

**AMENDMENT TO CONTRACT FOR SPECIAL SERVICES  
BY INDEPENDENT CONTRACTOR**

**ASSISTANT PROJECT MANAGER FOR PHILLIPS 66 RAIL SPUR PROJECT  
(DRC2012-00095)**

THIS CONTRACT [hereafter "Contract"] is made and entered into on this \_\_\_\_ day of \_\_\_\_\_, 2015, by and between the COUNTY OF SAN LUIS OBISPO, a political subdivision of the State of California [hereafter "County"] and SWCA Environmental Consultants, an Arizona corporation [hereafter "Assistant Project Manager," "Consultant," or "Contractor"]. The Environmental Coordinator for the County of San Luis Obispo [hereafter "Coordinator"] is an agent for the County.

WITNESSETH:

WHEREAS, Phillips 66 Company [hereafter "Applicant"] has made an application to the County for a proposed project identified as the Phillips 66 Rail Spur Project Development Plan / Coastal Development Permit (DRC2012-00095; ED12-201) [hereafter "Project"], which lies in the County of San Luis Obispo, and is more precisely located on the plat attached to the Original Agreement as Exhibit A; and

WHEREAS, on August 6, 2013 the County and Consultant entered into a Contract for special services by an independent contractor to act as Assistant Project Manager for the Project ("Original Agreement") based on a scope of work, which is reflected in Exhibit B attached to the Original Agreement and incorporated herein by reference; and

WHEREAS, after recirculation of the Draft Environmental Impact Report, the County has determined it is necessary to extend the contract with the Assistant Project Manager to complete tasks identified in the Scope of Work attached hereto as Exhibit C, and

WHEREAS, it is understood that the attached work scope is intended to cover all Assistant Project Manager services for the Project.

NOW, THEREFORE, in consideration of the covenants, conditions, agreements, and stipulations set forth herein, the parties agree as follows:

1. Section I. of the Original Agreement, entitled "**I. ASSISTANT PROJECT MANAGER SERVICES**" shall be revised and replaced in its entirety to read as follows:

**Assistant Project Manager Contract Amendment  
Phillips 66 Rail Spur Project**

**A. General Provisions**

1. Assistant Project Manager services are described in the Scope of Work relating to the Project attached hereto as Exhibit B and C and incorporated by reference as if set forth in full at this point. The provisions for budget, cost and hourly rates which are included in Exhibit B and C are for information purposes only.

2. Priority. To the extent that there may be a conflict between the terms or conditions of this Contract or the terms and conditions of the Scope of Work, the specific language of this Contract shall control.

**B. Duties of the Assistant Project Manager**

1. The duties of the Assistant Project Manager are described in the Scope of Work attached hereto as Exhibit B and C.

2. It is a fundamental requirement that the Assistant Project Manager duties be performed by a neutral and unbiased Consultant. To protect the neutral and unbiased requirement, the Assistant Project Manager agrees not to perform any other work for the Applicant on the Project concurrently with the performance of this Contract aside from the Assistant Project Manager obligations pursuant to this agreement. The Assistant Project Manager must disclose any other work being conducted for the Applicant currently or within the past five (5) years. The Assistant Project Manager shall not, directly or indirectly, accept anything of value, any further privilege or any promise from the Applicant, unless approved in advance by the Coordinator or unless such item of value, privilege or promise is offered by the Applicant to the general public.

**C. Duties of the County**

1. The County will make any documents in its possession related to the Project available to the Assistant Project Manager. The Assistant Project Manager may identify and request documents from the Coordinator that may be in the possession of the Applicant. The Coordinator will forward these requests to the Applicant. Copies of any relevant documents made available by the Applicant to the Coordinator will be forwarded to the Assistant Project Manager.

2. The Coordinator will receive and file the documents submitted by the Assistant Project Manager.

3. The County will provide for payment to the Assistant Project Manager as provided by the terms of this Contract. The Applicant is responsible for all sums paid by the County to the Assistant Project Manager for performing the services described in Exhibit B and C. The Applicant is responsible for the reasonable costs and expenses of the County in administering this Contract.

**D. Payment**

1. County's maximum cost of payments to the Assistant Project Manager. The County will pay the Consultant for time and materials for Environmental Administration and Assistant Project Management services, including both the original amount of ninety-nine thousand six hundred and ninety-three dollars (\$99,693) and additional amount of forty-nine thousand six hundred and ninety-six dollars (\$49,696), in the total amount of one hundred forty nine thousand three hundred eighty nine dollars (\$149,389), herein referred to as the maximum amount. The County will pay the Assistant Project Manager the fees according to the cost estimates and based on hourly rates in Exhibit B and C up to this maximum amount for performing the environmental administration and assistant project management activities described herein.

2. Time of Payment. The payments shall be made as described below. For each payment, the County shall not become obligated to pay Assistant Project Manager until County is in receipt of Assistant Project Manager's itemized statement. If any itemized statement item is in dispute, the County will notify Assistant Project Manager of the disputed item within thirty (30) days of receipt of the itemized statement and will pay the Assistant Project Manager for the non-disputed items. Payment for a disputed item shall not become due until the dispute is resolved. The County has the right to access and copy the records to verify all items listed on the itemized statement. The Coordinator's thirty (30) day time limit to examine the itemized statement and dispute items for purposes of calculating the payment due amount does not limit the legal rights or liabilities of the parties pursuant to an audit described in paragraph IV.E. below.

a. Assistant Project Manager will be paid monthly, based on the Assistant Project Manager's correct itemized statement.

b. Payment is due thirty (30) days after receipt of the itemized statement.

3. Early Termination Payment. If the Contract with the Assistant Project Manager is terminated prior to the completion of the performance by the Assistant Project

Manager for a reason other than breach by the Assistant Project Manager, the County will pay the Assistant Project Manager for work performed on the Contract from execution to termination on a time and materials basis based on the rates listed in Exhibit B and C. If the Contract is terminated due to breach by the Assistant Project Manager, the amount due to the Consultant shall be the maximum amount of this Contract less the amount required to hire and compensate a replacement Assistant Project Manager to complete the performance not performed by the Assistant Project Manager under this Contract.

**E. Minor Modifications.**

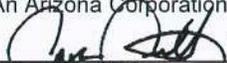
The Board of Supervisors delegates to the Coordinator the authority to sign amendments to this Contract that make reasonable modifications to the time performance or that increase the scope of work and provide additional compensation, provided that all amendments do not total more than twenty percent (20%) of the amount stated in paragraph I.D.1 above for the "original amount", or nineteen thousand nine hundred thirty eight dollars and sixty cents (\$19,938.60) and do not total more than twenty five percent (25%) of the amount stated in paragraph I.D.1 above for the "additional amount", or twelve thousand four hundred twenty four dollars (\$12,424) for a total amount of thirty two thousand three hundred sixty two dollars and sixty cents (\$32,362.60). Any amendment beyond that cumulative amount or an amendment pertaining to any performance other than increasing the scope of work, including but not limited to insurance, indemnity, property and other provisions in this Contract, must be in writing and signed by the Board of Supervisors. These additional funds are intended to provide for flexibility needed to respond to changes generated in writing by the County; not by the Consultant. Any modification to the Contract within the scope of this paragraph need only be signed by the Consultant and the Coordinator; after approval as to form and legal effect by a Deputy County Counsel.

2. All other provisions of the Original Agreement not specifically altered herein remain in full force and effect and are incorporated herein by reference.

**CONTRACTOR**

SWCA ENVIRONMENTAL CONSULTANTS

An Arizona Corporation

By:   
Cara Corsetti, Principal

3/2/2015

Date

By:   
WILLIAM HENRY, OFFICE DIRECTOR

MARCH 2, 2015

Date

**COUNTY OF SAN LUIS OBISPO**

By: \_\_\_\_\_  
Chairman of the Board of Supervisors

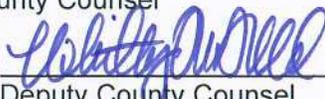
ATTEST:

\_\_\_\_\_  
Clerk of the Board of Supervisors

\_\_\_\_\_  
DATE

**APPROVED AS TO FORM AND LEGAL EFFECT:**

**RITA L. NEAL**  
County Counsel

By:   
Deputy County Counsel

Dated: 3/31/15

**Attachment**

Exhibit C – Revised Consultant Scope of Work