



MIDDLE SANTA ANA RIVER PATHOGEN TMDL

REQUEST FOR PROPOSAL

For

CONSULTING SERVICES

For

**TIER-2 BACTERIA SOURCE INVESTIGATION IN THE
ARLINGTON AREA**

JUNE 2017

REQUEST FOR PROPOSAL (RFP)

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Tier-2 Bacteria Source Investigation in the Arlington Area**

1. INTRODUCTION

The Santa Ana Watershed Project Authority (SAWPA) requests a letter proposal (as described in Section 5, Proposal Requirements) from qualified consultants to develop and implement a Tier-2 Bacteria Source Investigation in the Arlington Area of Riverside California. This investigation supports the implementation of regulatory-related activities associated with the Middle Santa Ana River (MSAR) Bacteria TMDL and Riverside County Comprehensive Bacteria Reduction Plan (CBRP).

The MSAR TMDL Task Force was formed to implement TMDLs adopted by the Santa Ana Regional Water Quality Control Board (Regional Board) to address exceedences of the fecal coliform objective established to protect the REC-1 use for waterbodies located within the MSAR. The Task Force is represented by a number of key watershed stakeholders including the Regional Board.

The Santa Ana River Watershed, located in southern California, is approximately 2,800 square miles in size. Surface water flows begin in the San Bernardino and San Gabriel Mountains and flow in a generally northwest to southwest direction to the Pacific Ocean. The MSAR Watershed is 488 square miles in size and located generally in the north central portion of the Santa Ana River Watershed. The watershed includes the southwestern part of San Bernardino County, the northwestern part of Riverside County, and a small portion of Los Angeles County.

2. BACKGROUND

Reach 3 of the Santa Ana River was added to California's 303(d) list of impaired waterbodies in 1988 due to elevated concentrations of pathogen indicator bacteria.¹ In 2005, the Santa Ana Regional Water Quality Control Board (Regional Board) adopted a Total Maximum Daily Load (TMDL) to regulate the discharge of pathogen indicator bacteria from controllable point sources (e.g. Urban Runoff) and non-point sources (Agricultural Runoff).²

The TMDL requires dischargers to perform routine water quality monitoring in the river, conduct investigations to identify the source(s) of excess bacteria, and implement Best Management Practices (BMPs) to reduce or eliminate such sources to the maximum extent practicable. Data collected as part of the water quality monitoring program found high concentrations of pathogen indicator bacteria originating from the Arlington area of the City of Riverside (see Fig. 1).

¹ William B. Rice - California Regional Water Quality Control Board Santa Ana Region. Staff Report on Bacteria Indicator Total Maximum Daily Loads in the Middle Santa Ana River. Feb. 3, 2005 (see pg. 11 of 143).

² Res. No. R8-2005-0001 (Aug. 26, 2005). The TMDL was subsequently approved by the State Water Resources Control Board (State Board) on May 15, 2006 (Res. No. 2006-0030), the Office of Administrative Law (OAL) on Sept. 1, 2006, and U.S. EPA on May 16, 2007.

Fig. 1: Arlington Area in the City of Riverside, CA



A reconnaissance survey conducted in the summer of 2015, during dry weather conditions, indicated that elevated concentrations of E. coli bacteria detected in the storm drain system seemed to be associated with irrigation runoff from nearby orchards (see Table 1 and Figure 1).³

There was no other significant source of flow observed when these samples were collected.

Table 1: Bacteria Monitoring Data from the Arlington Area of the City of Riverside, CA

Station	Sample Date	Sample Time	E. Coli (MPN/100ml)
Monroe Ag 01	5/27/2015	11:55	1600
Monroe Ag 01	6/02/2015	7:20	310
Monroe Ag 01	6/08/2015	7:25	600
Monroe Ag 01	8/17/2015	8:38	700
Monroe Ag 02	5/27/2015	12:20	2300
Monroe Ag 02	6/02/2015	7:45	410
Monroe Ag 02	6/08/2015	7:55	5600
Monroe Ag 02	6/16/2015	9:20	4100
Monroe Ag 02	6/23/2015	8:15	5500
Monroe Ag 02	8/17/2015	9:03	500

³ CDM-Smith. Middle Santa Ana River Bacterial Indicator TMDL Implementation Final Report. Feb., 2016; p. 3-14.

Figure 2: Irrigation Runoff from Orchards in the Arlington Area



A more detailed reconnaissance survey was conducted during dry weather conditions in the fall of 2015. Review of the follow-up sampling data revealed considerable variability in bacteria concentrations over both time and space (see Figure 3).

Figure 3: E. coli Bacteria Concentrations in Runoff Samples Collected from the Arlington Area (Date & MPN/100 mL)⁴



Orchards in the Arlington area are irrigated with water delivered from the Gage Canal (highlighted by the blue line in Fig. 3, above). Laboratory analysis confirms that E. coli concentrations are well within acceptable standards for samples collected directly from the canal. This suggests that the bacterial contamination occurred after the irrigation water was applied. However, survey teams reported that they observed no obvious source when the samples were collected.

The complexities of this case represent a unique opportunity to develop methods for distinguishing Urban Runoff from Agricultural Return Flows; the former is governed by the TMDL Wasteload Allocation and the latter is governed by the TMDL Load Allocation. It also provides an opportunity to develop tools for identifying uncontrollable natural sources of bacteria (e.g. birds, wildlife, etc.). Therefore, the Middle Santa Ana River TMDL Task Force desires to contract with a well-qualified firm to conduct a targeted investigation to identify the source(s) of dry weather flow and bacteria entering the storm drain system from the Arlington area.

⁴ Letter Report to Ken Theisen, Santa Ana Regional Water Quality Control Board from Michael Roberts, City of Riverside Public Works Dept. dated 11/4/2016.

3. OBJECTIVE

The primary objective of this project is to develop an approach and implement a Tier-2 Bacteria Source Investigation in the Arlington Area of Riverside California.

The Total budget for this for this project is not to exceed \$50,000 (including laboratory analysis).

4. SCOPE OF WORK

The recommended approach of this project will include the following work activities:

Task 1: Detailed Study Plan

Contractor shall develop a detailed study plan to identify the most significant source(s) of dry weather flow and E. coli bacteria entering the storm drain system from the area that is tributary to the Monroe retention basin.⁵ The study plan must describe the sampling stations and sampling schedule used to complete Tasks 2 and 3 described below. It is expected that all sampling will take place in August and September of 2017. Note: sampling procedures and analytical methods used in this study must be consistent with the Quality Assurance Project Plan (QAPP) previously approved by the Regional Board for the Regional Bacteria Monitoring Program.⁶

Task 2: Dry Weather Runoff Source Study

Determine what proportion of the flow observed in the Arlington area's MS4 conveyance system, during dry weather conditions, originates from Urban Runoff (e.g. residential landscape irrigation) or from Agricultural Runoff (e.g. commercial crop irrigation). Estimate the volume of dry weather runoff, originating from the Arlington area, that passes through the Monroe retention basin and flows into Reach 3 of the Santa Ana River. The study may be completed using any combination of traditional source tracking tools (e.g. visual inspection, Piper diagrams, dye, radioisotopes, etc.).

Task 3: E. coli Bacteria Source Study

The Contractor shall analyze samples of dry weather runoff from representative locations in the Arlington area to characterize the concentration of E. coli bacteria and estimate the proportion of total bacterial load contributed by urban (residential/commercial) uses versus agricultural land uses. The Contractor shall also analyze the samples, using molecular DNA markers, to determine if the E. coli bacteria originated from human or animal sources.⁷ If the bacteroides data confirm the presence of significant human DNA markers in the samples, then the Contractor shall conduct a preliminary reconnaissance-level survey to investigate whether there are leaking sewer lines, septic systems, portable toilets or random uncontrolled defecation occurring in the area. The Contractors should identify areas where more detailed sanitary surveys may be necessary.

⁵ Monroe retention basis is located at: Lat. 33.921017, Long. -117.420987; drainage area maps will be provided by the Riverside County Flood Control and Water Conservation District.

⁶ http://www.sawpa.org/wp-content/uploads/2013/01/Final-QAPP_SAR-Watershed_February_2016_with-SOPs_Rev1.pdf (Res. No. R8-2016-0022; approved on March 11, 2016).

⁷ Historically, the Task Force has used Bacteroides as an indicator for human sources and other DNA markers to identify other sources such as dogs, horses, cattle, rodents and birds.

Task 4: Project Reports

The Contractor shall present a project status report at the MSAR TMDL Task Force meeting scheduled for September 12, 2017.⁸ The Contractor shall prepare a single combined report describing the findings, conclusions and recommendations for Task 2 and Task 3. The draft report must be submitted to SAWPA by October 31, 2017. The Contractor shall revise the draft report based on comments and suggestions provided by the Task Force. The final report must be submitted to SAWPA by December 22, 2017.

Preliminary Project Schedule⁹

Task	Activity	Period
1a	Detailed Study Plan (draft)	Aug. 1, 2017
1b	Detailed Study Plan (final)	Aug. 31, 2017
2	Dry Weather Source Study	Sept., 2017
3	E. coli Bacteria Source Study	Sept., 2017
4a	Project Status Report	Sept. 15, 2017
4b	Project Report (draft)	Oct. 31, 2017
4c	Project Report (final)	Dec. 22, 2017

Total Budget: Not to Exceed \$50,000 (including laboratory analysis).

⁸ The Task Force meeting will be held at SAWPA from 9:00a - Noon (PDT)

⁹ The preliminary project schedule assumes that a contractor is selected and contract executed by June 30, 2017.

5. PROPOSAL REQUIREMENTS

Responses to this RFP must be made according to the requirements set forth in this section for content and sequence. Failure to adhere to these requirements or to include conditions, limitations, or misrepresentations may be cause for rejection of the proposal. Any correction and resubmission by the proposer will not extend the time for evaluation of the proposal. Responses to this RFP shall be prepared as concise as possible. The proposal should be not more than **5** pages long, not including resumes that may be included in an appendix.

All proposals should include the following information:

1. Background information about the proposer.
2. Organization chart showing proposed management and project team.
3. List of personnel, including subcontractors that will be dedicated to this project.
4. Project Schedule and Approach
5. Description of the proposer's experience including experience of personnel dedicated to the project. Fee proposal shall include breakdown of labor hours by employee billing classification
6. Hourly billing rates for personnel to be assigned to the project.
7. Miscellaneous/Exceptions. A draft contract agreement is enclosed within this RFP (Appendix A) that the consultant/firm will be required to sign; the respondent must identify any exceptions to that draft agreement as an element of the proposal submitted for review and consideration.

6. PROPOSED SCHEDULE

RFP Published	June 5, 2017
Responses Due by 4:00 pm	June 29, 2017
Recommendation of Technical Advisory Committee	July 5, 2017 (tentative)
Recommendation to SAWPA Commission	July 18, 2017 (tentative)

7. SUBMITTALS

Submit a complete electronic copy of the proposal and related information to Rick Whetsel, Senior Watershed Manager at: rwhetsel@sawpa.org

All proposals must be received by **4:00 p.m. on Thursday, June 29, 2017**. Proposals received after the stated time will be returned unopened and will not be considered. Thereafter, a review panel, composed of members of the MSAR TMDL Task Force and SAWPA staff, will conduct question and answer interviews. If additional information is needed, contact Rick Whetsel at (951) 354-4222 or rwhetsel@sawpa.org.

8. EVALUATION CRITERIA

Evaluation of qualifications will be conducted on the following:

- Responsiveness to the RFP
- Experience and qualifications of the assigned individuals/firm
- Project Approach and understanding of needs
- Total Cost and appropriateness of proposed fee structure
- Project schedule
- Anticipated value and quality of services received

SAWPA reserves the sole right to evaluate and select the successful proposal based upon any or all of the evaluation criteria.

The selection process is anticipated to include an evaluation of the proposal and an interview.

9. GENERAL REQUIREMENTS

- 9.1 All proposers are hereby advised that this RFP is an informal solicitation and is not a commitment or offer to enter into an agreement or engage into any competitive bidding or negotiation pursuant to any statute, ordinance, rule, or regulation. SAWPA reserves the right to negotiate with any qualified source. SAWPA reserves the right to reject any or all proposals for any reason or for no reason at all.
- 9.2 SAWPA reserves the right to request further information from the proposer either in writing or orally. Such request will be addressed to that person or persons authorized by the proposer to represent the proposer.
- 9.3 SAWPA reserves the sole right to judge the proposers' representations, either written or oral.
- 9.4 Proposers understand and agree that submission of a proposal constitutes acknowledgement and acceptance of, and a willingness to comply with, all of the terms, conditions, and criteria contained in this RFP.
- 9.5 False, incomplete, or unresponsive statements in connection with a proposal may result in rejection of the proposal. The valuation and determination of the fulfillment of the above requirement will be SAWPA's responsibility and its decision shall be final.
- 9.6 SAWPA reserves the right to interpret or change any provisions of this RFP at any time prior to the proposal submission date. Such interpretations or changes will be in the form of addenda to this RFP. Such addenda will become part of this RFP and may become part of any resultant contract. Such addenda will be made available to each person or organization that has received an RFP. Should such addenda require additional information not previously requested, a proposer's failure to address the requirements of such addenda might result in the proposal not being considered.
- 9.7 All proposals submitted in response to this RFP will become the exclusive property of SAWPA. At such time as SAWPA's recommendation to the SAWPA Commission relative to proposal selection appears on the Commission Agenda, all such proposals become a matter of public record, and shall be regarded as public records, with the exception of those parts of each proposal which are appropriately defined by the proposer as business or trade secrets, and so marked, as "confidential" or "proprietary." SAWPA shall not in any way be liable or responsible for the disclosure of any such proposals or any part thereof if disclosure of any such proposals or any part thereof if disclosure is required under the Public Records Act.
- 9.8 SAWPA shall not in any way be liable for any costs incurred in connection with the preparation of any proposal submitted in response to this RFP.



SANTA ANA WATERSHED PROJECT AUTHORITY
AGREEMENT FOR SERVICES BY INDEPENDENT CONSULTANT

This Agreement is made this ___ day of _____, 2017 by and between the Santa Ana Watershed Project Authority ("SAWPA") located at 11615 Sterling Ave., Riverside, CA, 92503 and _____ ("**Consultant**") whose address is _____.

RECITALS

This Agreement is entered into on the basis of the following facts, understandings, and intentions of the parties to this Agreement:

- SAWPA desires to engage the professional services of Consultant to perform such professional consulting services as may be assigned, from time to time, by SAWPA in writing;
- Consultant agrees to provide such services pursuant to, and in accordance with, the terms and conditions of this Agreement and has represented and warrants to SAWPA that Consultant possesses the necessary skills, qualifications, personnel, and equipment to provide such services; and
- The services to be performed by Consultant shall be specifically described in one or more written Task Orders issued by SAWPA to Consultant pursuant to this Agreement.

AGREEMENT

Now, therefore, in consideration of the foregoing Recitals and mutual covenants contained herein, SAWPA and Consultant agree to the following:

ARTICLE I

TERM OF AGREEMENT

1.01 This agreement shall become effective on the date first above written and shall continue until **December 31, 20__** unless extended or sooner terminated as provided for herein.

ARTICLE II

SERVICES TO BE PERFORMED

2.01 Consultant agrees to provide such professional consulting services as may be assigned, from time to time, in writing by the Commission and the General Manager of SAWPA. Each assignment shall be made in the form of a written Task Order. Each such Task Order shall include, but shall not be limited to, a description of the nature and scope of the services to be performed by Consultant, the amount of compensation to be paid, and the expected time of completion.

2.02 Consultant may at Consultant's sole cost and expense, employ such competent and qualified independent professional associates, subcontractors, and consultants as Consultant deems necessary to perform each assignment; provided that Consultant shall not subcontract any work to be performed without the prior written consent of SAWPA.

ARTICLE III

COMPENSATION

3.01 In consideration for the services to be performed by Consultant, SAWPA agrees to pay Consultant as provided for in each Task Order.

3.02 Each Task Order shall specify a total not-to-exceed sum of money and shall be based upon the regular hourly rates customarily charged by Consultant to its clients.

3.03 Consultant shall not be compensated for any services rendered nor reimbursed for any expenses incurred in excess of those authorized in any Task Order unless approved in advance by the Commission and General Manager of SAWPA, in writing.

3.04 Unless otherwise provided for in any Task Order issued pursuant to this Agreement, payment of compensation earned shall be made in monthly installments after receipt from Consultant of a timely, detailed, corrected, written invoice by SAWPA's Project Manager, describing, without limitation, the services performed, when such services were performed, the time spent performing such services, the hourly rate charged therefore, and the identity of individuals performing such services for the benefit of SAWPA. Such invoices shall also include a detailed itemization of expenses incurred. Upon approval by an authorized SAWPA employee, SAWPA will pay within 30 days after receipt of a valid invoice from Consultant.

ARTICLE IV
CONSULTANT OBLIGATIONS

4.01 Consultant agrees to perform all assigned services in accordance with the terms and conditions of this Agreement including those specified in each Task Order. In performing the services required by this Agreement and any related Task Order Consultant shall comply with all local, state and federal laws, rules and regulations. Consultant shall also obtain and pay for any permits required for the services it performs under this Agreement and any related Task Order.

4.02 Except as otherwise provided for in each Task Order, Consultant will supply all personnel and equipment required to perform the assigned services.

4.03 Consultant shall be solely responsible for the health and safety of its employees, agents and subcontractors in performing the services assigned by SAWPA. Consultant hereby covenants and agrees to:

4.03a Obtain a Commercial General Liability and an Automobile Liability insurance policy, including contractual coverage, with limits for bodily injury and property damage in an amount of not less than \$2,000,000.00 per occurrence for each such policy. Such policy shall name SAWPA, its officers, employees, agents and volunteers, as an additional insured, with any right to subrogation waived as to SAWPA, its officers, employees, agents and volunteers. If Commercial General Liability Insurance or other form with an aggregate limit is used, either the general aggregate limit shall apply separately to the work assigned by SAWPA under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit. The coverage shall be at least as broad as Insurance Services Office Commercial General Liability Coverage (occurrence Form CG 00 01) and Insurance Services Office Form CA 00 01 covering Automobile Liability, Code 1 (any auto). The Commercial Liability Insurance shall include operations, products and completed operations, as applicable;

4.03b Obtain a policy of Professional Liability (errors and omissions) insurance appropriate to the Consultant's profession in a minimum amount of \$2,000,000.00 per claim or occurrence to cover any negligent acts or omissions or willful misconduct committed by Consultant, its employees, agents and subcontractors in the performance of any services for SAWPA. Architects' and engineers' coverage shall include contractual liability;

4.03c Obtain a policy of Employer's Liability insurance in a minimum amount of \$1,000,000.00 per accident for bodily injury and property damage.

4.03d Provide worker's compensation insurance or a California Department of Insurance-approved self-insurance program in an amount and form required by the State of California and the Employer's Liability Insurance that meets all applicable Labor Code requirements, covering all persons or entities providing services on behalf of the Consultant and all risks to such persons or entities;

4.03e Consultant shall require any subcontractor that Consultant uses for work performed for SAWPA under this Agreement or related Task Order to obtain the insurance coverages specified above.

4.03f Consultant hereby agrees to waive subrogation which any insurer of Consultant may seek to require from Consultant by virtue of the payment of any loss. Consultant shall obtain an endorsement that may be necessary to give effect to this waiver of subrogation. In addition, the Workers Compensation policy shall be endorsed with a waiver of subrogation in favor of SAWPA for all work performed by Consultant, and its employees, agents and subcontractors.

All such insurance policy or policies shall be issued by a responsible insurance company with a minimum A. M. Best Rating of "A-" Financial Category "X", and authorized and admitted to do business in, and regulated by, the State of California. If the insurance company is not admitted in the State of California, it must be on the List of Eligible Surplus Line Insurers (LESLI), shall have a minimum A.M. Best Rating of "A", Financial Category "X", and shall be domiciled in the United States, unless otherwise approved by SAWPA in writing. Each such policy of insurance shall expressly provide that it shall be primary and noncontributory with any policies carried by SAWPA and, to the extent obtainable, such coverage shall be payable notwithstanding any act of negligence of SAWPA that might otherwise result in forfeiture of coverage. Evidence of all insurance coverage shall be provided to SAWPA prior to issuance of the first Task Order. Such policies shall provide that they shall not be canceled or amended without 30 day prior written notice to SAWPA. Consultant acknowledges and agrees that such insurance is in addition to Consultant's obligation to fully indemnify and hold SAWPA free and harmless from and against any and all claims arising out of an injury or damage to property or persons caused by the negligence, recklessness, or willful misconduct of Consultant in performing services assigned by SAWPA.

4.04 Consultant hereby covenants and agrees that SAWPA, its officers, employees, and agents shall not be liable for any claims, liabilities, penalties, fines or any damage to property, whether real or personal, nor for any personal injury or death caused by, or resulting from, or claimed to have been caused by or resulting from, any negligence, recklessness, or willful misconduct of Consultant. Consultant shall hold harmless, defend and indemnify SAWPA and its officers, employees, agents and volunteers from and against any and all liability, loss, damage, fines, penalties, expense and costs, including, without limitation, attorneys' fees and litigation expenses and costs, of every nature arising out of or related to Consultant's negligence, recklessness, or willful misconduct related to or arising from the performance of the work required under this Agreement and any related Task Order or Consultant's failure to comply with any of its obligations contained in this Agreement and any related Task Order, except as to such loss or damage which was caused by the active negligence or willful misconduct of SAWPA.

4.05 In the event that SAWPA requests that specific employees or agents of Consultant supervise or otherwise perform the services specified in each Task Order, Consultant shall ensure that such individual(s) shall be appointed and assigned the responsibility of performing the services.

4.06 In the event Consultant is required to prepare plans, drawings, specifications and/or estimates, the same shall be furnished with a registered professional engineer's number and shall conform to local, state and federal laws, rules and regulations. Consultant shall obtain all necessary permits and approvals in connection with this Agreement, any Task Order or Change Order. However, in the event SAWPA is required to obtain such an approval or permit from another governmental entity, Consultant shall provide all necessary supporting documents to be filed with such entity, and shall facilitate the acquisition of such approval or permit.

ARTICLE V

SAWPA OBLIGATIONS

5.01 SAWPA shall:

5.01a Furnish all existing studies, reports and other available data pertinent to each Task Order that are in SAWPA's possession;

5.01b Designate a person to act as liaison between Consultant and the General Manager and Commission of SAWPA.

ARTICLE VI

ADDITIONAL SERVICES, CHANGES AND DELETIONS

6.01 During the term of this Agreement, the Commission of SAWPA may, from time to time and without affecting the validity of this Agreement or any Task Order issued pursuant thereto, order changes, deletions, and additional services by the issuance of written Change Orders authorized and approved by the Commission of SAWPA.

6.02 In the event Consultant performs additional or different services than those described in any Task Order or authorized Change Order without the prior written approval of the Commission of SAWPA, Consultant shall not be compensated for such services.

6.03 Consultant shall promptly advise SAWPA as soon as reasonably practicable upon gaining knowledge of a condition, event, or accumulation of events, which may affect the scope and/or cost of services to be provided pursuant to this Agreement. All proposed changes, modifications, deletions, and/or requests for additional services shall be reduced to writing for review and approval or rejection by the Commission of SAWPA.

6.04 In the event that SAWPA orders services deleted or reduced, compensation shall be deleted or reduced by a comparable amount as determined by SAWPA and Consultant shall only be compensated for services actually performed. In the event additional services are properly authorized, payment for the same shall be made as provided in Article III above.

ARTICLE VII

CONSTRUCTION PROJECTS: CONSULTANT CHANGE ORDERS

7.01 In the event SAWPA authorizes Consultant to perform construction management services for SAWPA, Consultant may determine, in the course of providing such services, that a Change Order should be issued to the construction contractor, or Consultant may receive a request for a Change Order from the construction contractor. Consultant shall, upon receipt of any requested Change Order or upon gaining knowledge of any condition, event, or accumulation of events, which may necessitate issuing a Change Order to the construction contractor, promptly consult with the liaison, General Manager and Commission of SAWPA. No Change Order shall be issued or executed without the prior approval of the Commission of SAWPA.

ARTICLE VIII

TERMINATION OF AGREEMENT

8.01 In the event the time specified for completion of an assigned task in a Task Order exceeds the term of this Agreement, the term of this Agreement shall be automatically extended for such additional time as is necessary to complete such Task Order and thereupon this Agreement shall automatically terminate without further notice.

8.02 Notwithstanding any other provision of this Agreement, SAWPA, at its sole option, may terminate this Agreement at any time by giving a 10-day written notice to Consultant, whether or not a Task Order has been issued to Consultant.

8.03 In the event of termination, the payment of monies due Consultant for work performed prior to the effective date of such termination shall be paid after receipt of an invoice as provided in this Agreement.

ARTICLE IX

CONSULTANT STATUS

9.01 Consultant shall perform the services assigned by SAWPA in Consultant's own way as an independent contractor, in pursuit of Consultant's independent calling and not as an employee of SAWPA. Consultant shall be under the control of SAWPA only as to the result to be accomplished and the personnel assigned to perform services. However, Consultant shall regularly confer with SAWPA's liaison, General Manager, and Commission as provided for in this Agreement.

9.02 Consultant hereby specifically represents and warrants to SAWPA that the services to be rendered pursuant to this Agreement shall be performed in accordance with the standards customarily applicable to an experienced and competent professional consulting organization rendering the same or similar services. Furthermore, Consultant represents and warrants that the individual signing this Agreement on behalf of Consultant has the full authority to bind Consultant to this Agreement.

ARTICLE X
AUDIT AND OWNERSHIP OF DOCUMENTS

10.01 All draft and final reports, plans, drawings, specifications, data, notes, and all other documents of any kind or nature prepared or developed by Consultant in connection with the performance of services assigned to it by SAWPA are the sole property of SAWPA, and Consultant shall promptly deliver all such materials to SAWPA. Consultant may retain copies of the original documents, at its option and expense. Use of such documents by SAWPA for project(s) not the subject of this Agreement shall be at SAWPA's sole risk without legal liability or exposure to Consultant. SAWPA agrees to not release any software "code" without prior written approval from the Consultant.

10.02 Consultant shall retain and maintain, for a period not less than four years following termination of this Agreement, all time records, accounting records, and vouchers and all other records with respect to all matters concerning services performed, compensation paid and expenses reimbursed. At any time during normal business hours and as often as SAWPA may deem necessary, Consultant shall make available to SAWPA's agents for examination of all such records and will permit SAWPA's agents to audit, examine and reproduce such records.

ARTICLE XI
MISCELLANEOUS PROVISIONS

11.01 This Agreement supersedes all previous agreements, either oral or written, between the parties hereto with respect to the rendering of services by Consultant for SAWPA and contains all of the covenants and agreements between the parties with respect to the rendering of such services in any manner whatsoever. Any modification of this Agreement will be effective only if it is in writing signed by both parties.

11.02 Consultant shall not assign or otherwise transfer any rights or interest in this Agreement without the prior written consent of SAWPA. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.

11.03 In the event Consultant is an individual person and dies prior to completion of this Agreement or any Task Order issued hereunder, any monies earned that may be due Consultant from SAWPA as of the date of death will be paid to Consultant's estate.

11.04 Time is of the essence in the performance of services required hereunder. Extensions of time within which to perform services may be granted by SAWPA if requested by Consultant and agreed to in writing by SAWPA. All such requests must be documented and substantiated and will only be granted as the result of unforeseeable and unavoidable delays not caused by the lack of foresight on the part of Consultant.

11.05 Consultant shall comply with all local, state and federal laws, rules and regulations including those regarding nondiscrimination and the payment of prevailing wages.

11.06 SAWPA expects that Consultant will devote its full energies, interest, abilities and productive time to the performance of its duties and obligations under this Agreement, and shall not engage in any other consulting activity that would interfere with the performance of Consultant's duties under this Agreement or create any conflicts of interest. If required by law, Consultant shall file a Conflict of Interest Statement with SAWPA.

