

AMENDATORY AGREEMENT

This **AMENDATORY AGREEMENT** is made and entered into as of the date stated on the City signature page below by and between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado (“**City**”) and **E.T. TECHNOLOGIES, INC.**, a Utah corporation doing business at 10000 South Dransfeldt Road, Suite 100, Parker, Colorado 80134 (the “**Contractor**”), jointly “**the Parties**”.

The Parties entered into an Agreement dated July 15, 2016 (the “**Agreement**”) to undertake, perform, and complete all of the services and produce all of the deliverables set forth in **Exhibit A, the Scope of Work**, contained in the original Agreement, to the City’s satisfaction.

The Parties wish to amend the Agreement to amend Exhibits B and C and extend the term.

In consideration of the promises and the mutual covenants and obligations herein set forth, the Parties agree as follows:

1. All references to “Exhibit B” in the existing Agreement shall be amended to read “Exhibit B-1, as applicable.” The Rates sheet marked as Exhibit B-1 is attached and incorporated by reference.

2. All references to “Exhibit C” in the existing Agreement shall be amended to read “Exhibit C-1, as applicable.” The Key Personnel sheet marked as Exhibit C-1 is attached and incorporated by reference.

3. Paragraph 5 of the Agreement, entitled “**TERM**” is amended to read as follows:

“**5. TERM:** The term of this Agreement shall commence on July 1, 2016, and shall terminate on June 30, 2021, unless sooner terminated as provided in this agreement. Should for any reason the Term expire prior to the completion by Contractor of a task, then in the City’s sole discretion this Agreement shall remain in full force and effect to permit completion of any work that was commenced prior to the date that otherwise would have been the termination date.”

4. Except as herein amended, the Agreement is affirmed and ratified in each and every particular.

[SIGNATURE PAGES FOLLOW]

Contract Control Number:

Alfresco No. ENVHL-201627640-01

Jaggaer No. ENVHL-201950538-00

Contractor Name:

ET TECHNOLOGIES INC

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at Denver, Colorado as of:

SEAL

CITY AND COUNTY OF DENVER:

ATTEST:

By:

APPROVED AS TO FORM:

REGISTERED AND COUNTERSIGNED:

Attorney for the City and County of Denver

By:

By:


By:

Contract Control Number:

Alfresco No. ENVHL-201627640-01
Jaggaer No. ENVHL-201950538-00

Contractor Name:

ET TECHNOLOGIES INC

By:  DocuSigned by:
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Name: Clellan Pearce
(please print)

Title: President
(please print)

ATTEST: [if required]

By: _____

Name: _____
(please print)

Title: _____
(please print)

EXHIBIT B-1 **RATES**

| Bid Item | In-House Labor– Professional | \$ per Hour | \$ Above Reported P/W or L/W |
|--|---|--------------------|-------------------------------------|
| 1 A | Executive | \$ 95.00 | |
| 2 A | Project Manager, Chief Engineer, Geologist-NB | \$ 90.00 | |
| 3 A | Project Manager, Chief Engineer, Geologist– UR | \$100.00 | |
| 4 A | Project Manager, Chief Engineer, Geologist– ER | \$100.00 | |
| On-Site Labor– Not subject to prevailing wage | | | |
| 5 A | Repair Technician, Inspector, Specialized Serviceman– NB | \$88.00 | |
| 6 A | Repair Technician, Inspector, Specialized Serviceman– UR | \$88.00 | |
| 7 A | Repair Technician, Inspector, Specialized Serviceman– ER | \$95.00 | |
| 8 A | Site Foreman, Supervisor, Certified Tank Installer Supervisor– NB | \$75.00 | |
| 9 A | Site Foreman, Supervisor, Certified Tank Installer Supervisor– UR | \$75.00 | |
| 10 A | Site Foreman, Supervisor, Certified Tank Installer Supervisor– ER | \$85.00 | |
| On-Site Labor– Subject to Prevailing Wage or Living Wage | | | |
| Category A (skilled workers, master trades making over \$45.00 per hour) | | | |
| 11 A | Skilled Worker, Master Tradesperson– NB | | \$38.00 |
| 12 A | Skilled Worker, Master Tradesperson– UR | | \$32.00 |
| 13 A | Skilled Worker, Master Tradesperson– ER | | \$ 37.00 |
| Labor Category B (skilled workers, trades, equipment operators making between approximately \$29.00 and \$44.99 per hour) | | | |
| 14 A | Skilled Worker, Equipment Operator, Tradesperson– NB | | \$ 30.00 |
| 15 A | Skilled Worker, Equipment Operator, Tradesperson – UR | | \$ 32.00 |
| 16 A | Skilled Worker, Equipment Operator, Tradesperson – ER | | \$37.00 |
| Labor Category C (workers, skilled workers, trades, equipment operators, drivers making between approximately \$18.00 and \$28.99 per hour) | | | |

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|---|---|-----------|-----------|
| 17 A | Worker, Skilled Worker, Tradesman, Equipment Operator, Driver- NB | | \$ 30.00 |
| 18 A | Worker, Skilled Worker, Tradesman, Equipment Operator, Driver- UR | | \$ 32.00 |
| 19 A | Worker, Skilled Worker, Tradesman, Equipment Operator, Driver- ER | | \$ 37.00 |
| Labor Category D (laborers, simple laborers making up to \$17.99 per hour or Denver Living Wage) | | | |
| 20 A | Laborer- NB | | \$ 30.00 |
| 21 A | Laborer- UR | | \$ 30.00 |
| 22 A | Laborer- ER | | \$ 30.00 |
| 23 A | Clerical Support (ON SITE ONLY) - subject to Denver's Living Wage | | \$25.00 |
| 24 A | After Hours Site Security Attendant - subject to Denver's Living Wage | | \$ 20.00 |
| Other | | | |
| 25 A | Emergency Response, per event (flat fee for rapid mobilization in addition to existing labor rates) | Flat Fee: | \$ 100.00 |

P/W= Prevailing Wage, L/W= Living Wage, see: <http://www.denvergov.org/content/denvergov/en/denver-auditor/prevailing-wage.html>

UR= Urgent Response: mobilization and on-scene service weekdays 6 PM to 11 PM

ER= Emergency Response: mobilization and on-scene service weekdays 11 PM to 6 AM, weekends (24hours) and City / national holidays (24 hours).

NB=Normal Business M-F 6AM-6PM

Examples of worker classifications taken from the Denver Prevailing Wage Heavy Construction Project schedule as they are grouped into the Labor Categories listed above:

Labor Category A includes: Electricians, Plumbers and Pipefitters.

Labor Category B includes: ~~Sup'l Rates Truck Drivers Grp 2, Sup'l Rates Laborers Asbestos (Hazmat)~~
Removal, Power Equip Oiler, Power Equip Forklift, Sup'l Rates Power Equip Op'r Grp 1, Power Equip Rough Blade, Power Equip Bulldozer, Power Equip Mechanic, Power Equip Trackhoe (excavator), Power Equip Finish Blade, Sup'l Rates Power Equip Op'r Grp 4.

Labor Category C includes: Carpenter- all other, Power Equip Backhoe, Carpenter Form Bldg and Setting, Power Equip Skid Loader, Cement Mason /Concrete Finisher, Power Equip Front End Loader, Iron Worker reinforcing, Truck Drivers Pick-up, Truck Drivers Tandem and Semi and tank.

Labor Category D includes: Laborer Flagger, Laborer Common, Laborer Landscape

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| | B. Local Transportation Rates/Vehicle ONLY does not include driver; (in Metro-Denver and to area landfills; non-subcontracted; in addition to rental charges) | \$ Per Hour |
|-----|---|---------------------------------|
| 1 B | Service Truck- Pick-up (up to 1 ton) | \$ 15.00 |
| 2 B | Service Truck –Cube or Flat Bed/Stake Bed | \$ 25.00 |
| 3 B | Semi-Tractor Trailer | \$ 80.00 |
| 4 B | Tandem Dump Truck | \$ 55.00 |
| 5 B | Service Truck, Tractor Trailer, or Dump Truck for local transportation <u>surcharge</u> for loads over 1 ton (in one ton increments) | Per Mile Per extra ton \$.12 |
| 6 B | Mobilization and demobilization (including cleaning) for Heavy Equipment (tractor trailer, dump truck, and tracked equipment, e.g., excavator, etc.; <u>service truck excluded</u>). | Flat Fee \$ 750.00 |

| | C. Administrative Charges for Sub-Contract Services** | Mark-up % |
|-----|---|------------------|
| 1 C | Commercial transport. | 15 % |
| 2 C | Petroleum product disposal / energy recovery. | 15 % |
| 3 C | Contaminated water treatment and disposal. | 15 % |
| 4 C | Contaminated soil treatment and disposal. | 15 % |
| 5 C | Tanker truck for bulk liquids containment and transport. | 15 % |
| 6 C | All other equipment rental (portable tanks, barricades, dumpsters, steel plate, fencing, etc.). | 15 % |
| 7 C | Tank system testing and inspection. | 15 % |
| 8 C | Trades and special services (electrical, Veeder Root product repair, other electronic repair, underground piping installation, cathodic protection, paving, fencing, utility location, diamond sawing, excavation, etc.). | 15 % |
| 9 C | Engineering or Geotechnical Consulting, Drilling, and Site Investigation. | 15 % |

| | D. Procurement Charges** | Mark-up % |
|-----|--|------------------|
| 1 D | Purchase of tanks (AST and UST), piping, and appurtenances. | 15 % |
| 2 D | Purchase of petroleum pumps, meters, and dispensers. | 15 % |
| 3 D | Purchase of gauges, probes, sensors and leak detection equipment and software. | 15 % |
| 4 D | Purchase of all other durable manufactured items and materials (including concrete, aggregate, pipe, asphalt, lighting, fencing, shelters, manways, etc.). | 15 % |

| | E. Special Equipment Rental Rate** (includes highway trailer, if applicable) | \$ Per Hour | or | Mark-up % |
|-----|---|--------------------|-----------|------------------|
| 1 E | Trencher | \$ | | 15 % |
| 2 E | Industrial Vacuum (e.g., VACTOR) | \$ | | 15 % |
| 3 E | Compactor, self-propelled | \$ | | 15 % |
| 4 E | Trailer-mounted Air Compressor | \$ | | 15 % |

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|------|---|----|--|------|
| 5 E | Trailer-mounted Vacuum | \$ | | 15 % |
| 6 E | Trailer-mounted Generator Set | \$ | | 15 % |
| 7 E | Fork-Lift with attachments | \$ | | 15 % |
| 8 E | Heavy Duty Fork-lift | \$ | | 15 % |
| 9 E | Bob-Cat or Skid-Steer | \$ | | 15 % |
| 10 E | Mini or Small Excavator | \$ | | 15 % |
| 11 E | Standard Size Excavator | \$ | | 15 % |
| 12 E | Standard Size Loader / Backhoe, or Bulldozer | \$ | | 15 % |
| 13 E | Crane or Boom Truck (under 50 tons) | \$ | | 15 % |
| 14 E | Field-ready analytical instruments, meters and detection equipment, and environmental sampling devices. | \$ | | 15 % |
| 15 E | Confined-space entry and extrication equipment, SCBA, and level A and B garments | \$ | | 15 % |
| 16 E | All other equipment (manually carted equipment, and heavy-duty power tools, e.g., lawn mower, cut-off saw, etc. ; "hand-tools" excluded) | \$ | | 15 % |

| | F. Sample Pricing for Tank Related Hardware | Pricing As Specified |
|-----|---|-----------------------------|
| 1 F | Tuthill Fill-Rite 115VAC fuel transfer pump: FR701V with 807C Gallon Mechanical Meter; TOTAL Cost for 6 | \$ 4,485.00 |
| 2 F | Wayne Select EC model Twin 1 3/G742D/2GJK remote dispenser w/pulse output, Bio-diesel compatible, plus painted 'galvanealed' steel doors, two hose masts, 10' hoses and hi-volume (1") automatic shut-off nozzles, no vapor recovery; TOTAL Cost for 2 | \$ 15,488.00 |
| 3 F | Red Jacket Turbine pump 3/4hp, part number 410140, 3-phase, for 112-inch diameter UST, and Gilbarco/Veeder-Root PLLD; TOTAL Cost for 3 | \$ 8,590.00 |
| 4 F | Xerxes 1000 gallon DWFRP UST, dry interstice, w/ one STP manway, plus four 4-inch diameter risers, TOTAL Cost for 1 | \$ 11,210.00 |
| 5 F | Convault 200/300 spilt compartment (500 gallon) UL2085 protected aboveground tank; TOTAL Cost for 2 | \$ 19,600.00 |
| 6 F | Veeder-Root TLS 350 ATG, configured for two USTs (two inventory probes, six sensors, plus PLLD), and fax/modem communications; TOTAL Cost for 2 | \$ 31,696.00 |
| 7 F | Veeder-Root TCP/IP communications board for newest TLS350 console; TOTAL Cost for 9 | \$ 12,370.00 |
| 8 F | OPW model 1SC-2115-DEVR Sealable Cover Spill Container, 15 gallon; TOTAL Cost for 5 | \$ 4,525.00 |
| 9 F | Scully Golden Gallon Gauge w/kevlar string for 36" internal tank height AST on 6" riser; TOTAL Cost for 14 | \$ 2,296.00 |

Note: pass-through of charges / no mark-up of cost for specific services or materials is at the discretion of the successful bidder on any individual approved projects.

Please identify any specific sub-contracted services or procurements that you agree to 'pass-through' to the City without surcharge. Write on lines 1 through 4 below.

However, in all cases charges to the city must be 'at cost', no mark-up for:

- a) governmental application, permit, and registration fees; and,
 - b) analytical laboratory services and provision of laboratory data and laboratory reports.
- (Vendor may charge for sample collection, sample preparation, sample delivery, professional evaluation and interpretation of results, but vendor may not mark-up professional analytical laboratory costs, or charge for normal delivery of results. A copy of the lab charges must accompany an invoice.)

| | |
|-----|-----------------------------------|
| | G. Direct Pass-through |
| 1 G | |
| 2 G | |
| 3 G | |
| 4 G | |

** Vendor must seek Colorado state sales tax exemption, as applicable, for all purchases made on behalf of the City as detailed

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Exhibit C-1

Key Personnel

| | First Name | M. I. | Last Name | Title or Position |
|-----|------------|-------|-----------|--------------------|
| 1. | Clellan | | Pearce | President |
| 2. | Tim | | Cooper | Operator/Laborer |
| 3. | Cindy | | Cason | Project Manager |
| 4. | John | | Smith | Project Supervisor |
| 5. | Jim | | Coplen | Project Supervisor |
| 6. | Dan | | Smith | Operator/Laborer |
| 7. | Fred | | Aguilar | Operator/Laborer |
| 8. | Hector | | Hernandez | Operator/Laborer |
| 9. | Joel | | Carter | Hazmat Technician |
| 10. | Kay | | Smith | Office Manager |
| 11. | | | | |
| 12. | | | | |
| 13. | | | | |
| 14. | | | | |
| 15. | | | | |