

ENHANCED 9-1-1 SERVICES AND

Text for 9-1-1 AGREEMENT

This Enhanced 9-1-1 Services and Equipment Purchase/Maintenance Agreement (the "Agreement") is entered into this **7th** day of **March, 2017** by and between Communications Venture Corporation d/b/a INdigital, an Indiana corporation ("INdigital") and Village of Tinley Park, IL INdigital and the Village of Tinley Park may hereinafter be referred to individually as a "Party" and collectively as the "Parties".

WHEREAS, the Village of Tinley Park manages and operates the County wide enhanced emergency telephone system within Village of Tinley Park in the State of Illinois; and

WHEREAS, INdigital is a certificated telecommunications company operating within the State of Illinois which is in the business of providing enhanced 9-1-1 services within the State of Illinois in support of local units of government which manage and operate emergency telephone systems; and

WHEREAS, the Village of Tinley Park desires to purchase equipment to operate its enhanced emergency telephone systems and use the services of INdigital in support of operation of its emergency telephone system.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the parties agree as follows:

1. **Definitions.** The following terms, when used herein, shall have the following meanings:

1.01. "Acceptance Date" is defined as the date on which the Equipment is deemed accepted by the Village of Tinley Park as provided in Section 3.02 of this Agreement.

1.02. "Deficiency Notice" is defined as the notice from the Village of Tinley Park to INdigital that a defect or deficiency with the Equipment exists as provided for under Section 3.02 of this Agreement.

1.03. "text 9-1-1 Service" is defined as a specialized telephone system which includes network switching; data base services and Public Safety Answering Point ("PSAP") premise elements capable of providing automatic location identification data, including the presentation of a call back number from the call originator, selective routing, selective transfer, fixed transfer.

1.04. "Equipment" is defined as the equipment and software listed on the attached **Exhibit A**.

1.05. "Facility" is defined as the Village of Tinley Park's facilities located at 17355 68th Ct, Tinley Park, IL 60477

and other locations as determined by the Village of Tinley Park.

1.06. "Installation Notice" is defined as the notice from INdigital to the Village of Tinley Park as provided in Section 3.02 of this Agreement.

1.07. "Master Street Address Guide" or "MSAG" is the address information provided for under Section 5.01 of this Agreement.

1.08. "Payment Address" is defined as INdigital Telecom, 1616 Directors Row, Fort Wayne, IN 46808 or such other address as INdigital shall designate in writing from time to time.

1.09. "Primary PSAP" is defined as the location to which an enhanced 9-1-1 emergency call will first be selectively routed.

1.10. "Public Safety Answering Point" or "PSAP" is defined as a set of call takers authorized by the Village of Tinley Park and operating under common management which receives 9-1-1 calls and asynchronous event notifications for a defined geographic area and processes those calls and events according to a specified operations policy.

1.11. "Purchase Price" is as defined in Section 3.01 of this Agreement.

1.12. "Secondary PSAP" as defined is a location to which an enhanced 9-1-1 emergency call will be routed upon transfer by a Primary PSAP.

1.13. "Schedule" is defined as the schedule contained on the attached **Exhibit B.**

1.14 "Service Commencement Date" is as defined as the date on which INdigital notifies the Village of Tinley Park that the Services provided for under Section 4 of this Agreement are available for use by the Village of Tinley Park.

1.15. "Services" are defined as the Enhanced 9-1-1 Services provided by INdigital as defined in Section 4.01 of this Agreement.

1.16. "Specifications" are those specifications contained in the attached **Exhibit C.**

1.17. "Term" is as defined in Section 2.01 of this Agreement and includes any renewal terms.

1.18. "Termination Charges" is as defined in Section 2.02 of this Agreement.

2. **Term; Early Termination; Payment Terms.**

2.01. **Term; Renewals.** The term of this Agreement shall be for a period of **5** years commencing on the Service Commencement Date hereof and terminating on the **fifth** anniversary of the Service Commencement Date (the "Term"). The Term of this Agreement shall automatically renew for additional periods of one (1) year unless either party notifies the other party in writing of its intent not to renew at least ninety (90) days prior to the then current term.

2.02. **Early Termination by Village of Tinley Park.** This Agreement may be terminated during the Term by the Village of Tinley Park , upon not less than

ninety (90) days written notice to INdigital; provided, however, the Village of Tinley Park shall not be liable to INdigital for the following Termination Charges:

- (i) The Purchase Price to the extent not previously paid;
- (ii) The Installation Charge to the extent not previously paid;
- (iii) Any Maintenance Fees chargeable through the effective date of Termination. (The balance of pre-paid maintenance fees will be refunded to Village of Tinley Park);
- (iv) Any other charges owed INdigital hereunder accruing prior to the effective date of termination;

INdigital shall reimburse the Village of Tinley Park for any remaining service balance in the event of a statewide 9-1-1 network, reimbursement for services shall be due and payable within sixty (60) days after invoice.

2.03. **Regulatory Requirements.** If the Federal Communications Commission, a state Public Utilities or Service Commission or a court of competent jurisdiction issues a rule, regulation, law or order which has the effect of canceling, changing or superseding any material term or provision of this Agreement (collectively, "Regulatory Requirement"), then the Parties shall attempt to mutually agree on a modification and amendment of this Agreement in such a way as is necessary to comply with such Regulatory Requirement. Should the Parties not be able to agree on modifications necessary to comply with a Regulatory Requirement within thirty (30) days after the Regulatory Requirement is effective, then upon written notice either Party may, to the extent practicable, terminate that portion of this Agreement impacted by the Regulatory Requirement, or if the entire Agreement is impacted in such a way as to make continuation impossible, either Party may terminate the Agreement with no further obligation or liability hereunder, and the Village of Tinley Park shall not be liable for any Early Termination Charges hereunder, except any outstanding amounts for services provided by INdigital prior to the effective date of termination.

2.04. **Termination for Cause.** In the event of a breach of any material term or condition of this Agreement by a Party, the non-breaching Party may terminate this Agreement upon thirty (30) days written notice, unless the breaching Party cures the breach during the thirty (30) day period. In the event INdigital terminates this Agreement as a result of an uncured breach by the Village of Tinley Park, the Village of Tinley Park shall be liable to INdigital for the Early Termination Charges provided for under Section 2.02 of this Agreement.

2.05. **Payment Terms.** INdigital shall invoice the Village of Tinley Park for all amounts due and owing INdigital under this Agreement. Unless otherwise provide in this Agreement, all invoiced amounts shall be due and payable within thirty (30) days after the date of invoice. All payments shall be made to INdigital at the Payment Address.

3. **Service and Installation.**

3.01. **Service Purchase.** The Village of Tinley Park hereby agrees to purchase text to 911 services from INdigital for the sum of Thirty Eight thousand, Six hundred and seventeen dollars and Twenty cents (\$38,617.20) (the "Purchase Price"). The Village of Tinley Park shall pay INdigital the Purchase Price as follows:

- (i) Seventy-Five percent (75%) of the Purchase price within five (5) days after execution of this Agreement by both parties;
- (ii) Twenty-Five percent (25%) of the Purchase Price within five (5) business days after the Acceptance Date.

3.02. **Equipment Installation.** INdigital agrees to install the Equipment in a workmanlike manner, consistent with the manufacturer's instructions and the specifications attached hereto as **Exhibit C** (the "Specifications") at the Facility or

Facilities specified by the Village of Tinley Park no later than the dates as indicated on the Schedule. Upon completion of the Equipment installation, INdigital shall notify the Village of Tinley Park in writing that the Equipment has been installed and is ready for use (the "Installation Notice"), whereupon the Village of Tinley Park shall have fourteen (14) days to test the Equipment and notify INdigital in writing of any defect or deficiency in the Equipment that does not meet the Specifications (a "Deficiency Notice"). INdigital shall promptly cure any reported defect or deficiency in a timely manner and then issue the Village of Tinley Park a new Installation Notice. If the Village of Tinley Park does not issue a Deficiency Notice to INdigital within fourteen (14) days after receipt of an Installation Notice, then the Equipment shall be deemed to meet the Specifications and to have been accepted by the Village of Tinley Park upon such fourteenth day (the "Acceptance Date").

3.03. **Equipment Facilities.** The Village of Tinley Park agrees to provide at all times during the Term climate controlled facilities at the Facility for the proper installation and operation of the Equipment in accordance with the manufacturer's specifications. The Village of Tinley Park shall provide all necessary heat, A/C and electricity, including backup generator power, where the Equipment is located within the Facility for proper operation of the Equipment. In addition to the foregoing, the Village of Tinley Park shall install or cause to be installed all telecommunications and data facilities necessary to properly operate the Equipment which are not specifically provided by INdigital under this Agreement.

3.04. **Equipment Preventative Maintenance.** During the Term, INdigital shall provide preventative maintenance services for the Equipment in accordance with the manufacturer's specifications.

The Village of Tinley Park is liable for gross negligence of maintenance of building causing equipment failures and physical destruction of equipment by employees or guests.

INdigital will schedule preventative maintenance software & hardware updates as recommended by equipment manufacturers. Recommended hotfix and software updates meant for the purchased hardware system are included at no cost with an active maintenance contract.

3.05. Equipment Emergency Maintenance. In the event the Equipment malfunctions or fails to operate, the Village of Tinley Park or local PSAPs shall promptly notify INdigital. INdigital repair personnel will be available to handle any incidences of trouble on a 24 hour a day basis. For all other matters not related to an automatic surveillance incident, INdigital will respond with a resolution to any Village of Tinley Park initiated trouble report within 2 hours, subject to these terms and conditions. INdigital shall timely respond to any such emergency maintenance requirement and shall use diligent efforts to restore the Equipment to operation as soon as possible. During such emergency maintenance event, INdigital will keep the Village of Tinley Park informed of the status of its maintenance efforts at least every 30 minutes until the Equipment is restored to operation.

If the emergency maintenance event is determined by INdigital to be caused by the Village of Tinley Park , its agent or any party not authorized by INdigital and not to be the result of any failure on its part to provide preventative maintenance services as required by the manufacturer of the Equipment the Village of Tinley Park shall pay INdigital for such services at its then current maintenance time and material rates, which rates may be changed by INdigital from time to time upon not less than thirty (30) days prior notice to the Village of Tinley Park . INdigital's time and material rates as of the date of this Agreement are identified on the attached **Exhibit D.**

3.06. Facilities Access. INdigital shall be provided access at any reasonable time to the Facility and to the PSAP locations where INdigital provides the Services. The Village of Tinley Park shall provide INdigital with access to the

Facility where the Equipment is located 24 hours per day, seven days per week. INdigital will comply with the Village of Tinley Park's rules and regulations for access to the Facility and with the PSAP's rules and regulations for access to the PSAP locations.

4. Warranties; Disclaimer.

4.01. **Warranties.** INdigital represents and warrants to the Village of Tinley Park that it has the right to provide the Services specified herein and has the right, power and authority to enter into and perform its obligations under this Agreement. INdigital represents and warrants that the Services are in compliance with all applicable federal, state and local laws, rules and regulations and administrative and regulatory requirements, and INdigital shall be responsible for obtaining and maintaining all approvals, registrations and certifications required by such authorities. INdigital represents and warrants that the Services shall not infringe the copyright, patent, trademark or other intellectual property right of a third party. INdigital represents and warrants that the equipment and services which it provides pursuant to this Agreement will perform as represented.

4.02. **Disclaimer of Warranties.** OTHER THAN THE WARRANTIES SET FORTH HEREIN, INDIGITAL MAKES NO WARRANTY TO THE VILLAGE OF TINLEY PARK OR ANY OTHER PERSON OR ENTITY, WHETHER EXPRESS, IMPLIED, OR STATUTORY, AS TO THE DESCRIPTION, QUALITY, MERCHANTABILITY, COMPLETENESS OR FITNESS FOR ANY PURPOSE OF ANY SERVICES PROVIDED HEREUNDER OR DESCRIBED HEREIN, OR AS TO ANY OTHER MATTER, ALL OF WHICH WARRANTIES BY INDIGITAL ARE HEREBY EXCLUDED AND DISCLAIMED. INDIGITAL MAKES NO REPRESENTATION OR WARRANTIES WITH RESPECT TO INFORMATION, DATA, OR FACILITIES PROVIDED BY ANY OTHER TELEPHONE UTILITY WHICH MAY ALSO PROVIDE ENHANCED 9-1-1 SERVICES TO THE VILLAGE OF TINLEY PARK . FOR PURPOSES OF THIS SECTION, THE TERM "INDIGITAL"

SHALL BE DEEMED TO INCLUDE INDIGITAL, ITS OFFICERS, AGENTS AND EMPLOYEES.

5. Limitation of Liability; Indemnification.

5.01. Limitation of Liabilities; Indemnification.

(ii) The Services and equipment provided hereunder by INdigital is offered solely as an aid in handling assistance calls in connection with fire, police and other emergencies and does not create any relationship or obligation, direct or indirect, to any person or entity other than the Village of Tinley Park .

5.02. Indemnification. INdigital shall defend and hold Village of Tinley Park harmless from all claims arising out of the death or bodily injury of any agent, employee or business invitee of Village of Tinley Park to the extent caused by the negligence or intentional acts or omissions of INdigital, its officers, employees, agents or consultants.

6. General Provisions.

6.01. Independent Contractor. The Parties acknowledge and agree that the relationship between them is solely that of independent contractors. Neither Party, nor their respective employees, agents or representatives, has any right, power or authority to act or create any obligation, express or implied, on behalf of the other Party.

6.02. Force Majeure. Neither Party shall be liable for any failure of performance hereunder due to causes beyond its reasonable control, including, but not limited to, acts of God, fire, explosion, terrorism, vandalism, storms or other similar catastrophes, national emergencies, insurrections, riots or wars.

6.03. **Waivers.** Failure of either Party to enforce or insist upon compliance with the provisions of this Agreement shall not be construed as a general waiver or relinquishment of any provision or right under this Agreement.

6.04. **Survival.** The indemnifications, covenants and agreements of the Parties contained in this Agreement, including, but not limited to the Village of Tinley Park's obligations to pay all amounts due hereunder, shall survive any termination of this Agreement. The rights and obligations under this Agreement shall survive any merger or sale of either Party and shall be binding upon the successors and permitted assigns of each Party.

6.05. **Confidentiality.** (i) Each Party agrees that all information furnished to it by the other Party, or to which it has access under this Agreement, shall be deemed confidential and proprietary information or trade secrets (collectively referred to as "Proprietary Information") of the disclosing Party and shall remain the sole and exclusive property of the disclosing Party.

(ii) The confidentiality obligations of this Section do not apply to any portion of the Proprietary Information: (i) which is or becomes public knowledge through no fault of the receiving Party; (ii) which is in the lawful possession of the receiving Party prior to disclosure to it by the disclosing Party (as confirmed by the receiving Party's records); (iii) which is disclosed to the receiving Party without restriction on disclosure by a person who has the lawful right to disclose the information; or (iv) which is disclosed pursuant to the lawful requirements or formal request of a governmental agency. If the receiving Party is requested or legally compelled by a governmental agency or court of competent jurisdiction to disclose any Proprietary Information of the disclosing Party, the receiving Party shall give notice to the disclosing Party so that the disclosing party may immediately attempt to obtain a protective order requiring that the Confidential Information so disclosed be used only for the purposes for which the order was issued and narrowing as much as possible the request.

(iii) Any obligations of the Parties relating to confidentiality shall survive termination of this Agreement.

6.06. **Entire Agreement.** This Agreement and all Exhibits, Schedules and other attachments incorporated herein, represent the entire agreement between the Parties with respect to the subject matter hereof and supersede and merge all prior agreements, promises, understandings, statements, representations, warranties, indemnities and inducements to the making of this Agreement, whether written or oral.

6.07. **Construction.** The language used in this Agreement is deemed the language chosen by the Parties to express their mutual intent. No rule of strict construction shall be applied against either Party.

6.08. **Assignment.** Neither Party shall assign any right or obligation under this Agreement without the other Party's written consent, which consent shall not be unreasonably withheld. Any attempted assignment shall be void, except that either party may assign moneys due or to become due it, provided that (a) the assigning party gives the other party at least thirty (30) days prior written notice of such assignment, and (b) such assignment does not impose upon the other party obligations to the assignees other than the payment of such moneys. Notwithstanding the foregoing, INdigital may assign this Agreement, in whole or in part, to any of its affiliates. Upon such assignment and assumption of liability thereto by the assignee, the assignor shall be discharged of any liability under this Agreement. Without limiting the generality of the foregoing, this Agreement shall be binding upon and shall inure to the benefit of the parties' respective successors and assigns.

6.09. **Notices.** All notices, including but not limited to, demands, requests and other communications required or permitted hereunder (not including Invoices) shall be in writing and shall be deemed to be delivered when actually received, whether upon personal delivery or if sent by facsimile, or overnight

delivery and shall be deemed delivered three days after mailing if mailed by regular mail. All notices shall be addressed as follows, or to such other address as each of the Parties may notify the other.

If to INdigital: INdigital Telecom
 Attn: Contract Administration
 1616 Directors Row
 Fort Wayne, IN 46808
 FAX: 260 – 469 – 4329

If to the Village of Tinley Park:
 Village of Tinley Park
 16250 Oak Park Ave., Tinley Park, IL 60477

6.10. **Counterparts.** This Agreement may be executed in several counterparts, each of which shall constitute an original, but all of which shall constitute one and the same instrument.

6.11. **Compliance with Laws.** During the term of this Agreement, the Parties shall comply with all local, state and federal laws and regulations applicable to this Agreement and to their respective businesses. Further, each Party shall obtain, file and maintain any tariffs, permits, certifications, authorizations, licenses or similar documentation as may be required by the Federal Communications Commission, a state Public Utilities or Service Commission, or any other governmental body or agency having jurisdiction over its business, provided however, that INdigital shall obtain, file and maintain any tariffs, permits, certifications, authorizations, licenses or similar documentation as may be required by the Federal Communication Commission, a state Public Utilities or Service Commission, or any other governmental body or agency for the Services under this Agreement. Upon request, a Party will supply copies of such permits, certifications, authorizations, licenses and similar documentation. This Agreement

is subject to all terms and conditions of INdigital or other relevant tariffs or other rules and regulations of the State of Illinois, and all applicable federal and state and local laws.

6.12. **Third Party Beneficiaries.** The provisions of this Agreement and the rights and obligations created hereunder are intended for the sole benefit of INdigital and the Village of Tinley Park, and do not create any right, claim or benefit on the part of any person not a Party to this Agreement, including end-users.

6.13. **Amendments.** Except as may otherwise be provided herein, any amendments or modifications to this Agreement must be in writing and signed by an authorized officer of INdigital and an authorized officer of the Village of Tinley Park.

6.14. **Severability.** The illegality or unenforceability of any provision of this Agreement shall not affect the legality or enforceability of any other provision or portion hereof. If any provision or portion of this Agreement is deemed illegal or unenforceable for any reason by a court of competent jurisdiction, there shall be deemed to be made such minimum change in such provision or portion as is necessary to make it valid and enforceable as so modified.

6.15. **Adequate Counsel.** By its signature below, each Party acknowledges and agrees that sufficient allowance has been made for review of this Agreement by their respective counsel and that each Party has been advised as to its legal rights, duties and obligations under this Agreement.

6.16. **Mediation** All claims and disputes arising out of the Agreement shall be decided utilizing a mediator selected by agreement of the parties from a list of individuals supplied by the Village of Tinley Park Common Pleas Court and qualified under the Illinois Rules of Alternative Dispute Resolution. The parties hereto agree that time is of the essence hereunder and, as such, they agree to schedule a mediation upon the first available date, with the intent being to obtain

a final resolution to any dispute as quickly as possible. If the parties hereto are unable to reach a resolution of the dispute through mediation, then all claims or disputes may be pursued in an appropriate court of competent jurisdiction.

6.17. **Annual Availability of Funding** In the event that Village of Tinley Park is not able to obtain funding, after affirmatively requesting such funding, for any sums due INdigital in accordance with this Agreement, Village of Tinley Park may terminate this Agreement on thirty (30) days written notice to INdigital. In such event, Village of Tinley Park agrees that it shall reimburse INdigital for all expenses incurred under this Agreement before written notice of termination is received. Such charges, however, shall not exceed the total sum otherwise payable by Village of Tinley Park under this Agreement. INdigital and Village of Tinley Park understand that the funding for a multi-year agreement is done on a year-to-year basis, and this provision applies annually.

6.18. **Governing Law; Exclusive Jurisdiction; Exclusive Venue** This Agreement is entered into in Illinois and all matters arising under or related to this Agreement shall be governed by and construed in accordance with the substantive law (and the law of conflicts) of the State of Illinois. Courts of competent authority located in Cook County, Village of Tinley Park, Illinois shall have sole and exclusive jurisdiction of any action arising out of or in connection with the Agreement, and such courts shall be the sole and exclusive venue for any such action.

IN WITNESS WHEREOF, the Parties by their authorized representative have executed this Agreement on the date first above written.

Village of Tinley Park

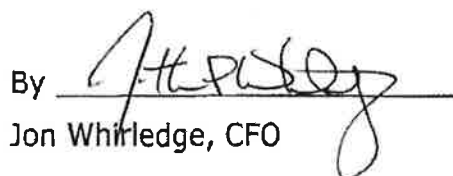
By



Communication Venture Corporation

d/b/a INdigital Telecom

By



Jon Whirlledge, CFO

Schedule of Exhibits:

Exhibit A – List of Equipment and Software

Exhibit B – Installation Schedule – TBD

Exhibit C – Specifications

Exhibit D – Time and Material Rates

Exhibit A List of Equipment and Software

Equipment & Service List Tinley Park 911 - Primary Site

TextTTY text-for-911 price matrix
INdigital telecom textTTY platform

date: 11/12/15
contact: Ricardo Martinez



line	Tinley Park, IL	basic	standard	advanced
	<i>input number of positions</i>	0		6
	<i>number of PSAPS</i>	0		1

feature description	basic	standard	advanced	full custom or (ala carte)
tex-TO-911	X	X	X	\$40
text-FROM-911		X	X	\$34
CAD / Map (i2) interface			X	\$22
NPTK (toolkit) MIS report platform			X	\$12

monthly per position cost

annual customer cost	\$0	\$0	\$ 7,723.44
ESiNet related hardware circuit cost per PSAP	<i>TBD</i>	<i>TBD</i>	<i>TBD</i>
workstation software license	\$ -	\$ -	\$ -
network setup cost	\$ -	\$ -	\$ -

notes: NRC costs vary by the type of network used at the PSAP

Workstation Hardware:

Quantity	Product #	Description	Unit	Extended
0	IN450099	win 7 workstation SFF	\$ 559	\$ -
0	IN450063	20 inch monitor hp	\$ 170	\$ -
0	IN450109	keyboard, mouse, speakers	\$ 152	\$ -
0	IN450108	3' grey patch cords	\$ 12	\$ -
0	IN450059	installation	\$ 130	\$ -
0	IN450057	training	\$ 130	\$ -
Workstation Hardware Total				\$ -

workstation software license, hardware and setup total \$0.00
annual service fee \$7,723.44

Exhibit B
Schedule of Events

Contract signing	<i>To Be Determined</i>
System Conversion	<i>To Be Determined</i>
Training and installation dates	<i>To Be Determined</i>

EXHIBIT C
Specifications

INdigital will install and train on the Text for 911 equipment and software as outlined in Exhibit A – Equipment and Software.

INdigital will provide the ongoing support for Text for 911 services outlined in Exhibit A for a period of five years.

EXHIBIT D
TIME AND MATERIALS RATES

<u>Consultant Level</u>	<u>Rate (\$/Hour)</u>
Senior Network Technician	\$90.00
Network Technician	\$90.00
Senior Field Technician	\$90.00
Field Technician	\$90.00

Material rates under this Exhibit will be determined on a case by case basis. A detailed Time and Materials quote will be provided to the Village of Tinley Park prior to the commencement of work under this Exhibit. All work under this agreement will be completed with the consent and approval of the Village of Tinley Park.