

**TENTH AMENDMENT TO THE AGREEMENT  
FOR AN ENVIRONMENTAL ENFORCEMENT  
DATA MANAGEMENT SYSTEM  
BETWEEN THE CITY OF SAN JOSE  
AND ENFOTECH & CONSULTING, INC.**

This Tenth Amendment to the Agreement for an Environmental Enforcement Data Management System between the City of San José (hereinafter "City"), a municipal corporation, and enfoTech & Consulting, Inc., a New Jersey corporation, authorized to conduct business in the State of California (hereinafter "Contractor"), is entered into on the date of execution by City ("Effective Date").

**RECITALS**

**WHEREAS**, on April 15, 2003, City and Contractor entered into an agreement entitled "Agreement for Environmental Enforcement Data Management System between enfoTech & Consulting, Inc. and the City of San José" ("Agreement") for an Environmental Enforcement Data Management System for the Environmental Services Department; and

**WHEREAS**, on April 13, 2004, City and Contractor entered into Change Order #1 to add additional inspector equipment, and increase maximum compensation by \$1,282; and

**WHEREAS**, on April 13, 2004, City and Contractor entered into Change Order #2 to add additional inspector equipment and increase maximum compensation by \$3,846; and

**WHEREAS**, on April 26, 2005, City and Contractor entered into a First Amendment to the Agreement to extend the Initial Term of the Agreement through September 30, 2006; and

**WHEREAS**, on September 20, 2006, City and Contractor entered into Change Order #3 to provide Crystal Report customization services, develop an inventory report, and increase maximum compensation by \$5,100; and

**WHEREAS**, on September 26, 2006, City and Contractor entered into a Second Amendment to the Agreement to extend the Initial Term of the Agreement through December 31, 2007, at no additional cost to City; and

**WHEREAS**, on June 17, 2008, City and Contractor entered into a Third Amendment to the Agreement to extend the Initial Term of the Agreement through January 31, 2010, at no additional cost to City; and

**WHEREAS**, on February 1, 2010, City and Contractor entered into a Fourth Amendment to the Agreement to extend the Initial Term of the Agreement through July 31, 2010, at no additional cost to City; and

**WHEREAS**, on September 1, 2010, City and Contractor entered into a Fifth Amendment to the Agreement to

extend the Initial Term through January 31, 2012, upgrade the existing system to a web-based system, add five (5) additional one-year options to extend the term of the Agreement through July 31, 2017, and increase maximum compensation by \$318,199; and

**WHEREAS**, on April 8, 2011, City and Contractor entered into Change Order #4 to modify services related to the system upgrade and increase maximum compensation by \$10,707; and

**WHEREAS**, on July 1, 2011, City and Contractor entered into Change Order #5 to modify services related to the system upgrade and increase maximum compensation by \$29,644; and

**WHEREAS**, on October 26, 2011, City and Contractor entered into Change Order #6 to remove inspection compliance information categorization from the scope of services and decrease maximum compensation by \$4,888; and

**WHEREAS**, on March 14, 2012 City and Contractor entered into a Sixth Amendment to extend the Initial Term of the Agreement through January 31, 2013, add report development to the scope of services, and increase maximum compensation by \$45,025; and

**WHEREAS**, on October 26, 2012, City and Contractor entered into Change Order #7 to modify services related to the system upgrade and increase maximum compensation by \$13,610; and

**WHEREAS**, on January 29, 2013, City and Contractor entered into Change Order #8 to add services related to the system upgrade and increase maximum compensation by \$5,520; and

**WHEREAS**, on February 5, 2013, City and Contractor entered into a Seventh Amendment to extend the term through June 30, 2013 at no additional cost to City; and

**WHEREAS**, on May 3, 2018, City and Contractor entered into Change Order #9 to add and remove services related to the system upgrade and decrease maximum compensation by \$562; and

**WHEREAS**, on June 19, 2018, City and Contractor entered into the Eighth Amendment to add three (3) additional one-year options for a total of eight (8) options to extend the term of the Agreement through June 30, 2021; and

**WHEREAS**, on March 9, 2021, City and Contractor entered into the Ninth Amendment to add ten (10) additional one-year options for a total of eighteen (18) to extend the term of the Agreement through June 30, 2031; and

**WHEREAS**, City and Contractor now wish to further amend the Agreement to add additional scope to upgrade Contractor's FAST software to GovMobile;

**NOW, THEREFORE**, the parties agree to amend the Agreement as follows:

**SECTION 1.** Revised Exhibit A “Scope of Services” as amended in the Third Amendment, with addenda added in the Fifth and Sixth Amendments, and additional scope through Change Orders #3 through #9, is hereby further amended to include the scope of work as set forth in Addendum #2 to Revised Exhibit A, which is attached hereto and incorporated into this Tenth Amendment.

**SECTION 2.** Thirteenth Revised Exhibit B, "Payment Schedule," is amended to read as set forth in the Fourteenth Revised Exhibit B, which is attached hereto and incorporated into this Tenth Amendment.

**SECTION 3.** All of the terms and conditions of the amended Agreement not specifically modified by this Tenth Amendment shall remain in full force and effect.

**WITNESS THE EXECUTION HEREOF** on the day and year set forth beneath the respective names.

**City of San José**  
a municipal corporation

**EnfoTech & Consulting, Inc.**  
a New Jersey corporation registered to do  
business in the State of California

By *Jennifer Cheng*  
Jennifer Cheng (10/20/2021)  
Email: jennifer.cheng@sanjoseca.gov  
\_\_\_\_\_  
Jennifer Cheng  
Deputy Director, Finance

By *Tony C. Jeng*  
tony\_jeng@enfotech.com (10/20/2021)  
Email: tony\_jeng@enfotech.com  
\_\_\_\_\_  
Tony Jeng  
Executive Vice President

**APPROVED AS TO FORM:**

*Diana Yuan*  
Diana Yuan (10/20/2021)  
Email: diana.yuan@sanjoseca.gov  
\_\_\_\_\_  
Diana Yuan  
Deputy City Attorney

## **ADDENDUM #2 TO REVISED EXHIBIT A SCOPE OF SERVICES**

The City currently uses Contractor's FAST software to collect field data required under the City's Pretreatment Program. To improve efficiency and data accuracy, the City has requested that Contractor upgrade the City to Contractor's GovMobile software.

### **1.0 Contractor agrees to provide the City with services to deliver the following:**

- 1.1 Upgrade the City's FAST software to GovMobile.
  - 1.1.1 Upload the GovMobile software installation package (with installation instructions) to a secure FTP server and notify City that the software is ready for download.
  - 1.1.2 Provide technical support remotely to assist the City with installation of GovMobile on City servers.
- 1.2 Forty (40) user licenses for GovMobile.
- 1.3 Migrate the City's existing inspection forms (XML) to a GovMobile (JSON) compatible format (70 total inspection forms).
- 1.4 Migrate up to nineteen (19) inquiry-related inspection forms from FAST (XML) to GovMobile (JSON) compatible format.
- 1.5 Enhance GovMobile software functions to support the City's inquiry processes with the following features:
  - 1.5.1 Inspector can search inquiry records in the field;
  - 1.5.2 Inspector can edit inquiry record in the field; and
  - 1.5.3 Inspector can record inquiry related inspection results in the field. It is assumed that the field device will have internet connection in order to enable all GovMobile functions.
- 1.6 Two (2) hours of GovMobile training provided remotely via GoToMeeting.

### **2.0 Contractor shall complete the GovMobile upgrade project within sixteen (16) weeks of execution of this Tenth Amendment in accordance with the deliverables specified in Table 1 below.**

**Table 1:**

<b>Item</b>	<b>Deliverables</b>	<b>Estimated Time to Complete</b>	<b>Compensation</b>
1	GovMobile software installation package (with installation instruction) uploaded to a secure FTP server and a notification is issued to City for software download. Includes 40 user licenses.	7 days	\$38,600
2	Provide technical support remotely to assist City with installation of GovMobile on City servers.	14 days	
3	Migrate City's existing inspection forms (XML) to GovMobile (JSON) compatible format (70 inspection forms).	28 days	19,800
4	Enhance GovMobile software functions to support the City's inquiry processes. Up to 19 inquiry-related inspection forms will be migrated from FAST (XML) to GovMobile (JSON) compatible format.	28 days	29,400
5	Two hours of GovMobile training via GoToMeeting.	1 day	
<b>Total Not to Exceed for this Addendum #2 to Revised Exhibit A</b>			<b>\$87,800</b>

## **FOURTEENTH REVISED EXHIBIT B - PAYMENT SCHEDULE**

### **1.0 PAYMENT TERMS**

- 1.01 The maximum amount payable for all products and services provided under this Agreement shall not exceed **One Million Five Hundred Sixty-Two Thousand Eight Hundred Sixty-Four Dollars (\$1,562,864)** during the Initial Term.
- 1.02 Progress payments shall be made to Contractor by City net thirty (30) days following acceptance of designated milestones, as shown in Section 2 Project Performance and Payment Schedule, and receipt of Contractor invoice by City. All payments shall be based on acceptance of deliverables specified.
- 1.03 Ten percent of each progress payment shall be withheld by City as a retainer.
- 1.04 Within forty-five (45) days following the successful completion of all deliverables preceding the one-year maintenance period, 50% of the total retainer withheld (equivalent to 5% of the total progress payments) shall be paid to Contractor.
- 1.05 Within thirty (30) days following successful completion of the one-year maintenance period, any remaining retainer shall be paid to Contractor.

### **2.0 PROJECT PERFORMANCE & PAYMENT SCHEDULE (Initial Term)**

- 2.01 Compensation shall be as set forth below in Table B1: Performance and Payment Schedule.
  - 2.01.1 All invoicing shall include only deliverables accepted and approved in writing by the Director.
  - 2.01.2 All invoices will be held pending outstanding monthly performance reports.
  - 2.01.3 Compensation for Item 3 shall be as per the Customization Plan as approved in writing by the Director and shall not exceed the total shown in Table B1.
  - 2.01.4 City may elect to purchase additional units under Equipment as noted in Table B1, Item 4 for the unit prices given.
- 2.02 All dates in Table B1 shall be amended only with the approval of the Director of the Environmental Services Department.
- 2.03 Work shall commence immediately upon execution of the Agreement.
- 2.04 All timeline dates are understood to be close of business, 5:00 p.m. PST.
- 2.05 If timeline dates fall on a weekend or City holiday, the date is understood to be the next business day.

2.06 The City of San Jose recognizes the following holidays.

New Year's Day	Labor Day
Martin Luther King Day	Columbus Day
Presidents Day	Veterans Day
Caesar Chavez Day	Thanksgiving
Memorial Day	Christmas
Independence Day	New Year's Eve

**Table B1: Performance and Payment Schedule (Initial Term)**

Item	Deliverables	Net Payment	Retainer (10) %	Base Amount
1	Project	\$37,786.50	\$4,198.50	\$41,985.00
2	System Documentation	11,664.00	1,296.00	12,960.00
3	Customization	402,795.00	44,755.00	447,550.00
4	Equipment	27,264.60	3,029.40	30,294.00
5	Data Migration	40,063.50	4,451.50	44,515.00
6	Acceptance Testing	58,927.50	6,547.50	65,475.00
7	Training	30,123.00	3,347.00	33,470.00
8	System Documentation	19,296.00	2,144.00	21,440.00
9	Final Acceptance testing	297,000.00	33,000.00	330,000.00
10	Maintenance	35,710.00	0.00	35,710.00
	<b>Project Total</b>	<b>\$960,630.10</b>	<b>\$102,768.90</b>	<b>\$1,063,399.00</b>
11	Change Order #1: Field Device and Printer	\$1,153.80	\$128.20	\$1,282.00
12	Change Order #2: Field Devices and Printers	3,461.40	384.60	3,846.00
13	Amendment #1: 2 One-Year Maintenance Options	64,278.00	7,142.00	71,420.00
14	Change Order #3: Remedial Training	4,590.00	510.00	5,100.00
15	Amendment #5: System Upgrade	286,379.10	31,819.90	318,199.00
16	Change Order #4: Add/delete Services	9,636.30	1,070.70	10,707.00
17	Change Order #5: Add/delete Services	26,679.60	2,964.40	29,644.00
18	Change Order #6: Deletion of Services	(4,888.00)	0.00	(4,888.00)
19	Amendment #6: Report Development	40,522.50	4,502.50	45,025.00
20	Change Order #7: Add/delete Services	12,249.00	1,361.00	13,610.00
21	Change Order #8: Enhanced Escalation	4,968.00	552.00	5,520.00
	<b>Change Orders &amp; Amendments Total (Initial Term)</b>	<b>\$449,029.70</b>	<b>\$50,435.30</b>	<b>\$499,465.00</b>
	<b>GRAND TOTAL (Initial Term)</b>	<b>\$1,409,659.80</b>	<b>\$153,204.20</b>	<b>\$1,562,864.00</b>

**3.0 PAYMENT SCHEDULE (Option Terms)**

3.01 Pursuant to Section 1B of the Agreement (as amended in Amendment #9), City reserves the right to renew the software maintenance and support services of this Agreement for eighteen (18) additional one-year terms (“Option Periods”) at the rates listed in Table B2 below.

3.02 All invoicing shall include only deliverables accepted and approved in writing by the City. City shall have no obligation to pay unless Contractor has successfully completed and delivered, and City has approved, the deliverable(s) for which payment is due, such approval not to be unreasonably withheld. Contractor shall invoice City no more frequently than monthly.

**Table B2: Payment Schedule (Option Terms)**

<b>Item #</b>	<b>Description</b>	<b>Date(s)</b>	<b>Compensation</b>
Option 1	Annual Software Support & Maintenance	7/1/13 – 6/30/14	\$49,500
Option 2	Annual Software Support & Maintenance	7/1/14 – 6/30/15	\$49,500
Option 3	Annual Software Support & Maintenance	7/1/15 – 6/30/16	\$49,500
Option 4	Annual Software Support & Maintenance	7/1/16 – 6/30/17	\$49,500
Option 5	Annual Software Support & Maintenance	7/1/17 – 6/30/18	\$49,500
Change Order 9	Add and remove services related to the system upgrade	5/3/18	-\$526 <sup>1</sup>
Option 6	Annual Software Support & Maintenance	7/1/18 – 6/30/19	\$53,460
Option 7	Annual Software Support & Maintenance	7/1/19 – 6/30/20	\$53,460
Option 8	Annual Software Support & Maintenance	7/1/20 – 6/30/21	\$53,460
Option 9	Annual Software Support & Maintenance	7/1/21 – 6/30/22	\$53,460
Amendment 10	Upgrade FAST software to GovMobile	11/1/21	\$87,800
Option 10	Annual Software Support & Maintenance	7/1/22 – 6/30/23	\$53,460 <sup>2</sup>
Option 11	Annual Software Support & Maintenance	7/1/23 – 6/30/24	\$53,460 <sup>2</sup>
Option 12	Annual Software Support & Maintenance	7/1/24 – 6/30/25	\$53,460 <sup>2</sup>
Option 13	Annual Software Support & Maintenance	7/1/25 – 6/30/26	\$53,460 <sup>2</sup>
Option 14	Annual Software Support & Maintenance	7/1/26 – 6/30/27	\$53,460 <sup>2</sup>
Option 15	Annual Software Support & Maintenance	7/1/27 – 6/30/28	\$53,460 <sup>2</sup>
Option 16	Annual Software Support & Maintenance	7/1/28 – 6/30/29	\$53,460 <sup>2</sup>
Option 17	Annual Software Support & Maintenance	7/1/29 – 6/30/30	\$53,460 <sup>2</sup>
Option 18	Annual Software Support & Maintenance	7/1/30 – 6/30/31	\$53,460 <sup>2</sup>

<sup>1</sup> Pursuant to Exhibit G of the Agreement, Change Order 9 was executed during Option 5.

<sup>2</sup> Subject to future year adjustment pursuant to Section 4.0 of this exhibit.

**4.0 RENEWAL PERIOD COMPENSATION**

4.01 After the Initial Term, the City reserves the right to extend the term of this Agreement pursuant to Section 1B at the same rates as the Initial Term unless otherwise requested and agreed to in writing by the Parties.

4.02 Price Renegotiation. Contractor may request adjustments to compensation rates sixty (60) days prior to an option term renewal. Contractor shall provide information justifying reasons for any requested increase, and City shall not unreasonably withhold approval of any increase provided the renewal quote for ongoing services does not increase by more than the Producer Price Index (PPI) final demand – WPUFD4 (<https://data.bls.gov/cgi-bin/surveymost?wp>) and does not exceed 3% over the previous year’s fees or unless otherwise negotiated.



4.03 City shall provide Contractor prior written notice in the form of Exhibit I of its intention to exercise its option for the next term prior to the end of the then current term. The City's Director of Finance or designee is authorized to exercise options on behalf of the City.