

This Litigation Expert Services Agreement ("this Agreement") is entered into as of the 30 day of August, 2016 between SWCA, Incorporated, an Arizona corporation that does business as SWCA Environmental Consultants ("SWCA"), and the law firm and business client identified below ("Client"). SWCA is being engaged under this Agreement to provide expert services (either in a consulting expert role or in a testifying expert role as set forth below) in connection with an actual or potential legal dispute ("the Dispute") involving the business client identified below ("Business Client" or "Client"). Client has engaged the law firm identified below ("Law Firm Client" or "Counsel") to provide legal representation of Client in connection with the Dispute. Counsel is engaging SWCA on behalf of Client and, except as otherwise provided below, references in this Agreement to the "Client" mean the Business Client and Counsel. SWCA and Client agree as follows:

**Basic Terms and Information**

**Counsel / Firm Name:** Williamson County Attorney's Office/Williamson County General Counsel's Office

**Client Name:** Williamson County, Texas

**Client Contact:** Hal C. Hawes

**Dispute Subject Matter and Interested Parties:**

LCRA TRANSMISSION

SERVICES CORPORATION TO AMEND ITS

CERTIFICATE OF CONVENIENCE AND

NECESSITY FOR THE PROPOSED LEANDER TO

ROUND ROCK 138-KV TRANSMISSION LINE

PROJECT IN WILLIAMSON COUNTY, TEXAS

**SWCA Expert and Primary Contact:** Steven W. Carothers, Ph.D. ("SWCA Expert"). The services to be provided by SWCA under this Agreement will be provided primarily by the SWCA Expert. References to the "SWCA Expert" in this Agreement mean the foregoing individual and/or any different or additional SWCA personnel mutually agreed by Client and SWCA to serve as the SWCA Expert.

**Additional Information:** [insert any additional information as desired such as project title, project number, etc.]

**Nature of Expert Engagement:** SWCA is being engaged to provide expert services in the following capacity:

☐ **Consulting Expert Services Only:** Client is engaging SWCA to serve as a consulting expert only (i.e., to provide expert consulting without being designated as a testifying expert in a court proceeding with the intention that SWCA personnel and records will not be subject to depositions or other discovery). If Client later desires to change SWCA's role to serving as a testifying expert, that change will be subject to SWCA's written consent and mutual agreement on any changes in compensation or other terms required by the change in role.

☐ **Consulting Expert with Advance Consent to Serve As Testifying Expert:** Client is engaging SWCA to serve as a consulting expert but SWCA hereby consents in advance to Client later electing to change SWCA's role to serving as a testifying expert pursuant to the terms of this Agreement, provided that Client gives SWCA advance written notice of the change.

☒ **Testifying Expert:** Client is engaging SWCA to serve as a testifying expert (i.e., SWCA will be designated as a testifying expert pursuant to the terms of this Agreement for purposes of the legal proceeding relating to the Dispute and will be subject to depositions and other discovery along with the possibility of giving testimony at trial).

**Scope of Expert Services:** The scope of the expert services to be provided by SWCA ("the Services") are ☐ described in a separate document entitled \_\_\_\_\_ which may be attached hereto as an exhibit, or ☒ are as follows: Preparation of background information on the Williamson County Habitat Conservation Plan, species of invertebrates and vertebrates currently occurring in the Williamson County Regional Park and protected under the Endangered Species Act of 1973 (as amended), the distribution of existing Karst Fauna Regions (KFRs) and existing and availability of alternate Karst Fauna Areas (KFAs) in Williamson County, especially in the Georgetown KFR, and the potential impact on the Williamson County Regional Park of proposed LCRA transmission lines; Dr. Carothers will also work with Williamson County legal staff to prepare expert testimony and deliver said expert testimony to Williamson County to be filed as a part of the Dispute. Dr.

Carothers will bill at the expert witness rate of \$273.00 per hour. References in this Agreement to the "Statement of Work" or "SOW" refer to the foregoing Services.

**Fees:** The fees payable for the Services shall be as follows (check applicable box):

- ☐ No contract ceiling; billed on an hourly basis Hourly plus expenses at rates quoted in SWCA's Rate and Expense Schedule ("SWCA Rate Schedule") which may be attached as an exhibit. (cost plus)
- ☒ \$12,140.00 contract ceiling; billed on an hourly basis plus expenses at rates quoted in SWCA's Rate and Expense Schedule ("SWCA Rate Schedule") which may be attached as an exhibit. (cost plus max)
- ☐ \$ contract ceiling; billed on a percent complete for specific services as described in the Statement of Work. (fixed fee)

**Invoicing and Payment:**

**Retainer:** Client agrees to provide SWCA with a retainer of \$0.00 promptly upon Client's execution of this Agreement as an advance retainer towards payment of fees and any reimbursable expenses payable under this Agreement. If Client does not provide such retainer, SWCA may delay beginning work until such retainer is received or may terminate this Agreement by written notice to Client. The retainer may be applied to amounts currently due to SWCA and unpaid, in which event it will be subject to replenishment promptly upon SWCA's request, or SWCA may hold the retainer and apply it to the final invoice(s).

**Reimbursement of Expenses:** Client shall reimburse SWCA for expenses as described in the SOW and in the SWCA Rate Schedule referenced above.

**Payment Terms:** Client's payment for goods and services shall be governed by Chapter 2251 of the Texas Government Code. An invoice shall be deemed overdue the 31st day after the later of (1) the date County receives the goods under the contract; (2) the date the performance of the service under the contract is completed; or (3) the date the Williamson County Auditor receives an invoice for the goods or services. Interest charges for any overdue payments shall be paid by County in accordance with Texas Government Code Section 2251.025.

SWCA will generally invoice Client monthly for services rendered (based on hours expended/percentage of completion, as applicable) and expenses incurred.

**The above payment terms shall apply and the following sentence shall not be applicable to this Agreement:** Invoices are payable upon Client's receipt of the invoice and invoices become past due if payment is not received within thirty (30) days after the date of the invoice.

Unless a different manner of payment is requested by SWCA, payments are to be remitted via ACH as follows:

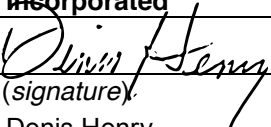
Routing Number: 071922777  
Account Number: 7811583501  
Type: Business Checking account  
Bank Name: First American Bank in Elk Grove, Illinois

Alternate physical payment address: P.O. Box 92170, Elk Grove, IL 60009.

**Special Terms:** The following special terms apply in addition to the other terms of this Agreement: n/a

**Acceptance:** If this Agreement is not returned to SWCA duly executed on behalf of Client within thirty (30) days from Client's receipt of this Agreement, SWCA may rescind this Agreement by written notice to Client.

The parties hereby agree to the foregoing Basic Terms and the General Terms which are attached below.

<b>SWCA, Incorporated</b>	<b>Counsel: General Counsel to Williamson County Commissioners Court</b>
<b>By:</b>  (signature)	<b>By:</b> _____ (signature)
<b>Name:</b> Denis Henry	<b>Name:</b> Hal C. Hawes
<b>Title:</b> CFO/Corporate Secretary	<b>Title:</b> General Counsel
<b>Date:</b> August 25, 2015	<b>Date:</b> August 30, 2016

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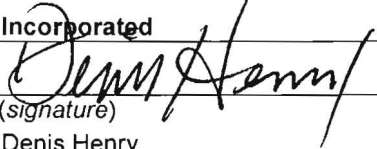
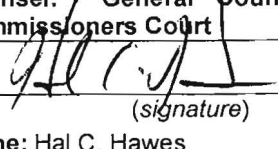
Routing Number: 071922777  
Account Number: 7811583501  
Type: Business Checking account  
Bank Name: First American Bank in Elk Grove, Illinois

Alternate physical payment address: P.O. Box 92170, Elk Grove, IL 60009.

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<b>Title:</b> CFO/Corporate Secretary	<b>Title:</b> General Counsel
<b>Date:</b> August 25, 2015	<b>Date:</b> August 30, 2016

Counsel may elect to sign below on behalf of the Business Client, in which event Counsel represents and warrants that Counsel is authorized to bind the Business Client to the terms of this Agreement.

\_\_\_\_\_  
**Business Client:** Williamson County, Texas

By: \_\_\_\_\_

(signature)

**Name:** Dan A. Gattis

**Title:** County Judge

**Date:** August 30, 2016

## **Litigation Expert Services Agreement General Terms**

The following General Terms apply to the Litigation Expert Services Agreement between SWCA, Incorporated ("SWCA") and the client identified in such Litigation Expert Services Agreement ("Client"). References to the "Basic Terms" mean the terms set forth above the signature line in such Litigation Expert Services Agreement. References to the "General Terms" mean the terms set forth below. References to this "Agreement" mean the Basic Terms together with the General Terms and all applicable attachments and exhibits.

### **1. Services**

1.1 Scope of Services. Pursuant to the terms of this Agreement, SWCA shall provide those expert services that SWCA agrees in writing to provide under this Agreement ("the Services") as set forth in the Basic Terms. Any reports and other materials that SWCA is required to deliver to Client as part of the Services are referred to as "Deliverables". References in this Agreement to the "Services" include any Deliverables related to those Services. References in this Agreement to the "Dispute" mean the dispute to which the Services relate.

1.2 Nature of Expert Engagement; Changes in Expert Role. SWCA is being engaged as an expert in connection with or in anticipation of litigation with obligations to maintain confidentiality and privileged materials as set forth in this Agreement including Section 4.4 below. The Basic Terms identify whether SWCA is agreeing to serve as a consulting expert only, as a consulting expert with advance consent to serve as a testifying expert, or as a testifying expert. Any changes in SWCA's expert role are subject to the requirements of this Agreement including the notice and consent requirements in the Basic Terms. Unless otherwise expressly agreed in writing, SWCA may require an increased retainer as a condition to being designated as a testifying expert regardless of whether advance consent to that designation has been given. In no event shall Client designate any SWCA personnel as a testifying expert unless SWCA has consented to that designation in writing (whether in the Basic Terms or otherwise) and all Client payment obligations are current at the time of the designation.

1.3 Client Cooperation; Material Changes in Engagement. Client agrees to provide reasonable cooperation as necessary to enable SWCA to perform the Services. In addition to specific Client notice obligations such as obligations to provide SWCA with notice prior to designating any SWCA personnel as a testifying expert, Client shall keep SWCA promptly informed of any material changes impacting the Services. Examples of material changes include changes in the parties involved in the Dispute. In the event of a change resulting in a material adverse impact on SWCA's ability to continue to provide the Services (e.g., in the event a new party becomes involved in the Dispute resulting in a professional conflict), SWCA may elect to terminate this Agreement by written notice to Client. In no event will SWCA be responsible for any failure to perform resulting from circumstances beyond SWCA's reasonable control. In the event Client abandons the Services (e.g., by ceasing to communicate with SWCA), SWCA may elect to treat this Agreement as terminated.

1.4 Scope of Expertise; Local Rules. SWCA is responsible for providing competent subject matter expertise within the domain of the expertise of the SWCA Expert in accordance with the provisions of this Agreement. It is acknowledged that SWCA is not an expert in court rules or other legal rules. Accordingly, Client shall, through Counsel, be responsible for advising SWCA as to all material local rules determined by Counsel to be relevant to the expert services desired to be provided under this Agreement. Such "local rules" include court rules governing the Dispute and, to the extent relevant to the expert services to be provided under this Agreement, any other rules, regulations and laws that are specific to the jurisdiction or jurisdictions to which the Dispute relates.

1.5 Expert Independence. It is acknowledged that SWCA is serving an independent expert. Accordingly, SWCA shall have the right and obligation to use its independent judgment in connection with the performance of the Services. Client agrees not to interfere with SWCA's independent judgment in connection with the Services and acknowledges that no assurances are provided that any particular opinions or conclusions will be formed.

### **2. Communications, Authority and Discovery-Related Matters**

2.1 Client Communications; Authority of Client Representatives. It is anticipated that Client communications to SWCA regarding the subject matter of this Agreement will come mainly from the individual(s) identified as the primary client contact in the Basic Terms. In the event a Client representative other than a primary client contact identified in the Basic Terms acts as a primary client contact, SWCA may treat that representative as an additional or substitute primary client contact as reasonably determined to be appropriate in the circumstances.

2.2 Client Authority; Payment Obligations. The primary client contact may be presumed to have full authority

on behalf of Client with respect to the subject matter of this Agreement, including the authority to provide and receive any necessary information, directions, approvals and the like. In addition, Counsel may be presumed to have full authority on behalf of the Business Client with respect to the subject matter of this Agreement. In the event Counsel intends the Business Client to have sole responsibility for payment obligations under this Agreement, Counsel shall give SWCA written notice of that intent prior to SWCA's execution of this Agreement along with other Business Client information reasonably requested by SWCA. Upon receipt of that notice and information, SWCA will provide written consent to the Business Client having sole responsibility for payment obligations under this Agreement, provided that Counsel shall ensure that the Business Client has accepted this Agreement so that it is bound by the payment obligations set forth in this Agreement. Otherwise, Counsel shall also be responsible for Client payment obligations under this Agreement.

2.3 Discovery-Related Services. Any time spent by SWCA with respect to discovery-related matters will constitute "Discovery-Related Services" which will be billable by SWCA on an hourly basis. Examples of Discovery-Related Services include time spent providing requested assistance in connection with efforts by Counsel to respond to discovery requests served by opposing parties, time spent responding to subpoenas for SWCA's work product, and time spent preparing for and attending depositions for testimony of SWCA personnel.

2.4 Discovery-Related Objections. It is acknowledged that decisions regarding whether to object to any discovery (or attempted discovery) to which SWCA becomes subject, including the extent and nature of the objections (whether based on attorney-client privilege, work product privilege or otherwise), shall be the responsibility of Client acting through its legal counsel. Any assistance provided by SWCA with respect to those objections will constitute Discovery-Related Services as described in Section 2.3 above. In the event Client does not timely object to discovery directed at SWCA, SWCA shall not be obligated to assert independent objections unless otherwise agreed (pursuant to mutually acceptable terms addressing matters such as legal representation of SWCA for purposes of making independent objections) and, in the absence of timely Client objections, SWCA may comply with the discovery.

### **3. Changes in Scope of Services**

3.1 Additional Services. Any services provided by SWCA for Client that are outside the scope of the Services under this Agreement shall constitute "Additional Services" under this Agreement (unless such services are the subject of a separate agreement executed by SWCA and Client in which event such services shall be governed by that other agreement). Additional Services provided by SWCA with Client's approval shall constitute "Approved Additional Services" and shall be part of the Services under this Agreement.

3.2 Payment for Additional Services. SWCA shall be entitled to additional compensation for Approved Additional Services on such terms as are agreed on by SWCA and Client. The following terms shall apply to Approved Additional Services unless otherwise agreed in writing by SWCA and Client: (i) SWCA shall be entitled to additional compensation for Approved Additional Services on a hourly basis with expense reimbursement under applicable terms, (ii) such additional compensation shall not count towards any not-to-exceed amount established as part as of the original pricing and payment terms.

### **4. Standard of Service, Dispute Information and Deliverables**

4.1 Standard of Service. SWCA shall perform the Services in accordance with the level of care generally observed by similar companies providing the same services under similar circumstances ("Standard of Service"). SWCA's obligations with respect to the quality of the Services are subject to the terms of this Agreement and conditioned on SWCA's receipt of all amounts due to SWCA. SWCA shall not be responsible for the quality of any partially completed Services (e.g., in the event SWCA is prevented from completing the Services due to Client's breach or other circumstances beyond SWCA's reasonable control).

4.2 Accuracy of Information. SWCA shall be responsible for the accuracy of information prepared by SWCA as part of the Services to the extent necessary for SWCA to conform to the Standard of Service set forth in Section 4.1. SWCA shall not be responsible for the accuracy of materials that were not prepared by SWCA (e.g., government records, materials provided by Client, third-party maps and reports) except to the extent SWCA agrees in the SOW to be responsible for verifying the accuracy of those materials.

4.3 Deliverables. SWCA may condition delivery of Deliverables on payment for work relating to such Deliverables along with payment of any past due amounts owing to SWCA. Client's right to use any Deliverable is conditioned on Client's payment of all amounts due to SWCA.

4.4 Confidentiality. Without limiting other obligations to maintain confidentiality and privileged materials



applicable to SWCA under this Agreement, SWCA and Client shall each use reasonable efforts to maintain the confidentiality of any non-public information relating to the other party to this Agreement or the Dispute. In addition, SWCA shall follow Client's reasonable directions regarding maintaining confidential and privileged status of SWCA work product relating to the Services. SWCA's confidentiality obligations in response to any discovery efforts with respect to SWCA files or personnel shall be subject to the discovery-related provisions set forth in Section 2 above.

## **5. Payment-Related Terms**

5.1 General Payment Terms. General payment terms are set forth in the Basic Terms. Payment to SWCA shall in no event be withheld by reason of Client not receiving payment from a third-party.

5.2 Fixed Fee Terms. Except where a fixed fee or a not-to-exceed amount is mutually agreed in writing to constitute a maximum fee for specific services, any fee amounts stated are intended to constitute non-binding estimates. If SWCA agrees to a fixed fee or a not-to-exceed amount based on inaccurate or incomplete information provided by Client or other circumstances that are not SWCA's fault and, as a result, the assumptions relied upon by SWCA for the originally agreed upon fee limit are materially affected, the parties shall negotiate in good faith to determine appropriate modifications in pricing and related terms.

5.3 Late Payment. In the event Client fails to pay any amounts to SWCA when due, SWCA shall have the right to stop work after giving Client written notice of the non-payment and the intention to stop work. In the event Client fails to pay any amounts to SWCA when due and does not cure such failure within three (3) business days from SWCA giving written notice of non-payment, SWCA's remedies shall include the right to: (i) suspend performance of the Services and withhold Deliverables until SWCA receives all overdue amounts and reasonable assurances of future payment; (ii) terminate this Agreement by providing written notice of termination to Client; and/or (iii) exercise other rights and remedies available under this Agreement or applicable law.

5.4 Reimbursable Expenses. Client shall reimburse SWCA for expenses incurred in connection with the Services as provided in this Agreement at actual cost. All expenses must comply with the Williamson County Vendor Reimbursement Policy.

## **6. Term and Termination**

6.1 Term of Agreement. Unless terminated earlier pursuant to the terms of this Agreement, this Agreement shall remain in effect until the Services that are the subject of this Agreement are completed. Upon completion of the Services, this Agreement shall automatically terminate subject to survival of specified terms as described below. In the event a party materially breaches this Agreement and does not cure such breach within ten (10) business days of receipt of a written notice, the non-breaching party may terminate this Agreement by written notice.

6.2 Payment Upon Termination. In the event of termination of this Agreement where the Services are priced on an hourly basis, SWCA shall be entitled to payment of all amounts due and unpaid based on the number of hours worked prior to the effective time of termination. In the event of termination of this Agreement where the Services are priced on a fixed-fee basis, SWCA shall be entitled to payment of all amounts due and unpaid based on the percentage of work completed prior to the effective time of termination as reasonably estimated by SWCA. SWCA shall also be entitled to reimbursement of expenses that are reimbursable under the terms of this Agreement and incurred prior to the effective time of termination.

6.3 General Termination Provisions. In the event of termination of this Agreement, Client shall immediately deliver to SWCA all SWCA property that Client has possession or control of including any Deliverables that are not fully paid for. Upon termination of this Agreement, all provisions of this Agreement that expressly or by their nature continue in effect (e.g., payment terms, confidentiality provisions, liability limitations, and additional terms below) shall survive termination.

## **7. Additional Terms**

7.1 Attorneys Fees. In the event of litigation arising out of, or relating to the subject matter of, this Agreement, the non-prevailing party shall reimburse the prevailing party for its reasonable attorneys' fees and court costs incurred in connection with such litigation.

7.2 Limitations. In the case of any claim arising under this Agreement or relating to the subject matter of this Agreement, neither party shall be liable for any consequential damages (i.e., damages that result from the special circumstances of a party or that are indirect, remote or speculative). In no event shall SWCA or its employees or agents

("SWCA Parties") have any liability for any adverse consequences that result from following the directions of Client. In addition, to the fullest extent permitted by law, the liability of SWCA Parties for any claims arising under this Agreement or relating to the subject matter of this Agreement shall not exceed the greater of (i) the fees paid by Client to SWCA under this Agreement, and (ii) any proceeds received under SWCA insurance policies to cover liability under the asserted claims.

7.3 Entire Agreement; Amendment. This Agreement reflects the entire agreement of the parties with respect to its subject matter. No amendment to this Agreement or any waiver will be effective against a party unless the amendment or waiver is agreed to in writing by that party.

7.4 Interpretation. When used in this Agreement, the term "include" or "including" and similar terms shall be construed to mean "including but not limited to". References in this Agreement to "Client" mean the Business Client and Counsel collectively, except as otherwise provided in this Agreement.

7.5 Governing Law. This Agreement and any claims arising out of, or relating to the subject matter of, this Agreement shall be governed by the laws of Texas, without regard to choice of law rules, or such laws as are otherwise identified as governing by mutual written agreement of the parties.

7.6 Relationship. The relationship between Client and SWCA constitutes an independent contractor relationship and does not constitute a relationship of partners, joint venturers or otherwise.

7.7 Execution. Individuals who sign this Agreement and any related documents represent and warrant that they are authorized to bind the entity on whose behalf the signature is provided.