

# Mapleton City Council Staff Report

Meeting Date: April 1, 2014

**Prepared by:** Cory Branch

**Applicant:** Mapleton City

## **ACTION ITEM:**

Consideration to enter into an Interlocal Cooperation Agreement with Springville City contracting together in order to obtain mass notification interactive communication services through Everbridge, Inc. in order to service the two cities' mass notification needs.

## **FINDINGS OF FACT:**

1. To get the best overall package from Everbridge, Inc., Springville City and Mapleton City would like to enter into a contract with each other in order to service the two cities' mass notification needs.
2. Currently Mapleton City utilizes City Watch Emergency Notifications as their communication phone service to the community.
3. Mapleton City Staff is concerned that the City Watch program is not as productive to our community as we would like it to be.
4. In researching what other Cities are using for their communication services we have received recommendations to consider using Everbridge, Inc. This service is designed to reach out to an entire community by phone, email, texting, facebook, twitter and other communication mediums as it relates to emergencies, past-due reminders, city-wide sponsored events, etc. The cost for this service is \$2,394.00 per year.
5. The ultimate goals for Mapleton City Staff is to have a service which will reach out to all of our population during an emergency, increase participation in city-wide sponsored events, improve community satisfaction, improve productivity, save time verifying and locating issues, and provide a better public perception.

## **ATTACHMENTS:**

1. Interlocal Cooperation Agreement
2. Everbridge Contract

**INTERLOCAL COOPERATION AGREEMENT**  
(Everbridge Services)

THIS INTERLOCAL COOPERATION AGREEMENT (the "Agreement"), is made and entered into by and between SPRINGVILLE CITY, a municipal corporation of the State of Utah, with an address at 110 South Main Street, Springville, Utah 84663, and MAPLETON CITY, a municipal corporation of the State of Utah, with an address at 125 West Community Center Way, Mapleton, Utah, 84664.

**WITNESSETH**

WHEREAS, pursuant to the provisions of the Utah Interlocal Cooperation Act, Utah Code Annotated, Section 11-13-101, et seq., public agencies, including cities of the State of Utah, are authorized to enter into mutually advantageous agreements for joint or cooperative action and to exchange services that they are each authorized by statute to provide; and

WHEREAS, Mapleton City and Springville City are desirous of contracting with each other in order to obtain mass notification interactive communication services through Everbridge, Inc. to service the two cities' mass notification needs; and

WHEREAS, the governing bodies of Springville City and Mapleton City have by resolution agreed to adopt this Agreement; and

NOW, THEREFORE, be it mutually covenanted and agreed as follows, each of the parties accepting as consideration for this Agreement the mutual promises and agreements of the other:

**Section 1. Purpose.**

In order to get the best overall package from Everbridge, Inc., the cities have decided to have Springville City contract directly with Everbridge, Inc. for both cities' mass notification interactive communication needs (the "Everbridge Contract"). A copy of the Everbridge Contract and related documents are attached as Exhibit "A." This Agreement is to set forth the terms between Springville City and Mapleton City with respect to how the responsibilities and benefits under the Everbridge Contract will be divided between the two cities.

**Section 2. Effective Date and Duration.**

a. The governing body of each party shall approve this Agreement as required by the Interlocal Cooperation Act. This Agreement shall become effective on the date that both parties approve, execute and file it with the person who keeps the records of each party.

b. The term of this Agreement shall be from April 1, 2014 until April 1, 2019 or until the Everbridge Contract is terminated. The parties agree that the term of this Agreement will automatically extend for an additional five (5) years, unless the Everbridge Contract is terminated or one of the parties provides the other party with written notice of the party's intent to terminate the agreement at least thirty (30) days prior to April 1, 2019. In the event the parties mutually decide to renew this Agreement beyond the additional five year term, the parties shall negotiate new terms, conditions and provisions to this Agreement.

c. This Agreement shall be reviewed as to proper form and compliance with applicable law by an attorney for each of the parties.

### **Section 3. Administration of Interlocal Cooperation Agreement.**

The parties to this Agreement do not contemplate nor intend to establish a separate legal or administrative entity under the terms of this Agreement. The parties agree that, pursuant to Section 11-13-2007 of the Utah Code Annotated, Springville City's Public Safety Director or his designee shall act as the administrator responsible for the administration of this Agreement and further agrees to keep all books and records in such form and manner as is common under Springville City policy. The parties further agree that this Agreement does not anticipate nor provide for any organizational change in the parties.

### **Section 4. Everbridge Contract.**

Springville City and Mapleton City acknowledge that Springville City is the named "Customer" under the Everbridge Contract, and as the Customer, Springville City is under contract to receive certain benefits that are for Mapleton City and fulfill a number of responsibilities and conditions that Mapleton City should be responsible to perform. Accordingly, Mapleton City shall:

- a. Receive those benefits listed under the Everbridge Contract that are for Mapleton City, and
- b. Fulfill all responsibilities listed under the Everbridge Contract that the "Customer" under the Everbridge Contract is to perform, unless otherwise modified in this Agreement.

Furthermore, Mapleton City shall, at its own expense, protect, indemnify, pay on behalf of, defend and hold harmless Springville City, its elected and appointed officials, employees and volunteers and their agents from all claims, demands, judgments, expenses, and all other damages of every kind and nature, made, rendered, or incurred by or in behalf of any person or persons whomsoever, including the parties hereto and their employees, which may arise out of any act or failure to act, work or other activity related in any way to Mapleton City's use of the mass notification or any other services under the Everbridge Contract. The provisions in this paragraph shall extend to require Mapleton to protect, indemnify and defend Springville City for any default or other breach of contract of Springville City under the Everbridge Contract that is related to Mapleton City's actions or failure to act.

### **Section 5. Equipment.**

Mapleton City and Springville City shall be responsible for maintaining their own equipment used for their mass notification services under the Everbridge Contract.

### **Section 6. Service Payments.**

Mapleton City shall pay Springville City the annual amount of \$2,934 for base services provided pursuant to the Everbridge Contract and all other amounts incurred separately by Mapleton City pursuant to the Everbridge Contract. Mapleton City shall make payments to Springville City within thirty (30) days of receiving an invoice from Springville City for payments due.

### **Section 7. Termination**

Prior to the end of the term of this Agreement, it shall be terminated by the mutual consent of both parties or upon the termination of the Everbridge Contract.

**Section 8. Manner of Holding, Acquiring or Disposing of Property**

Each party shall be responsible for the risk of loss (including without limitation, theft, destruction, disappearance of, or damage) for that equipment the party is responsible for as outlined in Section 5 of this Agreement.

**Section 9. Indemnification**

Both parties to this Agreement agrees to defend, indemnify and save harmless the other party for damages, claims, suits, and actions arising out of the negligent acts or omissions of its own officers or agents in connection with this Agreement.

**Section 10. Filing of Agreement**

A copy of this Agreement shall be placed on file in the Office of the City Recorder of each party and shall remain on file for public inspection during the term of this Agreement.

**Section 11. Notice of Default; Corrective Action**

The failure of either party to comply with each and every term and condition of this Agreement shall constitute a breach of this Agreement. Either party shall have thirty (30) days after receipt of written notice from the other of any breach to correct the conditions specified in the notice, or if the corrections cannot be made within the thirty (30) day period, within a reasonable time if corrective action is commenced within ten (10) days after receipt of the notice.

**Section 12. Rights and Remedies**

In the event of any breach hereunder and after the lapse of the cure period as per Section 11 of this Agreement, the non-breaching party shall have all the rights and remedies available under the laws of the State of Utah in effect. The rights and remedies of the parties hereto shall not be mutually exclusive, but shall be cumulative in all effects. The respective rights and obligations of the parties hereunder shall be enforceable in equity as well as at law or otherwise.

**Section 13. Governing Law, Jurisdiction, and Venue**

All questions with respect to the construction of this Agreement and all rights and liability of the parties hereto shall be governed by the laws of the State of Utah. Jurisdiction and venue for the enforcement of this Agreement shall be found in the courts of Utah County, State of Utah.

**Section 14. Costs of Enforcement**

In the event of a breach of this Agreement, the non-breaching party shall be entitled to recover from the breaching party all of the non-breaching party's costs (including, but not limited to, court fees and expert witness costs) and attorneys' fees associated with the enforcement of this Agreement.

**Section 15. Notice**

Any written notice which must or may be given relating to this Agreement shall be sufficient if mailed postage prepaid, registered or certified mail, in the United States mail addressed to a party at the address given above. Notice shall be mailed to the attention of each City's Administrator at the above addresses. Either party may notify the other to designate a different address for mailing.

## **Section 16. Miscellaneous**

- A. Severability.** In the event that any condition, covenant, or other provision herein contained is held to be invalid or void by any court of competent jurisdiction, the same shall be deemed severable from the remainder of this Agreement and shall in no way affect any other covenant or condition herein contained. If such condition, covenant, or other provision shall be deemed invalid due to its scope or breadth, such provision shall be deemed valid to the extent of the scope or breadth permitted by law.
- B. Entire Agreement.** This Agreement contains the entire agreement between the parties. No promise, representation, warranty, or covenant not included in this Agreement has been or is relied upon by the parties. All prior understandings, negotiations, or agreements are merged herein and superceded hereby.
- C. Amendments.** This Agreement may be modified only by a writing signed by each of the parties hereto.
- D. Not Assignable.** This Agreement is specific to the parties hereto and is therefore not assignable.
- E. Captions.** The captions to the various Sections of this Agreement are for convenience and ease of reference only and do not define, limit, augment, or describe the scope, content, or intent of this Agreement or any part or parts of this Agreement.
- F. Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
- G. Gender and Number.** The singular number includes the plural whenever the context so indicates. The neuter gender includes the feminine and masculine, the masculine includes the feminine and neuter, and the feminine includes the masculine and neuter, and each includes corporation, limited liability company, partnership, or other legal entity when the context so requires.
- H. Waiver or Forbearance.** No delay or omission in the exercise of any right or remedy by any party hereto shall impair such right or remedy or be construed as a waiver. Any waiver of any breach must be in writing and shall not be a waiver of any other breach concerning the same or any other provision of this Agreement.

**- SIGNATURES ON FOLLOWING PAGE -**

IN WITNESS WHEREOF, the parties have signed and executed this Agreement, after resolutions duly and lawfully passed, on the dates listed below.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2014.

**SPRINGVILLE CITY**

By: \_\_\_\_\_  
WILFORD W. CLYDE, Mayor

ATTEST:

By: \_\_\_\_\_  
VENLA GUBLER, City Recorder

**APPROVED AS TO FORM AND COMPATIBILITY  
WITH THE LAWS OF THE STATE OF UTAH:**

\_\_\_\_\_  
JOHN A. PENROD,  
Springville City Attorney

DATED this \_\_\_\_ day of \_\_\_\_\_, 2014.

**MAPLETON CITY**

By: \_\_\_\_\_  
BRIAN WALL, Mayor

ATTEST:

By: \_\_\_\_\_  
CAMILLE BROWN, City Recorder

**APPROVED AS TO FORM AND COMPATIBILITY  
WITH THE LAWS OF THE STATE OF UTAH:**

\_\_\_\_\_  
Attorney for Mapleton City



500 N Brand Blvd, Suite 1000  
Glendale, CA 91203 USA

tel: 888.366.4911  
fax: 818.484.2299

www.everbridge.com

**QUOTATION**

Quote Number: 00010650

**Confidential**

1 of 2

**Prepared for:** Scott Finlayson  
Springville City  
, UT  
(801) 489-9421  
chief@springville.org

**Quotation Date:** February 18, 2014  
**Quote Expiration Date:** March 31, 2014  
**Rep:** Lesley Turner  
(818) 230-9539  
lesley.turner@everbridgemail.com

**Contract Summary Information**

**Contract Period:** 3 Years  
**Contract Optional Years:** 2 Years

**MN Contacts up to:** 39,063  
**MN Households up to:** 15,625

**ANNUAL SUBSCRIPTION - See attached Product Inclusion Sheet/s for product details.**

<u>Service</u>	<u>Fee Type</u>	<u>Qty</u>	<u>Unit Price</u>	<u>Total Price</u>
Everbridge CMAS/WEA Notification	Recurring	1	\$1.00	\$0.00
Everbridge Mass Notification (MN) with Unlimited Domestic Minutes	Recurring	1	\$1.00	\$11,085.75

**PREMIUM FEATURES / USAGE**

<u>Service</u>	<u>Fee Type</u>	<u>Qty</u>	<u>Unit Price</u>	<u>Total Price</u>
Everbridge MN Additional Org	Recurring	2	\$1.00	\$0.00





## Implementation - Standard

### Overview

The standard implementation is right-sized to support small to medium organizations on deploying all basic Mass Notification and Interactive Visibility functionality. A dedicated implementation specialist is provided to guide you through the on boarding process and provide strategic advice, tailored to your organization.

#### Included Standard Implementation Resources

- + Client portal
- + Knowledgebase
- + Everbridge University
- + Up to 10 hours of an implementation specialist

### Time Frame

Standard Everbridge Implementations require approximately 15 days to complete. Depending on the size and complexity of the organization, it may take more or less time. The timeframe can be tailored within the following limits for standard implementations:

- + Access to an Implementation Specialist for up to 10 hours.
- + Implementation Specialist hours must be used with 60 days of contract signing.
- + Additional hours are billable at \$250/hr.

### Scope

A standard implementation will provide the following:

- + Orientation to your on-boarding resources, including the Everbridge Client Portal, knowledgebase articles library, Everbridge University.
- + Access to your functional account, configured with default templates and default notification paths.
- + 30-minute hands-on demo of creating new users, the basic setup of contacts and the sending of a test notification.
- + Best practices and implementation guidance as outlined in this document.
- + The implementer will ensure the client has demonstrated the ability to upload a sample of their contact data, send a notification and interpret the results.

### Key Milestones

#### ORIENTATION CALL

This call will provide an orientation to Everbridge implementation resources and a review of preparation necessary to conduct a successful implementation.

#### KICK-OFF CALL

The Kick-off call will focus on reviewing the basic settings and developing the implementation project plan.

#### CONSULTATION CALL

The Consultation Call will focus on reviewing the completion of the project plan and identifying gaps and next steps.

#### CLOSE-OUT CALL

The Close-out Call will provide guidance on go-live strategies and mark the account's transition to customer success.

# Key Milestones

## **ORIENTATION CALL**

The purpose of the orientation call is to prepare for the implementation process. The Everbridge specialist will provide an overview of the implementation process to key client stakeholders, introduce the stakeholders to the various implementation resources, provide a short, interactive demo and access to a live, working account preloaded with default templates and settings. Orientation calls will be held within 5 days of the completion of your order processing. The specialist will also provide a checklist of actions to be completed in order to kick-off the implementation process. The Call Agenda will include the following:

- + Introductions
- + Review communication goals/use cases
- + Review implementation process
- + Review resources available to the client
- + Review the success criteria of the Milestone calls
- + Schedule all follow up calls
- + Review the Getting Started checklist
- + Implementation specialist will provide a demo of the product showing how to create a new user, how to create a contact, how to send a message using a pre-loaded test template. At the conclusion of the demo, the customer will be provided with their live, production account.

**Time: 1.5-2 hours**

## **KICK-OFF CALL**

The Kick-off call will be held as soon as the actions on the Getting Started checklist are complete, but no later than 3 weeks after the Orientation Call. The agenda will include the following items:

- + Review completion of the Getting Started checklist
- + Verify settings and configurations selected
- + Discuss design and strategy of the organization hierarchy in relation to the client's needs.
- + Review Role-based access control and its application with the client's organization.
- + Review the contact data quality of the sample uploaded by the customer.
- + Upon successful setup of the basic settings, the implementation specialist will provide a customized Project Plan to guide the remainder of the implementation. The Project Plan will include guidance on topics such as: data management strategy, reporting, groups and filters, mobile manager, awareness campaigns, training plans, member portal, Weather, IV mobile member.

**Time: 1-2 hours**

## **CONSULTATION CALL**

The Consultation Call should be scheduled to take place within 5 days of the Kick-off Call. The call is a strategy session between the implementer and the customer, with the following objectives:

- + Review Project Plan action items
- + Define testing strategy
- + Review contact management strategy
- + Review relevant advanced configuration topics

**Time: 1-2 hours**

## **CLOSE-OUT CALL**

The close out should occur approximately 3-4 weeks after Orientation (not to exceed 60 days). The call will provide a final opportunity for the client to strategize with the implementation specialist and will cover the following topics:

- + Functional testing conducted by customers/or review results of functional testing
- + Discuss transition to customer success
- + Provide best practices for troubleshooting issues
- + Where to find support information.
- + Roll-Out Planning:
  - Review project plan for completing system-wide test
  - Review best practices for system test planning
  - Awareness programs

**Time: 1 hour**

## **Everbridge University**

### Everbridge University On-Line Learning Modules

- + Are continuously available and free for customers and partners to learn or review
- + Use Adobe flash videos with audio narrations
- + Self-paced training that allows students to learn when they have time and at their own pace
- + Just-in-time learning using small, focused content modules
- + No travel or facilities required, the classroom is anywhere a learner has Internet access

### Everbridge University On-Site Training

- + Scheduled and delivered based on your needs
- + Covers Role-based courses for Administrators or Users
- + Courses are taught by Everbridge instructors who are subject matter experts
- + Reinforces training content demonstrations on your Everbridge portal with your features
- + Prepares your team for Everbridge Mass Notification Certification



Everbridge, Inc.  
Core Platform Service Agreement

This Core Platform Service Agreement (“**Agreement**”) is entered into by and between Everbridge, Inc. (“**Everbridge**”), and \_\_\_\_\_ (“**Customer**”), effective on the date of Customer’s signature below (“**Effective Date**”). Everbridge and Customer are each hereinafter sometimes referred to as a “**Party**” and collectively, the “**Parties**”.

**1. SERVICE.** Everbridge shall provide Customer access to its proprietary interactive communication service(s) (the “**Service(s)**”) subject to the terms and conditions set forth in this Agreement and the description of services and pricing provided in the applicable quote (the “**Quote**”). If applicable, Everbridge shall provide the training and professional services set forth in the Quote. Everbridge shall provide Customer with login and password information for each User (as defined below) and will configure the Service to contact the maximum number of households (each a “**Contact**”) set forth on the Quote.

**2. PAYMENT TERMS.** Customer shall pay the fees set forth in the Quote (“**Pricing**”). If Customer exceeds the usage levels specified in the Quote, then Everbridge may invoice Customer for any overages at then current rates. Everbridge shall invoice Customer annually in advance. All payments shall be made within thirty (30) days from date of invoice, after which interest shall accrue at a rate of one and one-half percent (1.5%) per month or the highest rate allowed by applicable law, whichever is lower. Such interest shall be in addition to any other rights and remedies of Everbridge. Pricing does not include any local, state, federal or foreign taxes, levies or duties of any nature, all of which Customer is responsible for paying, except for those relating to Everbridge’s income.

**3. CUSTOMER RESPONSIBILITIES.**

**3.1 Users.** If Customer has purchased Mass Notification, Customer shall in its discretion authorize certain of its employees and contractors to access that Service. If Customer has purchased Incident Management, Customer shall authorize only those employees or contractors who are Incident Operators (as defined on Exhibit A) or Incident Administrators (as defined on Exhibit A) to access that Service. Collectively, Customer’s employees and contractors who are authorized to access any Service as provided above are referred to as “**User(s)**”. Each User must be bound in writing to confidentiality obligations sufficient to permit Customer to fully perform its obligations under this Agreement. Customer shall undergo the initial setup and training as set forth in the Implementation – Standard inclusion sheet provided with the Quote. The Implementation sheet provides a detailed list of the services included as part of the implementation purchased and the corresponding timelines. If Customer fails to complete the Implementation process within the sixty (60) day timeframe, Customer must purchase any additional implementation services. Customer shall be responsible for: (i) ensuring that Users maintain the confidentiality of all User login and password information; (ii) ensuring that Users use the Service in accordance with all applicable laws and regulations, including those relating to use of personal information; (iii) any breach of the terms of this Agreement by any User; and (iv) all communications by Users using the Service. Customer shall promptly notify Everbridge if it becomes aware of any User action or omission that would constitute a breach or violation of this Agreement.

**3.2 Customer Data.** “**Customer Data**” is all electronic data Customer transmits to Everbridge in connection with the use of the Service. Customer shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, and appropriateness of all Customer Data. By purchasing the Service, Customer represents that it has the right to authorize and hereby does authorize Everbridge and its “**Service Providers**” to collect, store and process Customer Data subject to the terms of this Agreement. “**Service Providers**” shall mean communications carriers, data centers, collocation and hosting services providers, and content and data management providers that Everbridge uses in providing the Service. Customer shall maintain a copy of all Customer Contact data that it provides to Everbridge. Customer acknowledges that the Service is a passive conduit for the transmission of Customer Data and any data submitted by Contacts, and Everbridge shall have no liability for any errors or omissions or for any defamatory, libelous, offensive or otherwise objectionable or unlawful content in any Customer Data or data submitted by Contacts, or for any losses, damages, claims, suits or other actions arising out of or in connection with any data sent, accessed, posted or otherwise transmitted via the Service by Customer or Contacts.

**4. TERM.** This Agreement will commence on the Effective Date and will continue in full force and effect until all executed Quotes have terminated, unless otherwise terminated in accordance with the termination rights set forth in this Agreement. If at the end of the applicable Quote, Customer intends to renew the Agreement, but has not provided a timely executed written renewal prior to the end of such term, then Everbridge, in its sole discretion, shall continue the Service(s) hereunder for thirty (30) days (the “**Grace Period**”) in order to secure an executed renewal by Customer, provided that Customer shall pay to Everbridge the annual fee then in effect divided by twelve (12) (the “**Monthly Holdover Fee**”). The Grace Period is provided to Customer as a courtesy so that Services will not be terminated prior to the execution of a renewal. Due to insurance and liability reasons Everbridge can only provide one Grace Period and will charge the Monthly Holdover Fee. The Monthly Holdover Fees are instituted in order to protect Customer from termination or suspension of the Services, but to insure that timely renewals are entered into. Monthly Holdover Fees shall not be returned or refunded to the Customer as a credit towards any renewal

**5. TERMINATION; SUSPENSION.**

**5.1 Termination by Either Party.** Either Party may terminate this Agreement upon the other Party’s material breach of this Agreement, provided that (i) the non-breaching Party sends written notice to the breaching Party describing the breach in reasonable detail; (ii) the breaching Party does not cure the breach within thirty (30) days following its receipt of such notice (the “**Notice Period**”); and (iii) following the expiration of the Notice Period, the non-breaching Party sends a second written notice to the breaching Party indicating its election to terminate this Agreement.

**5.2 Termination by Everbridge.** If Customer fails to pay any amounts due within thirty (30) days of their due date, Everbridge may terminate this Agreement or suspend the Service in Everbridge’s sole discretion pursuant to the notice provisions above. Termination for non-payment shall not relieve Customer of its outstanding obligations (including payment) under this Agreement. If Everbridge suspends the

Service, Customer's account shall not be reactivated until Customer is in compliance with this Agreement and has paid all past due amounts plus a reconnection fee of \$1,000.

**6.3 Suspension.** Everbridge may suspend, with or without notice, the Service or any portion for (i) emergency network repairs, threats to, or actual breach of network security; (ii) any violation by Customer of Section 3.2 or 6.2; or (iii) any legal, regulatory, or governmental prohibition affecting the Service. In the event of a suspension under (i) or (iii), Everbridge shall use its best efforts to notify Customer and reactivate any affected portion of the Service as soon as possible.

## **6. PROPRIETARY RIGHTS.**

**6.1 Grant of License.** Everbridge hereby grants to Customer, during the term of this Agreement, a non-exclusive, non-transferable, non-sublicensable right to use the Service subject to the terms and conditions of this Agreement. Upon suspension of the Service or termination of this Agreement for any reason, the foregoing license shall terminate automatically and Customer shall discontinue all further use of the Service.

**6.2 Restrictions.** Customer shall use the Service solely for its internal business purposes and shall not make the Service available to, or use the Service for the benefit of, any third party except as expressly contemplated by this Agreement. Customer shall not: (i) copy, modify, reverse engineer, de-compile, disassemble or otherwise attempt to discover or replicate the computer source code and object code provided or used by Everbridge in connection with delivery of the Service (the "**Software**") or create derivative works based on the Software, the Service or any portion thereof; (ii) merge any of the foregoing with any third party software or services; (iii) use any Everbridge Confidential Information to create a product that competes with the Software; (iv) remove, obscure or alter any proprietary notices or labels on the Software or any portion of the Service; (v) create internet "links" to or from the Service, or "frame" or "mirror" any content forming part of the Service, other than on Customer's own intranets for its own internal business purposes; (vi) use, post, transmit or introduce any device, software or routine (including viruses, worms or other harmful code) which interferes or attempts to interfere with the operation of the Service; (vii) use the Service in violation of any applicable law or regulation; or (viii) access the Service for purposes of monitoring Service availability, performance or functionality, or for any other benchmarking or competitive purposes.

**6.3 Reservation of Rights.** Other than as expressly set forth in this Agreement, Everbridge grants to Customer no license or other rights in or to the Service, the Software or any other proprietary technology, material or information made available to Customer through the Service or otherwise in connection with this Agreement (collectively, the "**Everbridge Technology**"), and all such rights are hereby expressly reserved. Everbridge (or its licensors where applicable) owns all rights, title and interest in and to the Service, the Software and any Everbridge Technology, and all patent, copyright, trade secret and other intellectual property rights ("**IP Rights**") therein, as well as (i) all feedback and other information (except for the Customer Data) provided to Everbridge by Users, Customer and Contacts, and (ii) all transactional, performance, derivative data and metadata generated in connection with the Services.

## **7. CONFIDENTIAL INFORMATION.**

**7.1 Definition; Protection.** As used herein, "**Confidential Information**" means all information of a Party ("**Disclosing Party**") disclosed to the other Party ("**Receiving Party**"), whether orally, in writing, or by inspection of tangible objects (including, without limitation, documents or prototypes), that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Confidential Information includes without limitation, any personally identifiable Customer Data, all Everbridge Technology, and either Party's business and marketing plans, technology and technical information, product designs, reports and business processes. Confidential Information shall not include any information that: (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party; (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party; (iii) was independently developed by the Receiving Party without breach of any obligation owed to the Disclosing Party; or (iv) is received from a third party without breach of any obligation owed to the Disclosing Party. The Receiving Party shall not disclose or use any Confidential Information of the Disclosing Party for any purpose other than performance or enforcement of this Agreement without the Disclosing Party's prior written consent, unless (but only to the extent) otherwise required by a governmental authority. Each Party agrees to protect the Confidential Information of the other Party with the same level of care that it uses to protect its own confidential information, but in no event less than a reasonable level of care. Without limiting the foregoing, this Agreement and all terms hereof shall be Everbridge's Confidential Information.

## **8. WARRANTIES; DISCLAIMER.**

**8.1 Everbridge Warranty.** Everbridge shall use commercially reasonable efforts to provide the Services herein contemplated. To the extent professional services are provided, Everbridge shall perform them in a professional manner consistent with industry standards. THE FOREGOING REPRESENT THE ONLY WARRANTIES MADE BY EVERBRIDGE HEREUNDER AND EVERBRIDGE EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

**8.2 Disclaimer.** THE SERVICE IS PROVIDED "AS IS" AND ON AN "AS AVAILABLE" BASIS. NEITHER EVERBRIDGE NOR ITS LICENSORS WARRANT THAT THE SERVICE WILL OPERATE ERROR FREE OR WITHOUT INTERRUPTION. WITHOUT LIMITING THE FOREGOING, IN NO EVENT SHALL EVERBRIDGE HAVE ANY LIABILITY TO CUSTOMER, USERS, CONTACTS OR ANY THIRD PARTY FOR PERSONAL INJURY (INCLUDING DEATH) OR PROPERTY DAMAGE ARISING FROM FAILURE OF THE SERVICE TO DELIVER AN ELECTRONIC COMMUNICATION, HOWEVER CAUSED AND UNDER ANY THEORY OF LIABILITY, EVEN IF EVERBRIDGE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.

**8.3 Customer Representations and Warranties.** Customer represents and warrants that during use of the Service, Customer shall (i) clearly and conspicuously notify Contacts of the way in which their personal information shall be

used, and (ii) have primary safety and emergency response procedures including, without limitation, notifying 911 or equivalent fire, police, emergency medical and public health officials (collectively, "**First Responders**"). Customer acknowledges and agrees that Everbridge is not a First Responder, and that the Service does not serve as a substitute for Customer's own emergency response plan, which in the event of an actual or potential imminent threat to person or property, shall include contacting a First Responder prior to using the Service. Customer represents and warrants that all notifications sent through the Service shall be sent by authorized Users, and that the collection, storage and processing of Customer Data, and the use of the Service, as provided in this Agreement, will at all times comply with (x) Customer's own policies regarding privacy and protection of personal information; and (y) all applicable laws and regulations, including those related to processing, storage, use, disclosure, security, protection and handling of Customer Data.

## **9. INDEMNIFICATION.**

**9.1 By Customer.** Customer shall defend, indemnify and hold Everbridge harmless against any loss or damage (including reasonable attorneys' fees) incurred in connection with any claim, suit or proceeding ("**Claim**") arising out of any data sent, accessed, posted or otherwise transmitted via the Service by Customer or Contacts or Customer's breach of the tax provisions in Section 2 or any breach by Customer of Sections 3, 6 or 8.3.

**9.2 By Everbridge.** Everbridge shall defend, indemnify and hold Customer harmless from and against any Claim against Customer, but only to the extent it is based on a Claim that the Service directly infringes an issued patent or other IP Right in a country in which the Service is actually provided to Customer. In the event Everbridge believes any Everbridge Technology is, or is likely to be the subject of an infringement claim, Everbridge shall have the option, at its own expense, to: (i) to procure for Customer the right to continue using the Service; (ii) replace same with a non-infringing service; (iii) modify such Service so that it becomes non-infringing; or (iv) refund any fees paid to Everbridge and terminate this Agreement without further liability. Everbridge shall have no liability for any Claim arising out of (w) Customer Data or other Customer supplied content, (x) use of the Service or Software in combination with other products, equipment, software or data not supplied by Everbridge, (y) any use, reproduction, or distribution of any release of the Service or Software other than the most current release made available to Customer, or (z) any modification of the Service or Software by any person other than Everbridge.

**10. LIMITATION OF LIABILITY.** Neither Party shall have any liability to the other Party for any loss of use, interruption of business, costs of substitute services, or for any other indirect, special, incidental, punitive, or consequential damages, however caused, under any theory of liability, and whether or not the Party has been advised of the possibility of such damage. Notwithstanding anything in this Agreement to the contrary, in no event shall Everbridge's aggregate liability, regardless of whether any action or claim is based on warranty, contract, tort, indemnification or otherwise, exceed amounts actually paid by Customer to Everbridge hereunder during the 12 month period prior to the event giving rise to such liability. Customer understands and agrees that these liability limits reflect the allocation of risk between the Parties and are essential elements of the basis of the bargain, the

absence of which would require substantially different economic terms.

## **11. MISCELLANEOUS.**

**11.1 Non-Solicitation.** As additional protection for Everbridge's proprietary information, for so long as this Agreement remains in effect, and for one year thereafter, Customer agrees that it shall not, directly or indirectly, solicit, hire or attempt to solicit any employees of Everbridge; provided, that a general solicitation to the public for employment is not prohibited under this section. In the event that Customer hires any such employee (whether as an employee, consultant or otherwise) in violation of this section, Customer shall pay to Everbridge an amount equal to 100% of the total first-year compensation which Customer pays such individual as a fee, salary, or other compensation.

**11.2 Force Majeure; Limitations.** Everbridge shall not be responsible for performance under this Agreement to the extent precluded by circumstances beyond Everbridge's reasonable control, including without limitation acts of God, acts of government, flood, fire, earthquakes, civil unrest, acts of terror, labor problems, computer, telecommunications, Internet service provider or hosting facility failures, or delays involving hardware, software or power systems, and network intrusions or denial of service attacks. The Service delivers information for supported Contact paths to public and private networks and carriers, but cannot guarantee delivery of the information to the recipients. Final delivery of information to recipients is dependent on and is the responsibility of the designated public and private networks or carriers. Customer acknowledges and agrees that territories outside the U.S. and Canada may have territorial restrictions resulting from applicable law, telecommunications or internet infrastructure limitations, telecommunications or internet service provider policies, or communication device customizations that may inhibit or prevent the delivery of certain SMS, text or other notifications, or restrict the ability to place or receive certain calls such as outbound toll free calls. Everbridge shall have no liability to the extent such restrictions impede the Service.

**11.3 Waiver; Severability.** The failure of either Party hereto to enforce at any time any of the provisions or terms of this Agreement shall in no way be considered to be a waiver of such provisions. If any provision of this Agreement is found by any court or other authority of competent jurisdiction to be invalid, illegal or unenforceable, that provision shall, to the extent required, be deemed deleted and the remaining provisions shall continue in full force and effect.

**11.4 Assignment.** Neither this Agreement nor any rights granted hereunder may be sold, leased, assigned (including an assignment by operation of law), or otherwise transferred, in whole or in part, by Customer, and any such attempted assignment shall be void and of no effect without the advance written consent of Everbridge, which shall not be unreasonably withheld.

**11.5 Governing Law; Attorney's Fees.** This Agreement shall be governed and construed in accordance with the laws of the State of Delaware, without regard to its conflicts of laws rules. The prevailing party in any action arising out of this Agreement shall be entitled to its reasonable attorneys' fees and costs.

**11.6 Notices.** Either party may give notice at any time by any of the following: letter delivered by (i) nationally recognized overnight delivery service; (ii) first class postage

prepaid mail; or (iii) certified or registered mail, (certified and first class mail deemed given following 2 business days after mailing) to the other party at the address set forth below. Either Party may change its address by giving notice as provided herein. Invoices shall be sent to the Customer's contact and address following Customer's signature below.

**11.7 No Third-Party Beneficiaries.** There are no third-party beneficiaries to this Agreement.

**11.8 Entire Agreement.** [Intentionally deleted]

**11.9 Marketing.** Customer consents to Everbridge referencing Customer's name and logo as an Everbridge customer in Everbridge publications, its website, and other marketing materials.

**11.10 Survival.** Sections 2, 3.2, 5.2, 6, 7, 9-11 and the applicable provisions of Exhibit A shall survive the expiration or earlier termination of this Agreement.

**11.11 Counterparts.** This Agreement may be executed in one or more counterparts, all of which together shall

constitute one original document. A facsimile transmission or copy of the original shall be as effective and enforceable as the original.

**11.12 Export Compliant.** Neither Party shall export, directly or indirectly, any technical data acquired from the other pursuant to this Agreement or any product utilizing any such data to any country for which the U.S. Government or any agency thereof at the time of export requires an export license or other governmental approval without first obtaining such license or approval.

**11.13 Equal Employment Opportunity.** Everbridge, Inc. is a government contractor and is subject to the requirements of Executive Order 11246, the Rehabilitation Assistance Act and VEVRAA. Pursuant to these requirements, the Equal Opportunity Clauses found at 41 Code of Federal Regulations sections 60-1.4(a) (1-7), sections 60-250.4(a-m), sections 60-300.5 (1-11) and sections 60-741.5 (a) (1-6) are incorporated herein by reference as though set forth at length, and made an express part of this Agreement.

**IN WITNESS WHEREOF,** the Parties have caused this Agreement to be duly executed as of the date set forth below.

**EVERBRIDGE, INC.**

**CUSTOMER:** \_\_\_\_\_

By: \_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Address:

**Customer's address for legal notices:**

500 N. Brand Blvd., Suite 1000

\_\_\_\_\_

Glendale, California 91203

\_\_\_\_\_

**For legal notice:**

\_\_\_\_\_

Attention: Legal Department

Attn: \_\_\_\_\_

**Customer's address for billing:**

\_\_\_\_\_

\_\_\_\_\_

Attn: \_\_\_\_\_

Email for billing: \_\_\_\_\_

Telephone number: \_\_\_\_\_

Exhibit A

Additional Business Terms

The following additional business terms are incorporated by reference into the Agreement as applicable based on the particular products and services described in the Customer's Quote.

**"Data Feed"** means data content licensed or provided by third parties to Everbridge and supplied to Customer through the Service (e.g., real time weather system information and warnings, and third party maps).

**"Incident Administrator"** means an individual who is authorized by Customer as an organizational administrator for the Incident Management Service.

**"Incident Operator"** means an individual who is authorized by Customer as an operator of the Incident Management Service.

**"Premium Features"** means the products and services listed on the Premium Feature List attached to the Quote.

- 1. Data Feeds; Other Data.** Notwithstanding anything to the contrary in this Agreement, to the extent that Customer has purchased or accesses Data Feeds, such feeds are provided solely on an "AS IS" and "AS AVAILABLE" basis and the sole and exclusive remedy for any failure, defect, or inability to access such Data Feed shall be to terminate the Data Feed with no further payments due. No refunds shall be granted with respect to such Data Feed. In addition, to the extent Customer has purchased a feature that allows Customer to monitor, and utilize information and data from other sources not supplied by Everbridge directly (e.g., Twitter or other customers through the Network Effect) (collectively **"Other Data"**), Everbridge disclaims any and all liability of any kind or nature resulting from any inaccuracies or failures with respect to all Other Data.
- 2. Incident Management.** For Customers purchasing the Incident Management Service: (a) Customers may only designate the number of Incident Operators and Incident Administrators set forth on the Quote, and such individuals shall only have the access rights pursuant to such designation and role; (b) Incident Administrators shall have the ability to build incident templates, report on incidents, and launch incident notifications; (c) Incident Operators shall only have the ability to launch or manage incidents; and (d) Customer shall be provided the number of incident templates purchased pursuant to the Quote. If Customer exceeds the number of Incident Operators, Incident Administrators or incident templates purchased, Customer shall be charged the applicable fees then in effect for additional Incident Operators, Incident Administrators or incident templates, as applicable.

**CMAS/WEA Notification  
to  
Everbridge, Inc. Service Agreement**

This Addendum to the Everbridge Service Agreement ("Addendum") is entered into this \_\_\_\_ day of \_\_\_\_\_, 2013, by and between Everbridge, Inc., a Delaware corporation ("Everbridge"), and \_\_\_\_\_ ("Customer"). Everbridge and Customer entered into an Everbridge Service Agreement effective \_\_\_\_\_, 20\_\_ ("Agreement"). All capitalized terms used herein without definition shall have their respective meanings set forth in the Agreement.

WHEREAS, Customer desires to access the Integrated Public Alert Warning System ("IPAWS") Open Platform for Emergency Networks through the Everbridge mass notification services;

WHEREAS, the Parties desire to reflect the additional terms and conditions on which Customer will have such access;

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth below, and other good and valuable consideration, the Parties agree to amend the Agreement as follows:

1. **IPAWS Authorization:** Customer represents and warrants to Everbridge that any employee, agents, or representatives of Customer who access IPAWS-OPEN using Customer's credentials provided by FEMA (each, an "IPAWS User"), are authorized by FEMA to use IPAWS-OPEN, have completed all required training, and Customer has executed an IPAWS Memorandum of Agreement ("MOA") with FEMA. Customer shall contact Everbridge immediately upon any change in Customer or any IPAWS User's right to access IPAWS-OPEN. Customer shall only access IPAWS-OPEN using its designated credentials and FEMA issued digital certificate ("Digital Certificate"). Customer acknowledges and agrees that Everbridge shall not have access to its credentials and that Customer assumes full responsibility for maintaining the confidentiality of any credentials issued to it. Customer shall be solely responsible for any and all claims, damages, expenses (including attorneys' fees and costs) that arise from any unauthorized use or access to IPAWS-OPEN.
2. **Credentials:** Customer shall load and maintain within its Everbridge account Organization, its Digital Certificate, COG ID, and Common Name. Customer authorizes and requests Everbridge to use the foregoing stored information to connect Customer to IPAWS-OPEN.
3. **Messaging:** Customer acknowledges and agrees that: (i) upon submission of messages to IPAWS-OPEN, Everbridge shall have no further liability for the distribution of such message, and that the distribution through IPAWS-OPEN, including, but not limited to, delivery through the Emergency Alert System or the Commercial Mobile Alert System, is in no way guaranteed or controlled by Everbridge; (ii) Everbridge shall not be liable as a result of any failure to receive messages distributed through IPAWS-OPEN; (iii) IPAWS may include additional features not supported through the Everbridge system, and Everbridge shall not be required to provide such additional features to Customer; and (iv) Customer shall be solely responsible and liable for the content of any and all messages sent through IPAWS-OPEN utilizing its access codes.
4. **Term:** Customer acknowledges and agrees that access to IPAWS-OPEN shall be available once Customer has provided Everbridge with the Digital Certificate and any other reasonably requested information to verify access to the system. Upon termination of the Agreement access to IPAWS-OPEN shall immediately terminate. In addition, Everbridge may immediately terminate, without liability, access to IPAWS-OPEN, if Customer breaches this Addendum, the MOA, or FEMA changes the IPAWS-OPEN system so that it materially change the business terms and/or feasibility for Everbridge to provide such access.
5. **Remaining Terms.** All other terms and conditions of the Agreement remain in full force and effect as amended by this Amendment.
6. **Authority.** Customer represents and warrants that it has all necessary legal authority to enter into this Addendum for itself and on behalf of any of its affiliates that are parties to the Agreement or that have been using the Services under the Agreement.

**IN WITNESS WHEREOF**, the Parties have caused this Agreement to be executed by their duly authorized representatives as of the day and year first above written.

**EVERBRIDGE, INC.**

**CUSTOMER:** \_\_\_\_\_

By \_\_\_\_\_

By \_\_\_\_\_

Title \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

Date \_\_\_\_\_

	<b>City by Population</b>	<b>Households 2.5</b>	<b>Cost Factor 0.71</b>	<b>Everbridge Bid</b>
<b>Springville</b>	30,621	12,248	8,696	\$8,691.75
<b>Mapleton</b>	8,442	3,377	2,398	\$2,394.00
<b>Total Pop</b>	<b>39,063</b>	<b>15,625</b>	<b>11,094</b>	<b>\$11,085.75</b>