

Humboldt Bay Municipal Water District
P.O. Box 95, Eureka, CA 95502
Telephone (707) 443-5018 FAX (707) 443-5731

Professional Services Agreement

Some of the important terms of this agreement are printed on Page 2 & 3. For your protection, make sure that you read and understand all provisions before signing. The terms on Page 2 & 3 are incorporated in this document and will constitute a part of the agreement between the parties when signed.

TO: _____ DATE: _____
_____ Agreement No. _____
Project No. _____

[Description of services. May reference proposal w/ quoted fees.]

Contract price: Not to exceed

Completion date

Instructions: Sign and return original. Upon acceptance by the Humboldt Bay Municipal Water District (District), a copy will be signed by its authorized representative and promptly returned to you. Insert below, the names of your authorized representative(s).

Accepted: District:	Consultant:
By _____	By _____
Title <u>General Manager</u>	Title _____
Other authorized representative(s): Dale Davidsen	Other authorized representative(s): _____
_____	_____

Consultant agrees with the District that:

- a. When the law establishes a professional standard of care for the Consultant's services, to the fullest extent permitted by law, Consultant will fund the defense of, indemnify and hold harmless the District, its directors, officers or employees from claims and demands of persons to the extent caused by the performance (or actual non-performance) of the work under this agreement, for damages to persons or property due to the Consultant's negligent or willful acts, errors or omissions committed. Consultant shall defend itself against any and all liabilities, claims, losses, damages, and costs arising out of or alleged to arise out of Consultant's performance or non-performance of the work hereunder, and shall not tender such claims to District nor to its directors, officers, employees, or authorized volunteers, for defense or indemnity.
- b. Other than in the performance of professional services, to the fullest extent permitted by law, Consultant will fund the defense of, indemnify and hold harmless the District, its directors, officers or employees from claims and demands of persons to the extent caused by the negligent performance of the work or furnishing of materials; including but not limited to, claims by the Consultant or Consultant's employees for damages to persons or property except for the negligence or willful misconduct or active negligence of the District, its directors, officers, employees, or authorized volunteers.
- c. By his/her signature hereunder, Consultant certifies that he/she is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and that Consultant will comply with such provisions before commencing the performance of the professional services under this agreement. Consultant and sub-consultants will keep workers' compensation insurance for their employees in effect during all work covered by this agreement.
- d. Consultant will file with the District, before beginning professional services, a certificate of insurance satisfactory to the District evidencing professional liability coverage of not less than \$1,000,000 per claim and annual aggregate, requiring 10 days prior notice of cancellation (or 10 days for non-payment of premium) to the District. Any insurance, self-insurance or other coverage maintained by the District, its directors, officers, employees, or authorized volunteers shall not contribute to it. Coverage is to be placed with a carrier with an A.M. Best rating of no less than A-:VII, or equivalent, or as otherwise approved by the District. The retroactive date (if any) is to be no later than the effective date of this agreement. In the event that the Consultant employs other consultants (sub-consultants) as part of the work covered by this agreement, it shall be the Consultant's responsibility to require and confirm that each sub-consultant meets the minimum insurance requirements specified above.
- e. Consultant will file with the District, before beginning professional services, certificates of insurance satisfactory to the District evidencing general liability coverage of not less than \$1,000,000 per occurrence (\$2,000,000 general and products-completed operations aggregate (if used)) for bodily injury, personal injury and property damage; auto liability of at least \$1,000,000 for bodily injury and property damage each accident limit; workers' compensation (statutory limits) and employer's liability (\$1,000,000) (if applicable); requiring 10 days prior notice of cancellation (or 10 days for non-payment of premium) to the District. Any insurance, self-insurance or other coverage maintained by the District, its directors, officers, employees, or authorized volunteers shall not contribute to it. The general liability coverage shall give the District, its directors, officers, employees, and authorized volunteers insured status using ISO endorsement CG2010, CG2033, or equivalent. Coverage is to be placed with a carrier with an A.M. Best rating of no less than A-:VII, or equivalent, or as otherwise approved by the District. In the event that the Consultant employs other consultants (sub-consultants) as part of the work covered by this agreement, it shall be the Consultant's responsibility to require and confirm that each sub-consultant meets the minimum insurance requirements specified above.
- f. Consultant hereby represents and warrants that Consultant and any of its subconsultants employed under this Agreement has all applicable licenses, permits and certifications that are legally required for Consultant and its subconsultants to practice its profession or provide the services or work contemplated under this Agreement in the State of California. Consultant and its subconsultants shall obtain or maintain said licenses, permits, or certificates in good standing throughout the term of this Agreement.

- g. If any of the required coverages expire during the term of this agreement, the Consultant shall deliver the renewal certificate(s) including the general liability additional insured endorsement to the District at least ten (10) days prior to the expiration date.
- h. Consultant shall not accept direction or orders from any person other than the General Manager or the person(s) whose name(s) is (are) inserted on Page 1 as "other authorized representative(s)."
- i. Payment, unless otherwise specified on Page 1, is to be 30 days after acceptance by the District.
- j. Consultant must have all applicable licenses, permits, and certifications that are legally required to practice its profession or provide the services or work contemplated under this Agreement in the State of California. Consultant will comply with applicable local, state, and federal regulations and statutes including Cal/OSHA requirements.
- k. Any change in the scope of the professional services to be done, method of performance, nature of materials or price thereof, or to any other matter materially affecting the performance or nature of the professional services will not be paid for or accepted unless such change, addition or deletion is approved in advance, in writing by a supplemental agreement executed by the District. Consultant's "authorized representative(s)" has (have) the authority to execute such written change for Consultant.

Contract Provisions Guide

Navigating Appendix II to Part 200—Contract Provisions
for Non-Federal Entity Contracts Under Federal Awards

Procurement Disaster Assistance Team (PDAT)

June 2021

(FI-207-21-0001)



FEMA

Contract Provisions Quick Reference Guide

Tables A and B are designed to help FEMA grant recipients and subrecipients conduct a quick reference of the applicability of a specific contract provision and whether sample contract language is included within this Guide to incorporate within the NFE's contract.

The Tables are divided between the required contract provisions set forth under 2 C.F.R. Part 200 Appendix II and those that FEMA *recommends* in addition to those required by 2 C.F.R. Part 200.

Table A: Required Contract Provisions (*continued next page*)

	Provision (Appendix II Section)	Applicability	Sample Contract Language Included
1	<u>Legal/contractual/administrative remedies for breach of contract</u>	Greater than Simplified Acquisition Threshold (SAT)- \$250,000	No. It is based on NFE's procedures.
2	<u>Termination for cause and convenience</u>	Greater than \$10,000	No. It is based on NFE's procedures.
3	<u>Equal Employment Opportunity</u>	Construction work	Yes. Exact language from 41 C.F.R. § 60-1.4(b) included.
4	<u>Davis-Bacon Act</u>	Construction work	Yes, via reference to required language at 29 C.F.R. § 5.5(a).
5	<u>Copeland "Anti-Kickback" Act</u>	Construction work greater than \$2,000	Yes.
6	<u>Contract Work Hours and Safety Standards Act</u>	Greater than \$100,000 + mechanics or laborers	Yes. Exact language required from 29 C.F.R. § 5.5(b).
7	<u>Rights to inventions made under a contract or agreement</u>	Funding agreement	Yes.
8	<u>Clean Air Act and federal Water Pollution Control Act</u>	Greater than \$150,000	Yes.
9	<u>Debarment and Suspension</u>	Greater than \$25,000	Yes.
10	<u>Byrd Anti-Lobbying Amendment</u>	Greater than \$100,000; and Certification required for all contracts greater than \$100,000	Yes. Clause and certification.

	Provision (Appendix II Section)	Applicability	Sample Contract Language Included
11	<u>Procurement of Recovered Materials</u>	NFE is a state or political subdivision of a state. Work involves the use of materials and the contract is for more than \$10,000.	Yes.
12	<u>Prohibition on Contracting for Covered Telecommunications Equipment or Services</u>	All FEMA declarations and awards issued on or after November 12, 2020.	Yes.
13	<u>Domestic Preferences for Procurements</u>	All FEMA declarations and awards issued on or after November 12, 2020.	Yes.

Table B: Recommended Contract Provisions

	Provision	Applicability	Sample Contract Language Included
1	<u>Access to Records</u>	All	Yes.
2	<u>Contract Changes or Modifications</u>	All	No. It depends on nature of contract and end-item procured.
3	<u>DHS Seal, Logo, and Flags</u>	All	Yes.
4	<u>Compliance with federal Law, Regulations and Executive Orders</u>	All	Yes.
5	<u>No Obligation by Federal Government</u>	All	Yes.
6	<u>Program Fraud and False or Fraudulent Statements or Related Acts</u>	All	Yes.
7	<u>Affirmative Socioeconomic Steps</u>	State entities: all FEMA declarations and awards issued on or after November 12, 2020. Non-state entities: all procurements	Yes.
8	<u>Copyright</u>	All procurements that may involve creation of copyrightable material.	Yes.