

AMENDMENT NO. 1

TO AGREEMENT FOR CONTRACT SERVICES

THIS AMENDMENT TO THE AGREEMENT FOR CONTRACT SERVICES ("Amendment") by and between the CITY OF CARSON, a California municipal corporation ("City") and Convergent Technologies, LLC, a Delaware Limited Liability Company ("Consultant"), is effective as of the 1st day of January, 2018.

RECITALS

A. City and Consultant entered into that certain "Contract Services Agreement for the Development, Installation, Operation and Maintenance of a Networked Fire Alarm System and Duress Alarm Notification System dated January 1, 2015 ("Agreement"), whereby Consultant agreed to install and service a Fire Alarm System, a Duress Notification Alarm System, and Fire Suppression System in City Hall and a Fire Alarm System in the Juanita Millender McDonald Community Center (the "Alarm Systems"), and to install and service certain monitoring systems in three other City facilities, specifically Carson Park, the Corporate Yard, and the Veterans Sports Complex.

B. The Agreement provided for a contract sum of \$530,413.18 and a three-year term, commencing January 1, 2015 (the "Effective Date") and expiring December 31, 2017.

C. The Term of the Agreement expired on December 31, 2017.

D. The Alarm Systems were installed and are patented by Consultant, and the ongoing maintenance, monitoring, testing and repair services are unique to the Alarm Systems and available only from Consultant.

E. Installation of the Alarm Systems was completed, and the Alarm Systems were commissioned, commencing May 10, 2017 (the "Project Completion Date").

F. The Agreement provided for 3-year warranties applicable to the Alarm Systems (with the exception of the Fire Suppression System, which was subject to a 1-year warranty). The warranties included certain labor, repairs and replacements for the Alarm Systems. As indicated by the proposal submitted by Consultant prior to entering into the Agreement, the contract sum authorized in the Agreement also included three years of periodic maintenance, monitoring, and testing services for the Alarm Systems and the monitoring systems installed pursuant to the Agreement.

G. The services covered by the warranties for the Alarm Systems, and the periodic monitoring, maintenance and testing services for all systems installed, actually and necessarily commenced on the Project Completion Date. However, the Agreement: (i) provided for periodic maintenance services to commence on the Effective Date, rather than the Project Completion Date; (ii) failed to expressly address periodic monitoring services; and (iii) provided a five-year term for testing services, commencing as of the Effective Date of the Agreement, rather than a three-year term commencing as of the Project Completion Date. Additionally, although the proposal contemplated the performance of certain other services, such as repair and

programming services, which were not covered by the warranties and did not constitute periodic maintenance, monitoring, or testing services, on an as-needed basis at hourly rates additional to the base contract sum, the Agreement did not address such services. These provisions or omissions were inconsistent with the proposal submitted by Consultant and did not fully or properly reflect the intent of the Parties.

H. To correct the Agreement to reflect its original intent, to ensure the continued provision of necessary services to ensure the functionality of the Alarm Systems, and to expressly affirm all of the terms, guarantees, warranties and protections provided by Consultant to City in the Agreement covering the time period from January 1, 2018 through the execution of this Amendment, City and Consultant now desire to amend the Agreement to retroactively extend its term by twenty-nine (29) months, from January 1, 2018 through May 31, 2020, to clarify the nature and duration of the periodic monitoring, maintenance and testing services provided by Consultant, and to increase the contract sum from \$530,413.18 to \$550,413.18 provide a \$20,000 authorized funding reserve for necessary repair and other services falling outside the scope of the warranty services and periodic maintenance, monitoring and testing services authorized by the original Agreement.

TERMS

1. **Contract Changes.** The Agreement is amended as provided herein (deletions are shown in ~~striketrough~~ and additions are shown in ***bold italics***).

A. Section 2.1 (“Contract Sum”) is hereby amended to read in its entirety as follows:

“For the services rendered pursuant to this Agreement, the Contractor shall be compensated in accordance with the “Schedule of Compensation” attached hereto as Exhibit “C” and incorporated herein by this reference, but not exceeding the maximum contract amount of ~~Five Hundred and Thirty Thousand, Four Hundred and Thirteen Dollars and Eighteen Cents (\$530,413.18)~~ ***Five Hundred Fifty Thousand, Four Hundred Thirteen Dollars and Eighteen Cents (\$550,413.18)*** (***herein “Contract Sum”***), which shall include: such other methods as specified in the Schedule of Compensation. Compensation may include reimbursement for actual and necessary expenditures for reproduction costs, telephone expense, transportation expense approved by the Contract Officer in advance, and no other expenses and only if specified in the Schedule of Compensation. The Contract Sum shall include the attendance of Contractor at all project meetings and City Council meetings reasonably deemed necessary by the City; Contractor shall not be entitled to any additional compensation for attending said meetings.”

B. Section 3.4 (“Term”) is hereby amended to read in its entirety as follows:

“Unless earlier terminated in accordance with Section 7.8 of this Agreement, this Agreement shall continue in full force and effect until completion of services but not exceeding ~~thirty-six (36) months~~ ***sixty-five (65) months*** from the date hereof

January 1, 2015, to expire on May 31, 2020, except as otherwise provided in the Schedule of Performance.”

C. Exhibit “A” (“Scope of Services”), commencing at Paragraph E (“Warranties”) of Task 1 (“Installation”), is hereby amended to read as follows:

“E. Warranties. All patch and paint shall be the responsibility of the Contractor. In addition to all warranties provided for in this Agreement, the manufacturer’s/vendor’s warranty period for the fire alarm systems shall be for three (3) years. The labor warranty period shall be for three (3) years. The cost of any extended warranty for labor, shall have the fire alarm labor warranty match the manufacturer’s warranty of three (3) years. The manufacturer’s warranty for Suppression System shall be for one (1) year. The manufacturer’s/vendor’s warranty period for the Duress Alarm Notification System shall be for three (3) years. The labor warranty period shall be for three (3) years. Include the cost of any extended warranty for labor, to have the duress alarm labor warranty match the manufacturer’s warranty of three (3) years. *The warranty periods specified herein shall commence on May 10, 2017. The Suppression System warranty shall remain in effect through May 9, 2018. The warranties for the fire alarm systems and duress alarm notification system shall remain in effect through May 9, 2020.*

TASK 2. TRAINING

A. Contractor will provide training as ~~required~~ *requested* by the ~~City~~ *Contract Officer* for effective use of the Networked Fire Alarm System and the Duress Notification Alarm System.

B. Contractor will provide retraining and new training throughout the entire ~~thirty-six month~~ term of the Agreement for current and new employees, *as requested by the Contract Officer.*

TASK 3. MAINTENANCE

A. Maintenance of Systems. Contractor shall service and maintain *the* Networked Fire Alarm Systems and Duress Alarm Notification System *located in City Hall and the Juanita Millender McDonald Community Center* for the entire ~~thirty-six (36) month term of the Agreement~~ *three-year warranty periods pursuant to Paragraph E (“Warranties”) of Task 1 of this Exhibit A. Contractor shall also service and maintain the monitoring systems located at*

Carson Park, the Corporate Yard, and the Veterans Sports Complex from May 10, 2017 through the remainder of the Term of this Agreement.

B. Testing of Systems. Contractor shall provide ~~five (5) years of~~ annual testing of the Networked Fire Alarm Systems, ~~five (5) years of~~ semi-annual testing of the fire suppression system, and ~~five (5) years of~~ annual testing of the Duress Fire Alarm Notification System, *commencing May 10, 2017, through the remainder of the term of this Agreement. Contractor shall also perform quarterly water-flow and tamper testing in City Hall, and semi-annual testing of all batteries in City Hall and the Juanita Millender McDonald Community Center, commencing May 10, 2017, through the remainder of the term of this Agreement. Contractor shall provide written reports of all testing to the City.*

C. Monitoring of Systems. Contractor shall provide monitoring of the fire alarm panels located in all FACILITIES, commencing May 10, 2017, through the remainder of the term of this Agreement. Contractor's monitoring services involve the transmission of signals from the fire alarm panels to a third-party monitoring station. Based upon the signal type, calling procedures are commenced to notify the subject location.

TASK 4. ADDITIONAL SERVICES

Commencing on May 10, 2017, when a service call reveals, and the Contract Officer determines/confirms, that the performance of services which are not covered by the warranties specified in Paragraph E of Task I of this Exhibit A and which do not constitute periodic maintenance, monitoring or testing services authorized pursuant to Task 3 of this Exhibit A, is reasonably necessary to keep the systems installed pursuant to this Agreement operable ("Additional Services"), Consultant shall perform said Additional Services in accordance with the rates and limits specified in Subsection V of Exhibit C.

It is generally understood that the following shall constitute Additional Services, provided such services do not constitute periodic maintenance, monitoring or testing pursuant to Task 3 of this Exhibit A: (i) Necessary repairs to systems installed pursuant to this Agreement that are not covered by warranty at the time of the repairs; (ii) Necessary repairs to systems installed pursuant to this Agreement that are covered by warranty at the time of the repairs, if the repairs are not due to normal use of the systems.

Tasks 1 and 2 under the Scope of Services, with the exception of Paragraph E ("Warranties"), shall be performed no later than ten (10) months from the execution of this Agreement. Tasks 3 and 4 shall be performed commencing May 10, 2017, and continuing through the remainder of ~~during the thirty-six (36) month~~ term of the Agreement.

All work product is subject to review and acceptance by the City, and must be revised by the Contractor without additional charge to the City until found satisfactory and accepted by City.”

D. Exhibit “B” (“Special Requirements”) is hereby amended to add a new Section B-3, to read in its entirety as follows:

“B-3 A new Section 1.10 (“Prevailing Wages”) is hereby added to the Agreement, to read in its entirety as follows:

1.10 Prevailing Wages. Contractor is aware of the requirements of California Labor Code Section 1720 et seq. and 1770 et seq., as well as California Code of Regulations, Title 8, Section 1600 et seq. (“Prevailing Wage Laws”), which require, for “Public Works” and “Maintenance” projects, the payment of prevailing wage rates, that Contractor and all subcontractors be registered with and pay the registration fee to the Department of Industrial Relations (“DIR”), that Contractor be subject to the monitoring and enforcement by the DIR, and the performance of other applicable requirements. If the Services are being performed as part of an applicable “Public Works” or “Maintenance” project, as defined by the Prevailing Wage Laws, and if the total compensation is \$1,000 or more, Contractor agrees to fully comply with such Prevailing Wage Laws. Contractor shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the Services available to interested parties upon request, and shall post copies at the Contractor’s principal place of business and at the project site. Contractor shall defend, indemnify and hold the City, its elected officials, officers, employees and agents free and harmless from any claim or liability arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. This Section 1.10 applies to the entire term of this Agreement.”

E. Exhibit “C” (“Schedule of Compensation”), commencing at Subsection IV, is hereby amended to read in its entirety as follows:

IV. Monitoring and maintenance services, as specified in Paragraphs A and C of Task 3 of Exhibit A, shall be performed at the monthly rates set forth in the table below. Testing, as specified in Paragraph B of Task 3 of Exhibit A, shall be performed at no cost to the City.

<i>Time Period</i>	<i>Monitoring</i>	<i>Maintenance</i>	<i>Total</i>
<i>May 10, 2017 – May 9, 2018</i>	<i>Total: \$170 (\$34 per facility)</i>	<i>Total: \$487 <u>Sub-Totals:</u></i>	<i>\$657</i>

- *Corporate Yard: \$38;*
- *Community Center: \$210;*
- *Sports Complex: \$42;*
- *Carson Park: \$42;*
- *City Hall: \$155.*

May 10, 2018 – \$170
May 9, 2019
(\$34 per facility)

Total: \$500 \$670

Sub-Totals:

- *Corporate Yard: \$39;*
- *Community Center: \$216;*
- *Sports Complex: \$43;*
- *Carson Park: \$43;*
- *City Hall: \$159.*

May 10, 2019 – \$170
May 31, 2020
(end of Term) (\$34 per facility)

Total \$516 \$686

Sub-Totals:

- *Corporate Yard: \$40;*
- *Community Center: \$222;*
- *Sports Complex: \$45;*
- *Carson Park: \$45;*
- *City Hall: \$164.*

Based on the foregoing table, authorized monthly invoices pursuant to this Agreement shall not exceed the following amounts for all Services (exclusive of Additional Services) for the following periods of the Term: (i) \$657 for the period from May 10, 2017 through May 9, 2018; (ii) \$670 for the period from May 10, 2018 through May 9, 2019; and (iii) \$686 for the period from May 10, 2019 through May 31, 2020.

V. Compensation to Consultant, in an amount not to exceed Twenty Thousand Dollars (\$20,000), is hereby authorized for Consultant's performance of the Additional Services pursuant to Task 4 of Exhibit A. Additional Services shall be performed at the following rates:

<i>Additional Service Category</i>	<i>Hourly Rate</i>	<i>Truck Charge (per service call)</i>
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Hardware Services

\$135

\$55

Includes repair and maintenance of: (i) field hardware such as smoke detectors, manual pull stations and magnetic door holders; (ii) electronic items such as controller boards, relay modules, power supplies and interface devices.

Software Services

\$155

\$55

Includes repair, programming and maintenance of: (i) remote systems including panel programming and re-loading and control systems configuration; (ii) fire alarm panel system programming, configuration and repair including adding and deleting of devices, zone programming, system patches and scheduling; (iii) operating system configuration, reloads, upgrades and patching.

Professional Services

\$203

\$55

Includes: (i) Database architecture programming, data exchange, Active Directory and Open IT; (ii) Custom report generation, custom forms design or any other custom programming; and (iii) Customer training.

The funding authorized pursuant to this Subsection V may be used only for Additional Services. The rates specified in this Subsection apply for the 2018 calendar year, and are subject to increase on January 1 of each subsequent calendar year for the Term of this Agreement at an annual escalation rate of no more than three percent (3%).

IVI. The total compensation for the Services shall not exceed the Contract Sum, as provided in Section 2.1 of this Agreement.

F. Exhibit “D” (“Schedule of Performance”) is hereby amended to read in its entirety as follows:

“I. Contractor shall perform all services timely in accordance with the following schedule:

1. Contractor shall perform Tasks 1~~and 2~~ in the Scope of Services described in Exhibit A, *with the exception of the warranty periods specified in Paragraph E thereof*, no later than ten (10) months from the execution of the Agreement.

2. *Task 2 shall be performed for the entire term of this Agreement.*

2 3. Contractor shall perform Tasks 3 and 4 in the Scope of Services described in Exhibit A, *commencing May 10, 2017 and continuing through during the entire thirty-six (36) month remainder of the term of the Agreement.*

~~*Time to Perform shall be from execution of the Agreement.~~

The Contract Officer may approve extensions for performance of the services in accordance with Section 3.2.”

2. Continuing Effect of Agreement. Except as amended by this Agreement, all provisions of the Agreement shall remain unchanged and in full force and effect. From and after the date of this Amendment, whenever the term “Agreement” appears in the Agreement, it shall mean the Agreement, as amended by this Amendment to the Agreement.

3. Affirmation of Agreement; Warranty Re Absence of Defaults. City and Consultant each ratify and reaffirm each and every one of the respective rights and obligations arising under the Agreement. Each party represents and warrants to the other that there have been no written or oral modifications to the Agreement other than as provided herein. Each party represents and warrants to the other that the Agreement is currently an effective, valid, and binding obligation. Consultant ratifies and affirms that each and every one of the respective obligations and duties of Consultant to City arising under the Agreement cover the period of time from the commencement of the Agreement through the conclusion of the Term (as amended by this Amendment), expressly including the period of time during the Term from January 1, 2018 to the execution of this Amendment.

Consultant represents and warrants to City that, as of the date of this Amendment, City is not in default of any material term of the Agreement and that there have been no events that, with the passing of time or the giving of notice, or both, would constitute a material default under the Agreement.

4. **Adequate Consideration.** The parties hereto irrevocably stipulate and agree that they have each received adequate and independent consideration for the performance of the obligations they have undertaken pursuant to this Amendment.

5. **Authority.** The persons executing this Agreement on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which said party is bound.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date and year first-above written.

CITY:

CITY OF CARSON, a municipal corporation

Albert Robles, Mayor

ATTEST:

Donesia Gause-Aldana, City Clerk

APPROVED AS TO FORM:
ALESHIRE & WYNDER, LLP

Sunny K. Soltani, City Attorney
[brj]

CONSULTANT:

CONVERGINT TECHNOLOGIES, LLC

By:_____
Name: Dan Mocerì
Title: Executive Chairman

By:_____
Name: Walter Winkel III
Title: Vice President, General Counsel
Address: 1 Commerce Drive
Schaumburg, IL 60173

Two corporate officer signatures required when Consultant is a corporation, with one signature required from each of the following groups: 1) Chairman of the Board, President or any Vice President; and 2) Secretary, any Assistant Secretary, Chief Financial Officer or any Assistant Treasurer. CONSULTANT'S SIGNATURES SHALL BE DULY NOTARIZED, AND APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO CONSULTANT'S BUSINESS ENTITY.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

On _____, 2018 before me, _____, personally appeared _____, proved to me on the basis of satisfactory evidence to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: _____

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER	DESCRIPTION OF ATTACHED DOCUMENT
<input type="checkbox"/> INDIVIDUAL	
<input type="checkbox"/> CORPORATE OFFICER	
<div style="text-align: center;">_____ TITLE(S)</div> <input type="checkbox"/> PARTNER(S) <input type="checkbox"/> LIMITED <input type="checkbox"/> GENERAL	<div style="text-align: center;">_____ TITLE OR TYPE OF DOCUMENT</div>
<input type="checkbox"/> ATTORNEY-IN-FACT	
<input type="checkbox"/> TRUSTEE(S)	
<input type="checkbox"/> GUARDIAN/CONSERVATOR	<div style="text-align: center;">_____ NUMBER OF PAGES</div>
<input type="checkbox"/> OTHER _____	
SIGNER IS REPRESENTING: (NAME OF PERSON(S) OR ENTITY(IES)) _____ _____	<div style="text-align: center;">_____ DATE OF DOCUMENT</div>
	<div style="text-align: center;">_____ SIGNER(S) OTHER THAN NAMED ABOVE</div>

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

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On _____, 2018 before me, _____, personally appeared _____, proved to me on the basis of satisfactory evidence to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: _____

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<input type="checkbox"/>	ATTORNEY-IN-FACT	_____
<input type="checkbox"/>	TRUSTEE(S)	NUMBER OF PAGES _____
<input type="checkbox"/>	GUARDIAN/CONSERVATOR	_____
<input type="checkbox"/>	OTHER _____	_____
SIGNER IS REPRESENTING: (NAME OF PERSON(S) OR ENTITY(IES)) _____ _____ _____		DATE OF DOCUMENT _____ _____ _____
		SIGNER(S) OTHER THAN NAMED ABOVE _____