FOR ANY PHYSICAL CONDITIONS THAT ARE ENCOUNTERED AT THE CONSTRUCTION SITE THAT ARE SUBSURFACE OR OTHERWISE CONCEALED. CUSTOMER IS RESPONSIBLE FOR ALL ADDITIONAL COSTS AND DAMAGES OF WHATEVER NATURE AND KIND HEREAFTER RESULTING IN WHOLE OR IN PART FROM ANY ERROR, OMISSION, DISCREPANCY OR INCONSISTENCY IN THE CONTRACT DOCUMENTS, INCLUDING WITHOUT LIMITATION EACH ASPECT, IF ANY, OF THE PLANS, SPECIFICATIONS AND OTHER CONTRACT DOCUMENTS THAT DO NOT CONFORM TO THE CODES, ORDINANCES, REGULATIONS AND LAWS OF THE VARIOUS GOVERNMENT ENTITIES EXERCISING JURISDICTION OVER THE PROJECT.