

ConvergeOne, Inc.

SECOND AMENDMENT TO AGREEMENT FOR SERVICES #7116

THIS SECOND AMENDMENT to that Agreement for Services #7116 made and entered into by and between the County of El Dorado, a political subdivision of the State of California (hereinafter referred to as "County"), and ConvergeOne, Inc., a Minnesota corporation duly qualified to conduct business in the State of California, whose principal place of business is 10900 Nesbitt Avenue South, Bloomington, Minnesota 55437, and whose local address is 1020 Del Paso Road, Suite 120, Sacramento, California 95834 (hereinafter referred to as "Consultant").

RECITALS

WHEREAS, Consultant has been engaged by County to provide as-needed consulting services for the Avaya telephone and network system for the County's Information Technologies Department pursuant to Agreement for Services #7116, dated June 9, 2023, and First Amendment to Agreement for Services #7116, dated November 27, 2023, incorporated herein and made by reference a part hereof (hereinafter referred to as "Agreement");

WHEREAS, the parties hereto desire to amend the Agreement to update the billing rates of the Agreement, amending **ARTICLE III, Compensation for Services**;

WHEREAS, the parties hereto desire to amend the Agreement to include updated contract provisions, replacing **ARTICLE XIII, Default, Termination, and Cancellation**;

WHEREAS, the parties hereto desire to fully-replace sections to specific Articles to include updated contract provisions, adding **Exhibit A-1, Updated California Levine Act Statement**;

NOW, THEREFORE, in consideration of the foregoing and the mutual promises and covenants hereinafter contained, County and Consultant mutually agree to amend the terms of the Agreement in this Second Amendment to Agreement for Services #7116 on the following terms and conditions:

- I. **ARTICLE III, Compensation for Services**, of the Agreement is replaced in its entirety to read as follows:

ARTICLE III

Compensation for Services: For services provided herein, including any deliverables that may be identified in the individual Work Orders issued pursuant to this Agreement, County agrees to pay Consultant upon the satisfactory completion and County's acceptance of work, in arrears. Payment shall be made within forty-five (45) days following County's receipt and approval of itemized invoices identifying the services rendered. All prices are exclusive of applicable taxes or other charges imposed by law.

For the period beginning June 9, 2023, the effective date of the Agreement, and continuing through the day before the effective date of the First Amendment to the Agreement, for the services provided herein, the billing rates shall be in accordance with the following:

<u>Classification</u>	<u>Hourly Rate</u>	<u>Overtime Rate</u>
Solution Consultant	\$257.00	\$385.00
Solution Developer	\$309.00	
Solution Engineer	\$257.00	\$385.00
Senior Project Manager	\$221.00	
Trainer	\$257.00	
Non-SOW Project, C1		
Helpdesk and ProServices	\$270.00	\$405.00

For the period beginning on the effective date of the First Amendment to the Agreement and continuing through the day before the effective date of this Second Amendment to the Agreement, for the services provided herein, the billing rates shall be in accordance with the following:

<u>Classification</u>	<u>Hourly Rate</u>	<u>Overtime Rate</u>
Solution Consultant	\$257.00	\$385.50
Solution Developer	\$309.00	
Solution Engineer	\$257.00	\$385.50
Project Coordinator	\$199.00	
Project Manager	\$221.00	
Trainer	\$257.00	
Non-SOW Project, C1		
Helpdesk and ProServices	\$270.00	\$405.00

For the period beginning on the effective date of this Second Amendment to the Agreement and continuing through the remaining term of the Agreement, for the services provided herein, the billing rates shall be in accordance with the following:

<u>Classification</u>	<u>Hourly Rate</u>	<u>Overtime Rate</u>
Solution Consultant	\$257.00	\$385.50
Solution Developer	\$309.00	\$463.50
Solution Engineer	\$257.00	\$385.50
Project Coordinator	\$199.00	\$298.50
Project Manager	\$221.00	\$331.50
Trainer	\$257.00	
Non-SOW Project, C1		
Helpdesk and ProServices	\$270.00	\$405.00

Overtime Rate is defined as work performed between the hours of 6 p.m. to 7 a.m. (Pacific Time) Monday through Friday, and any time Saturday or Sunday. Any overtime work must be approved in advance in writing by County's Contract Administrator or Project Manager.

The rates and classifications listed above may be adjusted with thirty (30) calendar days prior written notice to County by Consultant and will be mutually agreed upon in writing by the County's Contract Administrator and the Consultant. The Price Increase Notice will be considered accepted once signed by both parties. The rate increase shall not exceed five percent (5%) annually. Any rate increases authorized by County's Contract Administrator shall not increase the total not to exceed amount of the Agreement. In no event shall the total not to exceed amount of the Agreement be exceeded.

Notwithstanding any other provision of this Agreement to the contrary, payments to Consultant for travel, lodging, per diem, and mileage expenses, if applicable, for Consultant's claims for reimbursement shall not exceed the rates to be paid to County employees under the current Board of Supervisor's Travel Policy in effect at the time the expenses are incurred, without markup. Consultant is responsible for canceling hotel rooms before the cancellation period ends and should record the cancellation number in case of disputes. Consultant shall not be reimbursed for "no-show" hotel charges unless there are unavoidable reasons for not cancelling the room and County's Contract Administrator or designee has determined that the reasons are valid. Any reimbursements for such expenses, if any, will only be made if such expenses are included in the Cost Proposal of an approved and fully executed Work Order issued pursuant to this Agreement.

The total amount of this Agreement **SHALL NOT EXCEED \$80,000**, inclusive of all Work Orders and amended Work Orders, and all costs, taxes, and expenses. It is understood and agreed that there is no guarantee, either expressed or implied that this dollar amount will be authorized under this Agreement through Work Orders. For Work Orders over \$5,000, Consultant may bill for completed work on a monthly or phased-project basis.

Itemized invoices shall follow the format specified by County and shall reference this Agreement number and the County-supplied Work Order number both on their faces. Copies of documentation attached to invoices shall reflect Consultant's charges for the specific services billed on those invoices. Consultant shall bill County for only one (1) Work Order per invoice.

Invoices shall be mailed to County at the following address:

County of El Dorado
Information Technologies Department
360 Fair Lane
Placerville, California 95667
Attn.: Tonya Digiorno
Director
Tonya.digiorno@edcgov.us

or to such other location as County directs.

- II. **ARTICLE XIII, Default, Termination, and Cancellation**, is replaced in its entirety to read as follows:

ARTICLE XIII
Default, Termination, and Cancellation:

- A. 1. Termination by Default: If either party becomes aware of an event of default, that party shall give written notice of said default to the party in default (notice) that shall state the following:

- a. The alleged default and the applicable Agreement provision, and
- b. That the party in default has ten (10) days upon receiving the notice to cure the default (Time to Cure).

If the party in default does not cure the default within ten (10) days of the Time to Cure, then such party shall be in default and the party giving notice may terminate the Agreement by issuing a Notice of Termination. The party giving notice may extend the Time to Cure at their discretion. Any extension of Time to Cure must be in writing, prepared by the party in default for signature by the party giving notice, and must specify the reason(s) for the extension and the date in which the extension of Time to Cure expires.

- 2. If County terminates this Agreement, in whole or in part, for default:
 - a. County shall pay Consultant the sum due to Consultant under this Agreement prior to termination.
 - b. County may require Consultant to transfer title and deliver to County any completed work under the Agreement.
- 3. The following shall be events of default under this Agreement:
 - a. Failure by either party to perform in a timely and satisfactory manner any or all of its obligations under this Agreement.

- b. A representation or warranty made by Consultant in this Agreement proves to have been false or misleading in any respect.
 - c. Consultant fails to observe and perform any covenant, condition or agreement on its part to be observed or performed under this Agreement, unless County agrees, in writing, to an extension of the time to perform before that time period expires.
 - d. A violation of ARTICLE XX, Conflict of Interest.
- B. Bankruptcy: County may terminate this Agreement immediately in the case of bankruptcy, voluntary or involuntary, or insolvency of Consultant.
- C. Ceasing Performance: County may terminate this Agreement immediately in the event Consultant ceases to operate as a business or otherwise becomes unable to substantially perform any term or condition of this Agreement.
- D. Termination or Cancellation without Cause: County may terminate this Agreement or any Work Order issued pursuant to this Agreement, in whole or in part, for convenience upon thirty (30) calendar days' written Notice of Termination. If such termination is effected, County will pay for satisfactory services rendered before the effective date of termination, as set forth in the Notice of Termination provided to Consultant, and for any other services that County agrees, in writing, to be necessary for contract resolution. In no event, however, shall County be obligated to pay more than the total amount of the Work Order or the total amount of the Agreement, as applicable. Upon receipt of a Notice of Termination, Consultant shall promptly discontinue all services affected, as of the effective date of termination set forth in such Notice of Termination, unless the Notice directs otherwise.

III. ARTICLE XVII, Insurance, Section A, is replaced in its entirety to read as follows:

- A. Full Workers' Compensation and Employers' Liability Insurance covering all employees of Consultant as required by law in the State of California.

IV. ARTICLE XX, Conflict of Interest, last paragraph, is replaced in its entirety to read as follows:

Pursuant to Government Code section 84308 (SB 1439, the Levine Act), Consultant shall complete and sign the attached Exhibit A, marked "California Levine Act Statement," and Exhibit A-1, marked "Updated California Levine Act Statement," both incorporated herein and made by reference a part hereof, regarding campaign contributions by Consultant, if any, to any officer of County.

Except as herein amended, all other parts and sections of Agreement for Services #7116 shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Second Amendment to Agreement for Services #7116 on the dates indicated below.


--COUNTY OF EL DORADO--

By: 
Laura Schwartz (Mar 13, 2024 16:37 PDT)

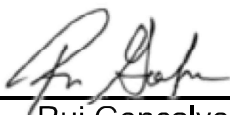
Dated: 03/13/2024

Purchasing Agent
Chief Administrative Office
"County"

--CONVERGEONE, INC.--

By: 
Dave Borgese
Regional Vice President
"Consultant"

Dated: 03/12/2024

By: 
Rui Goncalves
General Counsel and Corporate Secretary

Dated: 03/12/2024



ConvergeOne, Inc.

Exhibit A-1

Updated California Levine Act Statement

California Levine Act Statement

California Government Code section 84308, commonly referred to as the "Levine Act," prohibits any officer of El Dorado County from participating in any action related to a contract if he or she accepts, solicits, or directs any political contributions totaling more than two hundred and fifty dollars (\$250) within the previous twelve (12) months, and for twelve (12) months following the date a final decision concerning the contract has been made, from the person or company awarded the contract. The Levine Act also requires disclosure of such contribution by a party to be awarded a specific contract. An officer of El Dorado County includes the Board of Supervisors, any elected official, and the chief administrative officer (collectively "Officer"). It is the Consultant's responsibility to confirm the appropriate "Officer" and name the individual(s) in their disclosure.

Have you or your company, or any agent on behalf of you or your company, made any political contribution(s), or been solicited to make a contribution by an Officer or had an Officer direct you to make a contribution of more than \$250 to an Officer of the County of El Dorado in the twelve months preceding the date of the submission of your proposals or the anticipated date of any Officer action related to this contract?

____ YES ☒ NO

If yes, please identify the person(s) by name:

Do you or your company, or any agency on behalf of you or your company, anticipate or plan to make any political contribution(s) of more than \$250 to an Officer of the County of El Dorado in the twelve months following any Officer action related to this contract?

____ YES ☒ NO

If yes, please identify the person(s) by name:

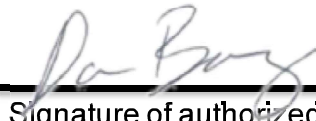
Answering YES to either of the two questions above does not preclude the County of El Dorado from awarding a contract to your firm or any taking any subsequent action related to the contract. It does, however, preclude the identified Officer(s) from participating in any actions related to this contract.

03/12/2024

Date

ConvergeOne, Inc.

Type or write name of company



Signature of authorized individual

Dave Borgese, Regional Vice President

Type or write name of authorized individual