

CODERED NEXT AND CODERED WEATHER WARNING PIGGYBACK AGREEMENT

This CodeRED® NEXT and CodeRED Weather Warning® Piggyback Agreement ("Agreement") is made and effective as of the last date written below (the "Effective Date") by and between Emergency Communications Network, LLC, a Delaware Limited Liability Company ("Licensor") located at 780 W. Granada Boulevard, Suite 200, Ormond Beach, FL 32174 and the City of Dania Beach, a body politic and corporate of the State of Florida ("Licensee") located at 100 West Dania Beach Boulevard, Dania Beach, FL 33004.

Whereas, Licensor is the owner of a service identified as "CodeRED® Emergency Notification System" (the "Service"), which is designed to allow authorized licensed users to have access 24 hours a day, 7 days a week for the purpose of generating high-speed notifications to targeted groups via an Internet-hosted software application.

Whereas, Licensor entered into that certain agreement with Manatee County Government, Florida ("Manatee") effective September 26, 2014 (the "Governing Agreement") for Manatee's purchase of the Service;

Whereas, the Governing Agreement was procured through request for proposal and bidding process organized by Manatee; and

Whereas, Licensee desires to utilize the Service for the purpose of communicating matters of public interest and concern by piggybacking off of the Governing Agreement, subject to the modifications and terms of this Agreement.

Now therefore, for good and valuable consideration, as set forth herein, Licensee and Licensor agree as follows:

- Governing Agreement.** Except as modified as set forth herein, all terms and conditions of the Governing Agreement shall be incorporated, in their entirety, into this Agreement, regardless of whether or not the Governing Agreement has been terminated and/or expired. Capitalized terms which are used in this Agreement but not otherwise defined herein shall have the meanings given to them in the Governing Agreement. Any modification of the terms in the Governing Agreement as listed in this Agreement shall apply to Licensee only; no such modifications shall be deemed to apply to Manatee.
- Functionality.** For the purpose of this Agreement, the term "Calling Area" shall be defined to mean the City of Dania Beach, Florida and the water and utility coverage area serviced by the Licensee as of the Effective Date of this Agreement. Licensor agrees to provide Licensee with commercially available data for use in the Service based upon this Calling Area.
- Initial Term.** For the purpose of this Agreement, the term "Initial Term" shall be defined to mean three (3) years, commencing as of the Effective Date of this Agreement. The fee for the three (3) year Initial Term shall be equal to thirty-six thousand dollars (\$36,000) which may be paid in installments of twelve thousand dollars (\$12,000) per year, as set forth on Exhibit A. All fees due hereunder shall be payable in accordance with paragraph 5 of the Governing Agreement. Licensee understands and agrees that the pricing set forth in this Agreement is based upon Licensee's specific Calling Area, and that Licensee shall be required to provide Licensor with a custom shape file or work with Licensor to draw the proper mapping boundaries to define the Calling Area, and, notwithstanding the Effective Date, the provision of the Service hereunder shall not commence until a custom shape file or custom drawn map for the Calling Area has been provided from Licensee to Licensor.
- Paragraph 6.** Paragraph 6 of the Governing Agreement shall not be applied to this Agreement.
- The following paragraphs shall apply to this Agreement:**

Data Updates: Licensor agrees to provide Licensee with up to twelve (12) water/utility data updates, for no more than three hundred and fifty (350) records ("Data Updates") per year. In the event more than twelve (12) Data Updates are requested by Licensee, or such Data Updates contain more than three hundred and fifty (350) records, such additional Data Updates shall be billed, at a minimum of two (2) hours per additional Data Update, at the service labor fee set forth on Exhibit A of the Agreement for the Licensee Supplied Database.

Annual System Minute Bank Replenishment: Each year, Licensee will have access to 6,000 System Minutes. The System Minute bank will be refilled every year, to 6,000 System Minutes, upon the anniversary of the Effective Date, as set forth in this Agreement. System Minutes are not transferable and do not rollover from year to year, unless otherwise paid for and agreed in writing. If the entire bank of System Minutes is exhausted during the given year, Licensee will be required to repurchase System Minutes according to the System Minute bank refill provisions described herein.

Unlimited Emergency System Minute Blocks: Licensor will grant Licensee unlimited use of the Service for delivering Emergency messages within the Calling Area. Emergency messages are defined as messages delivered for incidents that are an immediate danger to life and/or property. Licensee understands and agrees that the following conditions must be met in order for Licensee to utilize the unlimited Emergency System Minute bank specified in Exhibit A:

- a) Minutes used for Emergency messages will be deducted from Licensee's System Minute bank at the time of using the Service;
- b) Licensee must notify Licensor in writing within 60 days from the date the Service was used for Emergency messages, specifying the projects and System Minutes used for Emergency messages, to request that such System Minutes be designated as free Emergency System Minutes and restored from the System Minutes that were deducted from Licensee's System Minute bank. Licensee understands and agrees that, if Licensee fails to notify Licensor within 60 days of the use of the Service, the System Minutes used will not be eligible for restoration as free Emergency System Minutes, and will remain deducted from Licensee's System Minute bank as described; and
- c) Licensor will have the final right to deem all Emergency System Minutes eligible or ineligible for reimbursement under this paragraph, within reasonable discretion.

Minute Bank Refill Feature: The parties recognize that Licensee may utilize the Service in a manner that results in Licensee exceeding the amount of prepaid System Minutes in Licensee's System Minute bank. In the event that using the Service completely exhausts Licensee's remaining prepaid System Minute bank, Licensor will immediately refill Licensee's System Minute bank with a block of 600 System Minutes, and will invoice Licensee for this block of minutes at the Additional System Minute price as indicated in Exhibit A. Licensee shall pay Licensor for all Additional System Minute blocks upon receipt of invoice from Licensor, subject to the same terms as set forth in paragraph 5 of the Governing Agreement. Licensee understands and agrees that it is required to maintain a System Minutes balance in its System Minutes bank at all times, and agrees to purchase Additional System Minute blocks as needed in order to maintain a positive System Minute balance. The purpose of this refill feature is to ensure that calls being placed via the Service are not interrupted as the result of Licensee's depletion of its System Minutes.

6. **Paragraph 9.** Paragraph 9 of the Governing Agreement shall not be applied to this Agreement, and shall instead be replaced as follows:

Discount Contract Extension. Upon completion of the Initial Term or any Renewal Term (as hereinafter defined) the Term of this Agreement will automatically extend for an additional **three-year** period (each a "Renewal Term"), except as otherwise set forth herein. This contract extension provision will continue to extend the Agreement by three (3) additional years at the end of each three (3) year Initial Term or Renewal Term. **Either party may cancel this renewal provision by submitting written notice to the other no less than 30 days prior to the end of the Initial Term or then-current Renewal Term.** In the event the Agreement is extended:

- a) Licensee's System Minute bank will be replenished to the annual 6,000 System Minute balance;
- b) Licensee will update its systems to extend the active software License and associated access codes for three additional years of use;

c) Licensor will invoice Licensee for additional years of Service at the rate of ~~thirty-six thousand dollars (\$36,000) per three-year Renewal Term which may be paid in installments of twelve thousand dollars (\$12,000) per year~~, and

d) Licensee agrees to pay the fees set forth in this paragraph for all years in the Renewal Term upon receipt of invoice from the Licensor, subject to the terms as set forth in paragraph 5 of the Governing Agreement.

7. **Exhibit A.** Exhibit A of the Governing Agreement shall not be applied to this Agreement and shall instead be replaced with Exhibit A, attached to this Agreement, and incorporated herein.

8. **Amendments/Addenda.** None of the Amendments or Addenda to the Governing Agreement shall apply to this Agreement.

9. **Entire Agreement:** This Agreement, together with the terms incorporated from the Governing Agreement, supersedes all prior understandings or agreements, whether oral or written, on the subject matter hereof between the parties. Only a further writing that is duly executed by both parties may modify this Agreement. The terms and conditions of this Agreement will govern and supersede any additional terms provided by Licensee, including but not limited to additional terms contained in standard purchase order documents and third party application terms, unless mutually agreed to, via written signature, by Licensor. The terms of this Agreement shall not be waived except by a further writing executed by both parties hereto. The failure by one party to require performance of any provision shall not affect that party's right to require performance at any time thereafter, nor shall any waiver under this Agreement constitute a waiver of any subsequent action.

10. **Notices:** All notices or requests, demands and other communications hereunder shall be in writing, and shall be deemed delivered to the appropriate party upon: (a) personal delivery, if delivered by hand during ordinary business hours; (b) the day of delivery if sent by U.S. Mail, postage pre-paid; (c) the day of signed receipt if sent by certified mail, postage pre-paid, or other nationally recognized carrier, return receipt or signature provided and in each case addressed to the parties as follows:

As to Licensor: Emergency Communications Network, LLC, 780 West Granada Blvd, Suite 200, Ormond Beach, FL 32174

As to Licensee: City of Dania Beach, Attn: Robert R. Baldwin/City Manager, 100 West Dania Beach Boulevard, Dania Beach, FL 33004

Either party may change the address provided herein by providing notice as set forth in this paragraph.

IN WITNESS WHEREOF, the parties execute this Agreement on the date(s) indicated below.

Licensee: City of Dania Beach, Florida

Licensor: Emergency Communications Network, LLC

Signature: _____

Signature: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

APPROVED AS TO FORM
TJ. AMM

Exhibit A – Service Charges

Three (3) year Discount CodeRED NEXT and CodeRED Weather Warning Piggyback Agreement **\$ 36,000.00**

Payments due in annual installments of \$ **12,000.00**

<u>Unlimited</u> CodeRED Emergency System Minutes	\$ <u>Included</u>
Up to <u>6,000</u> Annual Non-Emergency CodeRED System Minutes	\$ <u>Included</u>
Additional System Minutes	\$ <u>0.40 per minute</u>
<u>1,000</u> minutes for testing and training	\$ <u>No Charge</u>
<u>Unlimited</u> CodeRED user pass codes	\$ <u>Included</u>
Three (3) CodeRED distance training sessions annually Additional distance training sessions may be purchased for \$ <u>150.00</u> per hour (one hour minimum). On-site training may be purchased for \$ <u>1,500.00</u> per trainer, per day, plus all travel, lodging and ground transportation	\$ <u>Included</u>
Initial Residential Database Upload	\$ <u>Included</u>
Initial Licensee Supplied Database Upload Includes all costs for integrating and geocoding of Licensee-supplied data, such as 911 or utility data	\$ <u>Waived</u>
Twelve (12) Updates for Water/Utility Data for up to 350 Records	\$ <u>Included</u>
Standard CodeRED data collection website	\$ <u>No Charge</u>
Standard CodeRED mapping interface and data layers	\$ <u>No Charge</u>
Email, Text Messaging and CodeRED Mobile Alert App Launches	\$ <u>No Charge</u>
Annual System Maintenance, including all Software Upgrades	\$ <u>No Charge</u>

Database Accuracy Updates

Licensor Supplied Database: "Database Accuracy Updates" ensure that the data population maintained by Licensor under this Agreement undergoes periodic accuracy checks using the Licensor's most current in-house compiled database including, but not limited to, household addresses and telephone numbers. It will be the sole responsibility of the Licensee to maintain database accuracy and request updates from the Licensor.

One annual "Database Accuracy Update" will be performed by the Licensor upon request by the Licensee at no charge. Additional updates requested by Licensee will incur charges at the rate listed below after the update service is completed by Licensor.

3¢ per record in final updated database population.

Licensee Supplied Database: A service labor fee of One Hundred Dollars (\$100.00) per hour will be billed to Licensee for any data importing, manipulating, and loading any database supplied by Licensee or on Licensee's behalf to Licensor.

\$100 per hour for database maintenance

Professional Services Upon Request: \$135.00 per hour
Licensor shall perform professional services as requested from time to time by Licensee in its sole discretion