

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

This Eighth 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 the implementation of an Environmental Enforcement Data Management System for the Environmental Services Department; and

WHEREAS, on November 17, 2003, City and Contractor entered into Change Order #1 to add additional inspector equipment, and increase the maximum amount of compensation to \$1,064,681; and

WHEREAS, on March 8, 2004, City and Contractor entered into Change Order #2 to add additional inspector equipment, and increase the maximum amount of compensation to \$1,068,527; and

WHEREAS, on April 26, 2005, City and Contractor entered into a First Amendment to the Agreement to extend the term of the Agreement through September 30, 2006, and add two (2) one-year maintenance plan options, and increase the maximum amount of compensation to \$1,139,947; 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 the maximum amount of compensation to \$1,145,047; and

WHEREAS, on September 26, 2006, City and Contractor entered into a Second Amendment to the Agreement to extend the 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 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 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 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 the maximum amount of compensation to \$1,463,246; and

WHEREAS, on April 8, 2011, City and Contractor entered into Change Order #4 to add and delete services related to the upgrade of the system, and increase the maximum amount of compensation to \$1,473,953; and

WHEREAS, on July 1, 2011, City and Contractor entered into Change Order #5 to add and delete services related to the upgrade of the system, and increase the maximum amount of compensation to \$1,503,597; and

WHEREAS, on October 26, 2011, City and Contractor entered into Change Order #6 to delete inspection compliance information categorization from the scope of services, and decrease the maximum amount of compensation to \$1,498,709; and

WHEREAS, on March 14, 2012 City and Contractor entered into a Sixth Amendment to extend the term through January 31, 2013, add report development to the scope of services, and increase the maximum amount of compensation to \$1,426,623; and

WHEREAS, on June 19, 2012, pursuant to Section 1B of the Agreement, City exercised the first of five (5) option years, extending the term through June 19, 2013; and

WHEREAS, on October 26, 2012, City and Contractor entered into Change Order #7 to add and delete services related to the upgrade of the system, and increase the maximum amount of compensation to \$1,557,344; and

WHEREAS, on January 29, 2013, City and Contractor entered into Change Order #8 to add and delete services related to the upgrade of the system, and increase the maximum amount of compensation to \$1,562,864; 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 24, 2013, pursuant to Section 1B of the Agreement, City exercised the second of five (5) option years, extending the term through June 19, 2014; and

WHEREAS, on May 1, 2014, City exercised a restated second option, amending the terms of the first and second options to June 30, 2014 and June 30, 2015, respectively; and

WHEREAS, on April 22, 2015, pursuant to Section 1B of the Agreement, City exercised the third of five (5) option years, extending the term through June 30, 2016; and

WHEREAS, on April 26, 2016, pursuant to Section 1B of the Agreement, City exercised the fourth of five (5) option years, extending the term through June 30, 2017; and

WHEREAS, on May 11, 2017, pursuant to Section 1B of the Agreement, City exercised the fifth of five (5) option years, extending the term through June 30, 2018; and

WHEREAS, on May 3, 2018, City and Contractor entered into Change Order #9 to add and delete services related to the upgrade of the system, and decrease the maximum amount of compensation to \$1,562,338; and

WHEREAS, City and Contractor desire to further amend the amended Agreement to add three (3) additional one-year options to extend the term of the Agreement through June 30, 2021;

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

SECTION 1. Section 1 of the Agreement, entitled "Term", is amended to read as follows:

- A. The term of this Agreement shall be from April 15, 2003 to January 31, 2012 ("Initial Term"), inclusive, subject to the provisions of Section 5 ("Termination").
- B. After the Initial Term, the City reserves the right, at its sole discretion, to extend the term of this Agreement for up to eight (8) additional one-year option terms through June 30, 2021 ("Option Periods").
- C. Before the expiration of this Agreement or any option year, whichever is applicable, the Director of Finance or the Director's authorized designee may extend the term by written Notice of Exercise of Option, as set forth in EXHIBIT I, "Notice of Exercise of Option to Extend Agreement", attached and incorporated in this Agreement."

SECTION 2. Eleventh Revised Exhibit B, "Payment Schedule" is amended to read as shown in Twelfth Revised Exhibit B, attached and incorporated into this Eighth Amendment.

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

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

APPROVED AS TO FORM:

City of San José,
a municipal corporation

Rosa Tsongtaatarii
Sr. Deputy City Attorney
Date: _____

By _____
Name: Jennifer Cheng
Title: Deputy Director, Finance
Date: _____

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

By _____
Name:
Title:
Date:

By _____
Name:
Title:
Date:

Twelfth 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 Three Hundred Thirty-Eight Dollars (\$1,562,338).
- 1.02 Progress payments shall be made to Contractor by City net thirty (30) days following acceptance of designated milestones, as shown in Section 2.0 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

- 2.01 Compensation shall be as set forth below in Twelfth Revised 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 Twelfth Revised Table B1.
- 2.01.4 City may elect to purchase additional units under Equipment as noted in Twelfth Revised Table B1, Item 4 for the unit prices given.
- 2.02 All dates in Twelfth Revised 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.

	2003	2004		2003	2004
New Year's Day	Jan 1	Jan 1	Labor Day	Sept 1	Sept 6
Martin Luther King Day	Jan 20	Jan 19	Columbus Day	Oct 13	Oct 11
Presidents Day	Feb 17	Feb 16	Veterans Day	Nov 11	Nov 11
Caesar Chavez Day	Mar 31	Mar 29	Thanksgiving	Nov 27, 28	Nov 25, 26
Memorial Day	May 28	May 31	Christmas	Dec 24, 25	Dec 23, 24
Independence Day	Jul 4	Jul 5	New Year's Eve	Dec 31	Dec 30, 31

Twelfth Revised Table B1: Performance and Payment Schedule

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
	Project Total	\$960,630.10	\$102,768.90	\$1,063,399.00
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
22	Change Order #9: Add/delete Services	(\$526.00)	\$0.00	(\$526.00)
	Change Orders & Amendments Total	\$448,503.70	\$50,435.30	\$498,939.00
	GRAND TOTAL (initial term)	\$1,409,133.80	\$153,204.20	\$1,562,338.00

3.0 PAYMENT SCHEDULE (AMENDMENT #8)

Pursuant to Section 1B of the Agreement (as amended in Amendment #8), City reserves the right to renew the software maintenance and support services of this Agreement for eight additional one-year terms ("Option Periods") at the rates listed in Revised Table B2 below.

Revised Table B2: Payment Schedule

Option #	Annual Software Support & Maintenance	Term	Compensation
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
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