



SANTA ANA WATERSHED PROJECT AUTHORITY

REQUEST FOR PROPOSALS FOR PROFESSIONAL AUDITING SERVICES

Prepared by:

**Santa Ana Watershed Project Authority
Finance Department
Karen Williams, Deputy General Manager/Chief Financial Officer**

RELEASE DATE:	February 15, 2022
RESPONSE DUE:	March 22, 2022

1.0 PURPOSE

The Santa Ana Watershed Authority (SAWPA or Agency) is requesting proposals from qualified firms of certified public accountants (Auditors) to audit its financial statements for three (3) fiscal years beginning with fiscal year ending June 30, 2022, with the option to extend the contract for two subsequent fiscal years. These audits are to be performed in accordance with generally accepted auditing standards and the provisions of the U.S. Office of Management and Budget (OMB) Circular A-133, *Audits of States, Local Governments and Non-Profit Organizations*. This RFP describes the Project, the required scope of services, the minimum information that must be included in the Proposal, and the selection process.

Pre-proposal Meeting:	n/a
Proposals Due:	March 22, 2022, 5:00pm
Questions/Contact:	Karen Williams. Deputy General Manager/Chief Financial Officer, kwilliams@sawpa.org

2.0 BACKGROUND INFORMATION

SAWPA was formed in 1972 to plan and build facilities to protect water quality in the Santa Ana River Watershed. The organization is a joint powers authority comprised of the following five major water districts that share the Santa Ana River Watershed: Eastern Municipal Water District, Inland Empire Utilities Agency, Orange County Water District, San Bernardino Valley Municipal Water District, and Western Municipal Water District. The governance structure of SAWPA is made up of an elected Board of Director and an alternate Board of Director (also elected) from each of the five water districts forming what is known as the Board of Commissioners.

The Santa Ana River is the largest stream system in southern California. The river begins high in the San Bernardino Mountains and flows over 100 miles southwesterly where it discharges to the Pacific Ocean in Huntington Beach. The Santa Ana River Watershed, which receives an average annual rainfall of about 13 inches, covers over 2,650 square miles of widely varying urban, rural and forested terrain. The watershed covers the more populated urban areas of San Bernardino, Riverside and Orange Counties, and a small portion of Los Angeles County and provides a home to over 6 million people.

More information about SAWPA can be found on our website, www.sawpa.org.

SAWPA's current audit relationship is with Teaman, Ramirez & Smith Inc., and has been in force without interruption since its audit for the fiscal year ending June 30, 2018. SAWPA's is issuing an RFP to select new auditor to meet our audit firm rotation needs. Proposals for partial services or a varied scope of work will not be considered.

SAWPA will make every effort to administer the proposal process in accordance with the terms and dates outlined in this RFP; however, SAWPA reserves the right to modify the activities, timeline, or any other aspect of the process at any time and as deemed necessary by SAWPA staff. By requesting proposals, SAWPA is in no way obligated to award a contract or pay the expenses of proposing audit firms in connection with the preparation or submission of a proposal.

3.0 SCOPE OF SERVICES

SAWPA's goal is to provide the public and our constituents with a financial statement that gives complete, accurate and understandable information about the Agency's financial condition. The selected independent auditor will be required to perform the following tasks:

1) Work to be Performed

- a) Assistance in the creation and audit of the General Purpose Financial Statements of the Agency in conformity with generally accepted accounting principles and issue an opinion thereon. Further assistance in the completion of the Agency's Annual Comprehensive Financial Report.
- b) Preparation of GASB 68 annual pension and GASB 75 annual OPEB adjusting journal entries.
- c) Test compliance with the Single Audit Act as amended in 1996, and applicable laws and regulations, if required.
- d) Prepare a Report on Internal Control Structure and Management Letter.
- e) Completion of the State Controller's Report for the Agency.
- f) The auditor shall assist Agency staff in applying generally accepted accounting principles and provide support necessary to maintain sound financial management procedures. The auditor shall provide financial advice and counsel on significant matters occurring throughout the year that would affect the annual reports and sound accounting practices.
- g) The firm selected may also be asked to examine other reports or perform other services as required.

2) Optional Service – Audit of the Lake Elsinore and San Jacinto Watersheds Authority

The bidding firm also shall include as a stand-alone component (option) for the cost to do an annual audit of the Lake Elsinore and San Jacinto Watersheds Authority (LESJWA or Authority). This additional option will be considered separately. All audit requirements and deliverables previously defined for the SAWPA audit would apply to the LESJWA audit as well in relation to the LESJWA Board.

LESJWA was formed in 2000 pursuant to the provisions of Article 1, Chapter 5, Division 7, Title 1 of the Government Code of the State of California relating to the joint exercise of powers common to public agencies. The Authority was formed for the purpose of implementing projects and programs to improve the water quality and habitat of Lake Elsinore and its back basin consistent with the Lake Elsinore Management Plan, and to rehabilitate and improve the San Jacinto and Lake Elsinore Watersheds and the water quality of Lake Elsinore in order to preserve agricultural land, protect wildlife habitat, and protect and enhance recreational resources, all for the benefit of the general public. Major activities include administering the LE/CL TMDL Task Force, developing BMPs, and continued improvement of lake quality.

The Authority's five member agencies are the City of Lake Elsinore, City of Canyon Lake, County of Riverside, Elsinore Valley Municipal Water District, and SAWPA.

SAWPA serves as the administrator for this JPA and manages the finance and accounting functions on behalf of the Authority.

3) Auditing Standards to be Followed

To meet the requirements of this request for proposal, the audit shall be performed in accordance with generally accepted auditing standards accepted in the United States of America, applicable to the financial audit contained in the Government Auditing Standards issued by the Comptroller General of the United States and the provisions of the U.S. Office of Management and Budget (OMB) Circular A-133, *Audits of States, Local Governments and Non-Profit Organizations*.

3. Reports to be Issued

Following completion of the audit and preparation of the fiscal year's financial statements, the auditor shall issue:

- a) Reports on the fair presentation of the financial statements in accordance with auditing standards generally accepted in the United States of America as listed below:
 - i. Basic Financial Statements for the Agency
 - ii. State Controllers Report for the Agency
 - iii. Single Audit Report on Schedule of Federal Awards (if applicable)

These reports shall include Required Supplemental Information (RSI) as required by GASB 34.

- b) A report based on the auditor's understanding of the internal control structure and assessment of control risk. In this report, the Auditor will also communicate any reportable conditions found during the audit and indicate whether they are also material weaknesses.

- c) A Statement on Auditing Standards (SAS) 114 letter communicated to the Commission reporting any control deficiencies that are considered significant deficiencies and/or material weaknesses as defined by the Standards.
- d) Auditors shall be required to make an immediate written report to the Agency of all irregularities and illegal acts or indications of illegal acts of which they become aware to the following:
 - Marco Tule, Chair, Board of Commissioners
 - Bruce Whitaker, Vice Chair, Board of Commissions
 - Jeff Mosher, General Manager
 - Karen Williams, Deputy General Manager/ Chief Financial Officer
- e) The Auditor must present to the Agency's Board of Commissioners, the results of the Audit and address all findings and all adjustments.

4. Special Considerations

The Agency will send its Annual Financial Report to the Government Finance Officers Association of the United States and Canada for review in its Certificate of Achievement for Excellence in Financial Reporting program. The Auditor will be required to provide special assistance to the Agency to meet the requirements of this program.

5. Time Requirements

At minimum, the following events shall begin or be completed according to the following timeline. Changes to the schedule may be worked out if mutually acceptable to the Auditor and Agency staff.

Interim Audit	May – June
Final Audit	Mid-September – Beginning of November
Draft Annual Financial Report	Mid-November
Final Annual Financial Report	Last week of November
State Controllers Report	January of the following year
Final Single Audit (if applicable)	February of the following year

6. Working Paper Retention and Access to Working Papers

All working papers and reports must be retained, at the Auditor's expense, for a minimum of three (3) years, unless the firm is notified in writing by the Agency of the need to extend that period. The Auditor will be required to make working papers available, upon request, to the Agency.

In addition, the firm shall respond to the reasonable inquiries of successor Auditors to review the working papers related to the matters of continuing accounting significance.

4.0 SUBMISSION OF PROPOSAL AND TIMELINE

1. Submission Deadline

To be considered, a PDF file of the proposal must be received by SAWPA no later than 5:00 p.m. on Tuesday March 22, 2022. Submissions received after this deadline will not be accepted. The PDF file of the proposal shall be emailed to Karen Williams, DGM/CFO, at kwilliams@sawpa.org and copied to Alison Lewis, Accountant II, at alewis@sawpa.org. The subject line of the email should be "Response to RFP for Professional Auditing Services".

2. RFP Timeline

Request for proposal issued	Tuesday, February 15, 2022
Due date for proposals	Tuesday, March 22, 2022
Interview of finalists (if needed)	TBD
Award of Contract by Commission	Tuesday, April 19, 2022

3. Contact with SAWPA

Questions about the RFP may be directed to Karen Williams, Deputy General Manager/Chief Financial Officer, at kwilliams@sawpa.org or (951) 354-4231. When corresponding via e-mail, be sure to indicate "**RFP for Professional Auditing Services**" on the subject line.

4. Term of Engagement

A three-year contract is contemplated with an option for two additional years, subject to annual review, the satisfactory negotiation of terms (including a cost acceptable to both SAWPA and the selected firm), and the concurrence of the Commission.

5.0 PROPOSAL REQUIREMENTS

The purpose of the proposal is to demonstrate the qualifications, competence, and capacity of the firms seeking to undertake an independent audit of SAWPA in conformity with the requirements of this request for proposal. The proposal should demonstrate the qualifications of the firm and of the particular staff to be assigned to this engagement. It should also specify an audit approach that will meet the request for proposals requirements.

1. Executive Summary

The Executive Summary should be addressed to:

Board of Commissioners
Santa Ana Watershed Project Authority
11615 Sterling Avenue
Riverside, CA 92503

The summary should state the prime firm and include the firm's name submitting the proposal, their mailing address, telephone number, and contact name. The letter

shall address the firm's understanding of the project based on this RFP and any other information the firm has gathered. Include a statement discussing the firm's interest and qualifications for this type of work. Certify that the person signing the proposal is entitled to represent the firm, empowered to submit the bid, and authorized to sign a contract with SAWPA.

2. Statement of Independence

The firm should provide an affirmative statement that it is independent of SAWPA as defined by generally accepted auditing standards and/or U.S. General Accounting Office's Government Auditing Standards. The firm also should provide an affirmative statement that it is independent of all of the component units of SAWPA as defined by those same standards.

3. License to Practice in California

An affirmative statement should be included that the firm and all assigned key professional staff are properly registered / licensed to practice in California.

4. Firm Qualifications and Experience

The proposer should state the size of the firm, the size of the firm's governmental audit staff, the location of the office from which the work on this engagement is to be performed, the number and nature of the professional staff to be employed in this engagement on a full-time basis, and the number and nature of the staff to be so employed on a part-time basis.

The firm also shall provide information on the results of any federal or state desk reviews or field reviews of its audits during the past three (3) years. In addition, the firm shall provide information on the circumstances and status of any disciplinary action taken or pending against the firm during the past three (3) years with state regulatory bodies or professional organizations.

5. Partner, Supervisory, and Staff Qualifications and Experience

Identify the principal supervisory and management staff, including engagement partner, managers, other supervisors, and specialists who would be assigned to the engagement. Indicate whether each person is an active licensed certified public accountant in California. Provide information on the government auditing experience of each person, including information on relevant continuing professional education for the past three (3) years and membership in professional organizations relevant to the performance of this audit. Indicate how the quality of staff over the term of the agreement will be assured.

This section may include graphs, charts, photos, resumes, references, etc., in support of the firm's qualifications.

6. Similar Engagements with other Government Entities

Please provide a list of not less than five client references for which services similar to those outlined in the RFP are currently being provided. For each reference listed provide the name of the organization, dates for which the services(s) are being

provided, type of services(s) being provided and the name, address, telephone and email address of the responsible person within the reference's organization. SAWPA reserves the right to contact any or all of the listed references regarding the audit services performed by the proposer.

7. Specific Audit Approach

The audit approach should indicate the firm's ability to meet each specification as outlined in this document. The work plan should address the items of work as described in this RFP. The plan should be simple, easy to read and follow, and address and satisfy the objectives and specifications as listed in the Scope of Services in this RFP.

8. Cost Proposal

The proposal should contain all pricing information relative to performing the audit engagement as described in this request for proposal. The total all-inclusive maximum cost to be proposed is to contain all direct and indirect costs including all out-of-pocket expenses for each of the three years. This information is required to be shown for each year to be audited and in total. SAWPA will not be responsible for expenses incurred in preparing and submitting the proposal.

No cost increases shall be passed onto SAWPA after the proposal has been submitted.

5. Optional Service

The proposal shall include a separate fee (not related to the financial year-end audit) that the bidding firm would charge to conduct an annual audit of the Lake Elsinore & San Jacinto Watersheds Authority and preparation and transmittal of the Special Districts Financial Transactions Report to the State Controller's Office as required under California Government Code section 53891, beginning with fiscal year ending June 30, 2022 (see number 2 on page four).

9. External Quality Control Review Report

The firm also is required to submit a copy of the report on its most recent External Quality Control Review Report, with a statement whether that quality control review included a review of specific government engagements.

10. Insurance

The proposal shall include a copy of the firm's most current certificate of insurance and endorsements for professional liability and worker's compensation insurance.

ADDITIONAL INFORMATION

SAWPA reserves the right to conduct interviews with all, any or none of the firm's submitting proposals, and to reject any or all proposals and to accept the proposal most favorable to the Agency's interest.

The audit firm submitting bid proposals should be aware that SAWPA has no obligation whatsoever to engage the firm for future work to implement any of the recommended

changes in procedures and policies revealed during the course of the audit. In addition, there is no obligation on the part of SAWPA to engage the firm for any management services or studies.

6.0 EVALUATION/SELECTION PROCEDURES

1. Review of Proposals

The Agency will use a point formula during the review process to score proposals. The firms with an unacceptably low technical score will be eliminated from further consideration.

The cost will then be considered, and additional points will be added to the technical score. The maximum score for cost will be assigned to the firm offering the lowest total, all-inclusive maximum cost.

2. Evaluation Criteria

Proposals will be evaluated using three (3) sets of criteria. Firms meeting the mandatory criteria will have their proposals evaluated and scored for both technical qualifications and cost. The following represents the principal selection criteria which will be considered during the evaluation process.

a) Mandatory Elements

- i. The audit firm is independent and licensed to practice in California.
- ii. The audit firm's professional staff have received adequate, continuing professional education within the preceding three (3) years.
- iii. The firm has no conflict of interest with regard to any other work performed by the firm for the Agency.
- iv. The firm submits a copy of its most recent external quality control review report, and the firm has a record of quality audit work.
- v. The firm adheres to the instructions in this request for proposal on preparing and submitting the proposal.

b) Technical Qualifications

- i. Expertise and Experience
 - a. The firm's past experience and performance on comparable government engagements.
 - b. The quality of the firm's professional staff to be assigned to the engagement.
- ii. Audit Approach
 - a. Adequacy of proposed staffing plan for various segments of the engagement.
 - b. Adequacy of sampling techniques.
 - c. Adequacy of analytical procedures.

c) Cost

3. Oral Presentations

After the points have been calculated for each RFP, proposers may be requested to make an oral presentation. Such presentations will provide firms with an opportunity to answer any questions the Agency may have on a firm's proposal.

4. Final Selection

It is anticipated that a firm will be selected by April 1, 2022. Following notification of the firm selected, it is expected a contract will be executed between both parties before start of the interim audit. Firm is expected to be present at the April 19, 2022, Commission meeting for award of the contract.

7.0 GENERAL TERMS AND CONDITIONS

1. Right to Reject Proposals

SAWPA reserves the right to reject any and all proposals, to waive any non-material irregularities or informalities in any proposal, and to accept or reject any item or combination of items.

2. Execution of Agreement

If an audit firm is not able to execute the standard services agreement and task order for year one (Attachment A) within thirty (30) days after being notified of selection, SAWPA reserves the right to select the next most qualified proposing audit firm or call for new proposals, whichever SAWPA deems most appropriate. The audit firm shall be required to work under a written contract with SAWPA in accordance with standard terms of the services agreement and task order approved by legal counsel for SAWPA. Notwithstanding anything in this RFP to the contrary, SAWPA reserves the right to negotiate the terms and conditions of the contract with the selected provider.

3. Incorporation of RFP/Proposal

This RFP and the audit firm's response, including all promises, warranties, commitments, and representations made in the successful proposal will become binding contractual obligations and will be incorporated by reference in any agreement between SAWPA and the audit firm.

4. Authorized Signatories

Audit firm staff signing the cover letter of the proposal, or any other related forms submitted must be authorized signers with the requisite authority to represent their firm and to enter into binding contracts with clients.

5. Validity of Proposals

Proposed services and related pricing and warranties contained in the proposal must be valid for a period of 120 days after the submission of the proposal.

6. Reporting

Independence is essential to the effectiveness of the agency's annual audit and is strongly emphasized by the Institute of Internal Auditors (IIA), the American Institute of Certified Public Accountants (AICPA), the U. S. General Accounting Office (GAO), and the U. S. Securities and Exchange Commission (SEC). To ensure independence and objectivity are maintained, the Audit Firm selected shall receive direction from and report directly to the SAWPA Board of Commissioners.

7. Termination Clause

SAWPA, at its sole discretion, may terminate the contract by giving a 30-day written notice to the audit firm selected. In the event of such termination, SAWPA's liability, if any, will be limited to only the work actually performed, if any, up to the termination date.



Attachment A

SANTA ANA WATERSHED PROJECT AUTHORITY **GENERAL SERVICES AGREEMENT FOR SERVICES BY INDEPENDENT CONSULTANT**

This Agreement is made this ____ day of ____, 20__ by and between the Santa Ana Watershed Project Authority ("SAWPA") located at 11615 Sterling Ave., Riverside, California, 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.

4.04 Insurance Coverage: Consultant shall procure and maintain for the duration of this Agreement insurance against claims for injuries or death to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the Consultant, its agents, representatives, employees or sub-contractors.

4.04(a) Coverage - Coverage shall be at least as broad as the following:

- 1. Commercial General Liability (CGL)** - Insurance Services Office (ISO) Commercial General Liability Coverage (Occurrence Form CG 00 01) including products and completed operations, property damage, bodily injury, personal and advertising injury with limit of at least two million dollars (\$2,000,000) per occurrence or the full per occurrence limits of the policies available, whichever is greater. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (coverage as broad as the ISO CG 25 03, or ISO CG 25 04 endorsement provided to SAWPA) or the general aggregate limit shall be twice the required occurrence limit.
- 2. Automobile Liability** – (if necessary) Insurance Services Office (ISO) Business Auto Coverage (Form CA 00 01), covering Symbol 1 (any auto) or if Consultant has no owned autos, Symbol 8 (hired) and 9 (non-owned) with limit of one million dollars (\$1,000,000) for bodily injury and property damage each accident.
- 3. Workers' Compensation Insurance** - as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.
- 4. Professional Liability** - (Also known as Errors & Omission) Insurance appropriate to the Consultant profession, with limits no less than \$1,000,000 per occurrence or claim, and \$2,000,000 policy aggregate.
- 5. Cyber Liability Insurance (Technology Professional Liability – Errors and Omissions)** – If Consultant will be providing technology services, limits not less than \$2,000,000 per occurrence or claim, and \$2,000,000 aggregate or the full per occurrence limits of the policies available, whichever is greater. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Consultant in this Agreement and shall include, but not be limited to, claims involving infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress,

invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, alteration of electronic information, extortion and network security. The policy shall provide coverage for breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses with limits sufficient to respond to these obligations.

If the Consultant maintains broader coverage and/or higher limits than the minimums shown above, SAWPA requires and shall be entitled to the broader coverage and/or higher limits maintained by the Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to SAWPA.

4.04(b) If Claims Made Policies:

1. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
2. Insurance must be maintained and evidence of insurance must be provided **for at least five (5) years after completion of the contract of work.**
3. If coverage is canceled or non-renewed, and not **replaced with another claims-made policy form with a Retroactive Date** prior to the contract effective date, the Consultant must purchase "extended reporting" coverage for a minimum of **five (5) years** after completion of contract work.

4.04(c) Waiver of Subrogation: The insurer(s) named above agree to waive all rights of subrogation against SAWPA, its elected or appointed officers, officials, agents, authorized volunteers and employees for losses paid under the terms of this policy which arise from work performed by the Named Insured for the Agency; but this provision applies regardless of whether or not SAWPA has received a waiver of subrogation from the insurer.

4.04(d) Other Required Provisions - The general liability policy must contain, or be endorsed to contain, the following provisions:

1. **Additional Insured Status:** SAWPA, its directors, officers, employees, and authorized volunteers are to be given insured status (at least as broad as ISO Form CG 20 10 10 01), with respect to liability arising out of work or operations performed by or on behalf of the Consultant including materials, parts, or equipment furnished in connection with such work or operations.
2. **Primary Coverage:** For any claims related to this project, the Consultant's insurance coverage shall be primary at least as broad as ISO CG 20 01 04 13 as respects to SAWPA, its directors, officers, employees and authorized volunteers. Any insurance or self-insurance maintained by the Member Water Agency its directors, officers, employees and authorized volunteers shall be excess of the Consultant's insurance and shall not contribute with it.

4.04(e) Notice of Cancellation: Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to SAWPA.

4.04(f) Self-Insured Retentions - Self-insured retentions must be declared to and approved by SAWPA. SAWPA may require the Consultant to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or SAWPA.

4.04(g) Acceptability of Insurers - Insurance is to be placed with insurers having a current A.M. Best rating of no less than A: VII or as otherwise approved by SAWPA.

4.04(h) Verification of Coverage – Consultant shall furnish SAWPA with certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by SAWPA before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Consultant's obligation to provide them. SAWPA reserves the right to require complete, certified copies of all required insurance policies, including policy Declaration pages and Endorsement pages.

4.04(i) Subcontractors - Consultant shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Consultant shall ensure that SAWPA, its directors, officers, employees and authorized volunteers are additional insureds on Commercial General Liability Coverage.

4.05 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. To the extent permitted by law, Consultant shall hold harmless, defend at its own expense, and indemnify SAWPA, its directors, officers, employees, and authorized volunteers, against any and all liability, claims, losses, damages, or expenses, including reasonable attorney's fees and costs, arising from all acts or omissions of Consultant or its officers, agents, or employees in rendering services under this Agreement and any Task Order issued hereunder; excluding, however, such liability, claims, losses, damages or expenses arising from SAWPA's sole negligence or willful acts.

4.06 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.

4.07 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.

4.08 Consultant shall comply with all local, state and federal laws, rules and regulations including those regarding nondiscrimination and the payment of prevailing wages, if required by law.

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 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 any and 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 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.

11.06 Any dispute which may arise by and between SAWPA and the Consultant, including the Consultants, its employees, agents and subcontractors, shall be submitted to binding arbitration. Arbitration shall be conducted by a neutral, impartial arbitration service that the parties mutually agree upon, in accordance with its rules and procedures. The arbitrator must decide each and every dispute in accordance with the laws of the State of California, and all other applicable laws. Unless the parties stipulate to the contrary prior to the appointment of the arbitrator, all disputes shall first be submitted to non-binding mediation conducted by a neutral, impartial mediation service that the parties mutually agree upon, in accordance with its rules and procedures.

11.07 During the performance of the Agreement, Consultant and its subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40), marital status and denial of family care leave. Consultant and its subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Consultant and its subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12290 et seq.) and the applicable regulations promulgated there under (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 et seq., set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Consultant and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement. Consultant shall include the

