

**SWCA, Incorporated**

**doing business as**

**SWCA Environmental Consultants**

**SECOND AMENDMENT TO AGREEMENT FOR SERVICES #4403**

**THIS SECOND AMENDMENT** to that Agreement for Services #4403 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 SWCA, Incorporated, an Arizona corporation duly qualified to conduct business in the State of California, doing business as SWCA Environmental Consultants, whose principal place of business is 20 East Thomas Road, Suite 1700, Phoenix, Arizona 85012, and whose local address is 6355 Riverside Boulevard, Suite C, Sacramento, California 95831, (hereinafter referred to as "CONSULTANT");

**RECITALS**

**WHEREAS**, CONSULTANT has been engaged by COUNTY to provide as-needed environmental review services for the Department of Transportation, pursuant to Agreement for Services #4403, dated January 7, 2020, and First Amendment to Agreement for Services #4403, dated August 10, 2021, both incorporated herein and made by reference a part hereof (hereinafter referred to as "Agreement");

**WHEREAS**, the parties hereto desire to amend the Agreement to include a new fee schedule for the extended term of the Agreement, amending **ARTICLE II, Compensation for Services**, and adding **Amended Exhibit B, Amended Rate Schedule**;

**WHEREAS**, the parties hereto desire to amend the Agreement to extend the expiration date of January 6, 2023 for two (2) additional years, amending **ARTICLE IV, Performance Period**;

**WHEREAS**, the parties hereto desire to amend the Agreement to increase the not-to-exceed compensation amount of the Agreement by \$170,000, amending **ARTICLE V, Allowable Costs and Payments**;

**WHEREAS**, the parties hereto desire to add **ARTICLE LIX, Electronic Signatures**, to update the Agreement with COUNTY's current standard contract provisions;

**WHEREAS**, the parties hereto desire to add specific Articles to include contract provisions required by the use of federal grant funds;

**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 #4403 on the following terms and conditions:

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

## **ARTICLE II**

**Compensation for Services:** For services provided herein, including all of the deliverables described in individual Task Orders and Work Orders issued pursuant to this Agreement, and including all of the forms and reports required under the DBE provisions of this Agreement; and including the progress reports required by ARTICLE III, Progress Reports, below, COUNTY agrees to pay CONSULTANT in arrears. Payment shall be made within forty-five (45) days following COUNTY's receipt and approval of itemized invoices detailing services rendered.

For the purposes hereof, for the period beginning with the effective date of this Agreement and continuing until the day before the effective date of this Second Amendment to the Agreement, the billing rates shall be in accordance with Exhibit B, marked "Rate Schedule," incorporated herein and made by reference a part hereof.

For the period beginning with the effective date of this Second Amendment and continuing through the remaining term of the Agreement, the billing rates shall be in accordance with Amended Exhibit B, marked "Amended Rate Schedule," incorporated herein and made by reference a part hereof.

Other direct costs including special reproductions, delivery charges, and other outside services authorized herein, shall be invoiced at CONSULTANT's cost, for the services rendered. Any invoices that include other direct costs shall be accompanied by backup documentation to substantiate CONSULTANT's costs for the services being billed on those invoices.

Any reimbursements for mileage expenses, if any, will only be made if such expenses are included in the Cost Proposal of an approved and fully executed Task Order or Work Order issued pursuant to this Agreement.

Travel costs (i.e., overnight lodging, meals, parking, airfare, bridge tolls, and other per diem expenses) will not be reimbursed as a direct cost for any services performed under this Agreement by CONSULTANT or by any authorized subconsultants. The total amount payable by COUNTY for an individual Task Order or Work Order shall not exceed the amount agreed to in the Task Order or Work Order, unless COUNTY's Contract Administrator and CONSULTANT amend the Task Order or Work Order in writing and prior to the performance of the work.

Cost Proposals shall be submitted for each Task Order and/or Work Order. Cost Proposals are subject to an audit or Certified Public Accountant Indirect Cost Audit

Workpaper Review and are more fully described in ARTICLE IX, Audit Review Procedures.

In accordance with ARTICLE XII, State Prevailing Wage Rates, CONSULTANT shall provide COUNTY's Contract Administrator with certified payroll for applicable personnel for the period for which payment is requested and such certified payroll shall accompany each invoice submitted. The certified payroll shall contain information related only to the applicable project. No invoice shall be paid until the certified payroll is submitted. CONSULTANT shall keep payroll records in accordance with California Labor Code Section 1776.

**II. ARTICLE IV, Performance Period,** paragraph A of the Article is amended to read as follows:

A. This Agreement shall go into effect upon execution, contingent upon approval by COUNTY, and CONSULTANT shall commence work after notification to proceed by COUNTY's Contract Administrator. The Agreement shall expire on January 6, 2025, as amended, unless extended by contract amendment.

**III. ARTICLE V, Allowable Costs and Payments,** paragraph P of the Article is amended to read as follows:

P. The total amount payable by COUNTY for all Task Orders or Work Orders, costs, or expenses resulting from this Agreement shall not exceed \$470,000, as amended. 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 Task Orders or Work Orders.

**IV. The following articles are added to the Agreement in its entirety to read as follows:**

**ARTICLE LIX**

**Electronic Signatures:** Each party agrees that the electronic signatures, whether digital or encrypted, of the parties included in this Agreement, are intended to authenticate this writing and to have the same force and effect as manual signatures. Electronic Signature means any electronic visual symbol or signature attached to or logically associated with a record and executed and adopted by a party with the intent to sign such record, including facsimile or email electronic signatures, pursuant to the California Uniform Electronic Transactions Act (Cal. Civ. Code §§ 1633.1 to 1633.17) as amended from time to time.

**ARTICLE LX**

**Appendices A – E of the TITLE VI Assurances:** The [U.S. Department of Transportation Order 1050.2A](#) requires all federal-aid Department of Transportation contracts between the County and a consultant to contain



Appendices A and E of the Title VI Assurances that were attached to that Order. Order No. 1050.2a requires that the COUNTY include Appendices B, C, and D if applicable in certain federal-aid right of way acquisition contracts. In addition, the CONSULTANT must include the Title VI Assurances Appendices A and E, and if applicable Appendices B, C, and D in all subcontracts to perform work under the contract.

As this is not a right of way acquisition contract, the COUNTY is not including Appendices B, C, and D of the Title VI Assurances attached that Order. The COUNTY will provide a copy of Order No. 1050.2A upon request.

A. Appendix A

During the performance of this Agreement, the contractor, for itself, its assignees and successors in interest (hereinafter collectively referred to as CONSULTANT) agrees as follows:

1. Compliance with Regulations: CONSULTANT shall comply with the regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the REGULATIONS), which are herein incorporated by reference and made a part of this agreement.
2. Nondiscrimination: CONSULTANT, with regard to the work performed by it during the AGREEMENT, shall not discriminate on the grounds of race, color, sex, national origin, religion, age, or disability in the selection and retention of sub-applicants, including procurements of materials and leases of equipment. CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the agreement covers a program set forth in Appendix B of the Regulations.
3. Solicitations for Sub-agreements, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by CONSULTANT for work to be performed under a Sub-agreement, including procurements of materials or leases of equipment, each potential sub-applicant or supplier shall be notified by CONSULTANT of the CONSULTANT'S obligations under this Agreement and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.
4. Information and Reports: CONSULTANT shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the

recipient or FHWA to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information, CONSULTANT shall so certify to the recipient or FHWA as appropriate, and shall set forth what efforts CONSULTANT has made to obtain the information.

5. Sanctions for Noncompliance: In the event of CONSULTANT's noncompliance with the nondiscrimination provisions of this agreement, the recipient shall impose such agreement sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:

- i. withholding of payments to CONSULTANT under the Agreement within a reasonable period of time, not to exceed 90 days; and/or
- ii. cancellation, termination or suspension of the Agreement, in whole or in part.

6. Incorporation of Provisions: CONSULTANT shall include the provisions of paragraphs (1) through (6) in every sub-agreement, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

CONSULTANT shall take such action with respect to any sub-agreement or procurement as the recipient or FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance, provided, however, that, in the event CONSULTANT becomes involved in, or is threatened with, litigation with a sub-applicant or supplier as a result of such direction, CONSULTANT may request the recipient enter into such litigation to protect the interests of the State, and, in addition, CONSULTANT may request the United States to enter into such litigation to protect the interests of the United States.

#### B. APPENDIX E

During the performance of this contract, the CONSULTANT, for itself, its assignees, and successors in interest (hereinafter referred to as the "CONSULTANT") agrees to comply with the following non-discrimination statutes and authorities, including, but not limited to:

##### Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-

aid programs and projects); • Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), prohibits discrimination on the basis of sex;

- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 U.S.C. § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of Limited English Proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

Except as herein amended, all other parts and sections of Agreement for Services #4403 shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Second Amendment to Agreement for Services #4403 on the dates indicated below.

--COUNTY OF EL DORADO--

By: Wendy Thomas

Dated: 1-3-2023

Board of Supervisors  
"COUNTY"

Attest:  
Kim Dawson  
Clerk of the Board of Supervisors

By: Kyle Kuper  
Deputy Clerk

Dated: 1-3-2023

--SWCA, INCORPORATED

DOING BUSINESS AS

SWCA ENVIRONMENTAL CONSULTANTS, INC.--

By: Joseph J Fluder III  
Joseph J Fluder III (Nov 10, 2022 12:49 CST)  
Joseph Fluder  
Chief Executive Officer  
"CONSULTANT"

Dated: 11/10/2022

By: Denis Henry  
Denis Henry  
Secretary

Dated: 11/09/2022



**SWCA, Incorporated**  
doing business as  
**SWCA Environmental Consultants**  
**Amended Exhibit B**  
**Amended Rate Schedule**

**CLASSIFICATION**

Consulting Planner  
Subject Matter Expert  
Specialist XIII  
Specialist XII  
Specialist XI  
Specialist X  
Specialist IX  
Specialist VIII  
Specialist VII  
Specialist VI  
Specialist V  
Specialist IV  
Specialist III  
Specialist II  
Specialist I

**RATE/HR**

\$249.22 to \$264.40  
\$264.80 to \$280.93  
\$210.28 to \$223.09  
\$194.71 to \$206.56  
\$179.13 to \$190.04  
\$163.55 to \$173.51  
\$146.42 to \$155.34  
\$129.29 to \$137.16  
\$116.82 to \$123.94  
\$107.48 to \$114.02  
\$96.57 to \$102.46  
\$85.67 to \$90.89  
\$76.33 to \$80.97  
\$68.54 to \$72.71  
\$57.63 to \$61.14

**REIMBURSABLE EXPENSE RATES**

**Expense**

Mileage  
  
Postage and Reproduction  
Equipment Rental and Supplies  
Permit Fees  
Other Direct Costs  
Subcontractors

**Cost**

In accordance with Article II,  
Compensation for Services  
  
At cost  
At cost  
At cost  
At cost  
At cost