

## IPAWS Addendum

This is an Addendum to that certain CodeRED Services Agreement effective September 2, 2011 (the "Agreement") and is made and entered into as of February 1, 2015 (the "Addendum Effective Date") by and between the City of Peoria (hereinafter "Licensee") a body politic of the State of Illinois located at 542 SW Adams Street, Peoria, IL 61602 and Emergency Communications Network, LLC (hereinafter "Licensor"), located at 780 W. Granada Boulevard, Suite 200, Ormond Beach, FL 32174.

Whereas, Licensee entered into the Agreement with Emergency Communications Network, Inc., a Florida Corporation ("ECN, Inc.");

Whereas, ECN, Inc. has assigned the Agreement to Licensor, and Licensor has agreed to assume the Agreement and all obligations thereunder; and

Whereas, Licensee and Licensor desire to amend the Agreement as set forth herein;

In consideration of the promises set forth herein and outlined in the Agreement, Licensee and Licensor agree to amend the Agreement in the following manner:

1. Terms used herein but not otherwise defined shall have the meaning attributed to them in the Agreement. All references to Licensor in the Agreement shall be deemed to mean Licensor as defined herein. All references to Licensor's address in the Agreement shall be deemed to mean the address for Licensor listed herein.

2. The following terms shall be added to the Agreement:

**Integrated Public Alert Warning System ("IPAWS"):** IPAWS is a public alert and warning system developed and maintained by the Federal Emergency Management Agency ("FEMA"), and is designed to provide integrated services and capabilities to local, state and federal authorities for the purpose of enabling them to alert and warn their respective communities via multiple communication methods. Licensor's CodeRED Service has the ability to permit authorized IPAWS users to deliver messages to IPAWS through the CodeRED® Service using an IPAWS add-on (the "IPAWS Submission App").

### IPAWS TERMS OF USE:

**Authorization:** Licensee represents and warrants to Licensor that Licensee, and any employees, agents, or representatives of Licensee that accesses IPAWS using Licensee's access codes to the IPAWS Submission App (each a "User"), are authorized by FEMA to use IPAWS and have completed IPAWS training as required by FEMA. Licensee shall contact Licensor immediately upon any change in Licensee's, or any User's, right to access IPAWS, including but not limited to any change in any User's employment status which may otherwise result in such User no longer being authorized to have access to IPAWS.

Licensee shall notify Licensor to designate which access codes for CodeRED® shall have the ability to view the IPAWS Submission App. Licensee understands and agrees that the IPAWS Submission App may only be accessed by users with access codes for CodeRED® and that, in the event Licensee requires additional CodeRED® access codes for access to the IPAWS Submission App, Licensee may purchase such additional codes as set forth in the Agreement. Licensee further understands and agrees that access to the IPAWS Submission App shall require a separate password from that used for the CodeRED® Service, that such password shall be established solely by the User who signs up for access to the IPAWS Submission App, and that Licensor shall not have access to such password. Licensee shall assume full responsibility for maintaining the confidentiality of all passwords used to access the IPAWS Submission App. Licensee shall indemnify Licensor from any and all claims, damages, expenses (including attorneys' fees and costs), which arise from any unauthorized use or access to IPAWS hereunder, whether by Licensee or through the use of Licensee's IPAWS Submission App access codes.

**Digital Signature:** Licensee represents and warrants that it has been granted a digital signature to access IPAWS (the "Signature") from FEMA. In order to use the IPAWS Submission App, Licensee agrees to provide Licensor with a copy of the Signature as well as Licensee's Application for IPAWS Public Alerting Authority, and Licensee's keystore and passwords for the Signature, along with any other information reasonably requested by Licensor to demonstrate Licensee's right access to IPAWS through the IPAWS Submission App. Licensee agrees that the Signature shall be submitted, free from any information disclosing its associated passwords, to Licensor in hard copy and/or electronic format on CD or USB Drive, by mailing such information to Licensor, via certified mail or other nationally recognized overnight delivery carrier, delivery confirmation requested, at Emergency Communications Network, Attn: Gary Van OpDorp, 780 W. Granada Boulevard, Suite 200, Ormond Beach, FL 32174. All remaining items, including without limitation, Licensee's Application for IPAWS Public Alerting Authority, and Licensee's keystore and passwords for the Signature may be emailed to a designee of Licensor. Licensee specifically authorizes Licensor to use such information, including but not limited to the Signature, for the purpose of connecting Licensee to the IPAWS Submission App. Licensee agrees that it shall permit the Signature to remain on Licensor's servers for the purpose of allowing Licensee and Licensor to access IPAWS through the IPAWS Submission App, and that Licensor may use Licensee's Signature for the purpose of testing the CodeRED® Service and the IPAWS Submission App. Licensor and Licensee acknowledge and agree that, upon termination of this Addendum or the Agreement, the Signature shall be removed from the IPAWS Submission App. Licensee further acknowledges and agrees that it shall not, at any time, submit the Signature or any confidential information belonging to it regarding its IPAWS authorization to Licensee via email or other electronic means, except as specifically set forth in this Addendum. Licensee further agrees that Licensor shall, in no way, be liable for any transmission, copying, or security issues which arise from Licensee's transmission of confidential IPAWS information through non-secure means, including without limitation email.

**Functionality:** Licensee acknowledges and agrees that: (a) the IPAWS Submission App permits Licensee to submit messages to IPAWS, however, upon submission of any messages to IPAWS, Licensor shall have no further responsibility regarding the dissemination of the message; (b) that the dissemination of messages through IPAWS, after delivery by the IPAWS Submission App, including but not limited to delivery through the Emergency Alert System (EAS) or the Commercial Mobile Alert System (CMAS), is not guaranteed nor controlled by Licensor, and is the sole responsibility of FEMA and its associated agencies, and that in no event shall Licensor be responsible or liable for the failure of messages to be disseminated through IPAWS; (c) IPAWS may include additional features which are not supported through the IPAWS Submission App, including without limitation the receipt of messages, and Licensor shall not be required to provide such additional features to Licensee; and (d) Licensee shall be solely responsible for the content of all messages delivered to IPAWS through the IPAWS Submission App and for any and all claims, whether raised by FEMA or a third party, regarding messages sent by Licensee, or using Licensee's access codes, through the IPAWS Submission App.

**Integration into Service:** Licensee acknowledges and agrees that all provisions of the Agreement, including but not limited to the use of the Service, warranty disclaimers, liability limitations, and Licensee responsibility and indemnification of Licensor, shall apply to Licensee's use of the IPAWS Submission App, and that the terms of this Addendum shall be governed by the Agreement and do not modify, limit, or alter the Agreement except as specifically set forth herein.

**License:** The IPAWS Submission App is available only as an add-on service module for Licensees of the CodeRED Service. The service license granted hereunder for the IPAWS Submission App will not be provided under the terms of this Addendum unless the Agreement is in effect.

**Security:** Licensor will use commercially reasonable practices and standards to secure and encrypt data transmissions sent using the IPAWS Submission App. Licensee understands and acknowledges that Licensor is providing the IPAWS Submission App on the World Wide Web through an "upstream" third party Internet Service Provider, utilizing public utility services which may not be secure. Licensee agrees that Licensor shall not be liable to Licensee for any compromise to, or interceptions of, messages sent through the IPAWS Submission App.

**COST FOR IPAWS:** Licensee shall pay to Licensor two thousand five hundred dollars (\$2,500) for the initial term of this Addendum, which shall commence as of the Addendum Effective Date and continue through September 1, 2015. Commencing on September 2, 2015 (the "Renewal Date"), and on each annual anniversary of the Renewal Date thereafter, Licensee shall pay two thousand five hundred dollars (\$2,500) per year for this Addendum. Payment is due upon receipt of invoice (ROI), and all payment terms shall be identical to the terms contained in the Agreement. Pricing for the IPAWS Submission App is separate and independent from the Agreement pricing, and the IPAWS Submission App can be removed from the CodeRED Service by Licensee by providing 30 days written notice prior to any annual anniversary of the Renewal Date. Licensee will be notified of any price change for the IPAWS Submission App a minimum of 90 days in advance of annual Renewal Date.

**TRANSFER OF INFORMATION:** Licensee understands and agrees that Licensor shall not be responsible for any security breach or losses of information caused during the transmission of confidential information from Licensee to Licensor, including without limitation the transmission of any FEMA documents, the Signature, or any associated IPAWS information. Licensee shall take steps to ensure that the transmission of such information is completed with best practices, including without limitation ensuring that all Signature passwords are transmitted separately from the Signature. Licensor shall not be deemed to be in receipt of any information absent delivery confirmation of same; Licensee shall be solely responsible for arranging, including but not limited to paying any costs associated with, delivery confirmation.

**TERM:** The term of this Addendum shall commence as of the Addendum Effective Date and shall be for so long as Licensee maintains the Agreement and has paid the appropriate fees listed above, unless otherwise terminated as set forth herein. Licensee understands and agrees that access to the IPAWS Submission App shall be made available upon Licensor's receipt of all IPAWS information requested hereunder, and that the date of such receipt shall not otherwise affect the commencement of the term of this Addendum as of the Addendum Effective Date.

**FURTHER ASSURANCES:** Licensee agrees to execute and deliver to Licensor any additional documents and instruments, and to perform any additional acts that may be necessary or appropriate to effectuate and perform its obligations under this Addendum, including without limitation any additional paperwork requested by Licensor to show Licensee's compliance with any and all FEMA and/or IPAWS regulations.

3. Paragraph 16 of the Agreement shall be deleted in its entirety, and replaced as follows:

Termination:

a) Licensee or Licensor may terminate the Agreement and Addendum at the completion of the then-current one (1) year period by providing the other with no less than 30 days advance written notice prior to any annual anniversary of the Renewal Date. Licensee understands and agrees that failure to provide notice as set forth herein shall result in automatic renewal of the Agreement and Addendum. Licensee or Licensor may also cancel this Addendum at the end of any one (1) year period, without cancelling the Agreement, by providing written notice 30 days' prior to any annual anniversary of the Renewal Date. Upon termination of the Agreement and Addendum, Licensee will return all Confidential Information and copies to Licensor and Licensee agrees to remove from Licensee's computer(s), and any computers within Licensee's control, any and all files and documents related to the Service.

b) Licensor, in its sole discretion, may also terminate the Agreement: i) for any reason by providing no less than 30 days advance notice, and in such case, Licensor will refund to Licensee an amount equal to the lesser of the monthly-prorated balance of the annual fee based on the number of days left in the term of the Agreement or the value of the balance of System Minutes in Licensee's System Minute bank as calculated by multiplying the remaining System Minutes by the additional system minute price on Exhibit A, plus the monthly-prorated balance of the annual fee of this Addendum based on the number of days left in the term of the Agreement; or ii) immediately, and without further notice, as a result of Licensee's breach of the Agreement, and in such case, no fees paid under the Agreement or the Addendum shall be refunded.

c) Licensor, in its sole discretion, may also terminate this Addendum: i) for any reason, and in such case, Licensor will refund to Licensee an amount equal to the monthly-prorated balance of the annual fee of this Addendum based on the number of days left in the term of the Addendum; or ii) immediately, and without further notice, as a result of Licensee's breach of the Agreement or this Addendum or changes to IPAWS caused through no fault of Licensee or Licensor, and in such case, no fees paid hereunder shall be refunded. Licensor will take reasonable efforts to provide Licensee of advance notice of a termination pursuant to c)i) or c)ii) herein, however Licensee understands and agrees that such notice may not be provided in instances where immediate termination, whether due to access breaches or otherwise, are required.

b) Licensee, in its sole discretion, may also terminate the Agreement: i) for any reason by providing no less than 30 days advance notice, and in such case, no fees paid under the Agreement or the Addendum shall be refunded; or ii) immediately, and without further notice, as a result of Licensor's breach of the Agreement, and in such case, Licensor will refund to Licensee an amount equal to the lesser of the monthly-prorated balance of the annual fee based on the number of days left in the term of the Agreement or the value of the balance of System Minutes in Licensee's System Minute bank as calculated by multiplying the remaining System Minutes by the additional system minute price on Exhibit A, plus the monthly-prorated balance of the annual fee of this Addendum based on the number of days left in the term of the Agreement.


c) Licensee, in its sole discretion, may also terminate this Addendum: i) for any reason, and in such case, no fees paid hereunder shall be refunded; or ii) immediately, and without further notice, as a result of Licensor's breach of the Agreement or this Addendum, and in such case, Licensor will refund to Licensee an amount equal to the monthly-prorated balance of the annual fee of this Addendum based on the number of days left in the term of the Addendum.

Upon termination of the Agreement, this Addendum shall automatically terminate. Upon termination of the Addendum, access to the IPAWS Submission App will terminate and Licensor shall terminate all individual subscriber accounts. Licensee further understands and agrees that, in the event Licensor is required to remove the IPAWS Submission App as a result of Licensee's failure to maintain its right to maintain and/or comply with any IPAWS or FEMA regulations, Licensee shall forfeit all fees paid hereunder to Licensor.

4. This Addendum shall not modify any other terms and conditions of the Agreement not modified herein, which shall remain in force and effect for the term of the Agreement.

City of Peoria, Illinois  
Licensee

Emergency Communications Network, LLC  
Licensor

Signature:   
Printed Name: Patrick Ulrich  
Title: City Manager  
Date: 2/25/15

Signature: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

  
Peoria Corp. Counsel