

**Memorandum of Understanding
between the County of Humboldt and the City of Eureka, City of Arcata, City of Fortuna,
City of Blue Lake, City of Rio Dell, City of Trinidad, and City of Ferndale for the
Management of a Regional Edible Food Recovery Program**

This Memorandum of Understanding (“MOU”), entered into this ___ day of _____, 2023, by and between the Humboldt County Public Works Department, hereinafter referred to as “COUNTY,” and the City of Eureka, hereinafter referred to as “EUREKA”, the City of Arcata, hereinafter referred to as “ARCATA”, the City of Blue Lake, hereinafter referred to as “BLUE LAKE”, the City of Fortuna, hereinafter referred to as “FORTUNA”, the City of Ferndale, hereinafter referred to as “FERNDALE”, the City of Rio Dell, hereinafter referred to as “RIO DELL”, and the City of Trinidad, hereinafter referred to as “TRINIDAD”, collectively referred to herein as “PARTNERS,” is made upon the following considerations:

WHEREAS, in September 2016, Governor Edmund Brown Jr. set methane emissions reduction targets for California (SB 1383 Lara, Chapter 395, Statutes of 2016) in a statewide effort to reduce emissions of short-lived climate pollutants (SLCP); and

WHEREAS California has a 2025 statewide goal to redirect to people in need 20% of edible food currently thrown away.

WHEREAS all PARTNERS are required to develop and implement an edible food recovery program as required by CCR 14 Division 7 Chapter 12; and

WHEREAS, PARTNERS find collaboration is mutually beneficial to all parties; and

WHEREAS, this memorandum of understanding will help PARTNERS achieve these goals.

NOW, THEREFORE, the parties hereto mutually agree as follows:

1. DEFINITIONS

- A. Consultant/s. As used herein, the term shall refer to the Successful Candidate selected resultant from COUNTY’s Request for Proposals No. DPW2023-001.
- B. County. As used herein, the term “COUNTY” refers to County of Humboldt
- C. Jurisdictions. As used herein, the term “JURISDICTIONS” collectively refers to the Cities of ARCATA, EUREKA, BLUE LAKE, TRINIDAD, FORTUNA, RIO DELL, and FERNDALE.

2. RIGHTS AND RESPONSIBILITIES OF JURISDICTIONS:

JURISDICTIONS agree as follows:

- A. Give the COUNTY the authority to act as project lead in the management of Regional Edible Food Recovery Program Professional Services Agreement, appended as

Attachment A hereto and incorporated by reference, as with the Successful Candidate (hereinafter Consultant/s) that is selected for contract award.

- B. Give the COUNTY the authority to provide communications between the Consultant/s and JURISDICTIONS.
- C. Give the COUNTY the authority to negotiate entering into ancillary agreements with all JURISDICTIONS to support edible food recovery programming.
- D. Fulfill their portion of cost share for professional services provided by the Consultant/s through payments to the COUNTY in the amount agreed upon, based on each JURISDICTIONS' respective population. The total cost contemplated by this cost share agreement is \$120,000 to be divided proportionately by JURISDICTIONS based on population. It is the responsibility of JURISDICTIONS to ensure their respective cost share amounts are being adhered to and inform COUNTY if they are near the cap of their cost share. Any increase in costs shall not be approved without advance written notice and agreements among PARTNERS and JURISDICTIONS. JURISDICTIONS' contribution to the COUNTY will be as follows:

Jurisdiction	Jurisdiction Population	Total Cost for Jurisdiction
Eureka	26,278	\$23,403.00
Arcata	18,579	\$16,546.00
Blue Lake	1,233	\$1,098.00
Trinidad	347	\$309.00
Fortuna	12,195	\$10,861.00
Ferndale	1,339	\$1,193.00
Rio Dell	3,325	\$2,961.00
Humboldt Co	71,444	\$63,629.00
Total Pop	134,740	
Cost per person	\$0.89	
Cost of Service	\$120,000	\$120,000

- E. Ensure Timely Payment to COUNTY. COUNTY shall submit monthly invoices to the JURISDICTIONS pursuant to the terms and conditions of this Agreement by the tenth (10th) day of each month. COUNTY shall also submit a final invoice for payment within thirty (30) days following the expiration or termination date of this Agreement. Payment by JURISDICTIONS, pursuant to the terms and conditions of this Agreement, shall be made within thirty (30) days after the receipt of issued invoices. JURISDICTIONS shall send all payments to the County at the following address:

Humboldt County Department of Public Works – Solid Waste Division
 Attention: Thomas K. Mattson, Director of Public Works
 1106 Second Street

Eureka, California 95501

- F. Be responsive to Consultant/s needs including answering communications, calls, and emails; attending meetings; and providing necessary information in a timely manner of no more than three (3) business days.
- G. Take necessary enforcement actions as required by SB1383 and its accompanying regulations upon receipt of enforcement reports from Consultant/s.
- H. Take Responsibility for Payment to Consultant/s. If any JURISDICTIONS are unable to fulfil their cost share, the remaining unpaid amount will be divided among remaining participating JURISDICTIONS based on their populations to cover the outstanding cost owed under the Professional Services Agreement attached as Attachment A hereto.

3. RIGHTS AND RESPONSIBILITIES OF COUNTY:

COUNTY agrees to:

- A. Competitively procure, hold, and manage the Professional Services Agreement with the Consultant/s and retain the ultimate decision-making authority on behalf of JURISDICTIONS in regard to the edible food recovery program. COUNTY shall require that Consultant/s' indemnification responsibilities within the Professional Services Agreement favor the JURISDICTIONS as well as the COUNTY.
- B. Track and facilitate payments made to Consultant/s on a monthly basis, ensuring Consultant/s itemizes all services rendered, and costs and expenses incurred, pursuant to the terms and conditions of the Professional Services Agreement attached as Attachment A hereto as between the Consultant/s and the COUNTY.
- C. Make payment to Consultant/s for services rendered within thirty (30) days after the receipt of approved invoices as set forth in the Professional Services Agreement attached as Attachment A hereto.
- D. Track and facilitate issuance of monthly invoices to JURISDICTIONS for payment of services rendered through this MOU based on receipt of funds received through the cost share proportional contributions in accordance with Provision 2(D).
- E. Lead main communications with Consultant/s on behalf of JURISDICTIONS.
- F. Oversee progress and ensure Consultant/s stays within project scope and timeline, according to the Professional Services Agreement and its scope of services appended as Attachment A hereto.

4. TERM:

This MOU shall begin upon execution of the County's Professional Services Agreement as dated herein, June 12, 2023 and shall remain in full force for a period of one year, until June 11, 2024, unless sooner terminated as provided herein.

5. TERMINATION:

- A. Termination for Cause. JURISDICTIONS may terminate this MOU, upon written notice, in the event the COUNTY materially defaults in performing any obligation under this MOU, or violates any local, state or federal law, regulation or standard applicable to its performance hereunder. JURISDICTIONS must provide COUNTY at least seven (7) days' notice of intent to terminate stating the alleged material default and allow COUNTY the opportunity to cure the same.
- B. Termination without Cause. Any PARTNER may terminate this MOU without cause upon thirty (30) days' advance written notice which states the effective date of the termination.
- C. Compensation upon Termination. In the event this MOU is terminated, COUNTY shall be entitled to payment for uncompensated services provided, pursuant to the terms and conditions set forth herein through and including the effective date of such termination. However, this provision shall not limit or reduce any damages owed to COUNTY due to a breach of this MOU.

6. NOTICES:

Any and all notices required to be given pursuant to the terms and conditions of this MOU shall be in writing and sent via electronic mail or may be served personally to the respective addresses set forth below. Notice shall be effective upon actual receipt or refusal as shown on the receipt obtained pursuant to the foregoing.

City of Arcata
Attention: Karen Diemer
Address: 736 F Street
Arcata, CA 95521
Email address: kdiemer@cityofarcata.org

City of Blue Lake
Attention: Amanda Manger
Address: PO Box 458
Blue Lake, CA 95525-0458
Email address: citymanager@bluelake.ca.gov

City of Eureka
Attention: Miles Slatterly
Address: 531 K Street
Eureka, CA 95501

Email address: mslattery@eurekaca.gov

City of Ferndale
Attention: Jay Parrish
Address: PO Box 1095
Ferndale CA, 95536
Email address: citymanager@ci.ferndale.ca.us

City of Fortuna
Attention: Merritt Perry
Address: 621 11th Street
Fortuna, California 95540
Email address: mperry@ci.fortuna.ca.us

Humboldt County Department of Public Works
Attention: Thomas K. Mattson
Address: 1106 Second Street
Eureka, California 95501
Email address: tmattson@co.humboldt.ca.us

City of Rio Dell
Attention: Kyle Knopp
Address: 675 Wildwood Ave.
Rio Dell, CA 9562
Email address: knoppk@cityofriodell.ca.gov

City of Trinidad
Attention: Eli Naffah
Address: PO Box 390
Trinidad, CA 95570
Email address: citymanager@trinidad.ca.gov

7. COMPLIANCE WITH APPLICABLE LAWS, REGULATIONS AND STANDARDS:

- A. General Legal Requirements. Each party hereto agrees to comply with any and all local, state and federal laws, regulations, policies, procedures and standards, including, without limitation, any and all local, state and federal licensure, certification and accreditation requirements, applicable to its performance hereunder.
- B. Accessibility Requirements. Each party hereto agrees to comply with any and all applicable accessibility requirements set forth in the Americans with Disabilities Act, Section 508 of the Rehabilitation Act of 1973, as amended, California Government Code Section 1135 and any current and future implementing regulations, policies, procedures and standards promulgated thereunder, including, without limitation, the federal accessibility standards set forth in 36 C.F.R. Section 1194.1, all as may be amended from time to time.
- C. Conflict of Interest Requirements. Each party hereto agrees to comply with any and all applicable conflict of interest requirements set forth in the California Political Reform Act

and any current and future implementing regulations, policies, procedures and standards promulgated thereunder, including, without limitation, COUNTY's Conflict of Interest Code, all as may be amended from time to time.

7. PROVISIONS REQUIRED BY LAW:

This MOU is subject to any additional local, state and federal restrictions, limitations or conditions that may affect the terms, conditions or funding of this MOU. This MOU shall be read and enforced as though all legally required provisions are included herein, and if for any reason any such provision is not included, or is not correctly stated, the parties agree to amend the pertinent section to make such insertion or correction.

8. AMENDMENT:

This MOU may be amended at any time during the term hereof upon the mutual consent of all PARTNERS. No addition to, or alteration of, the terms of this MOU shall be valid unless made in writing and signed by an authorized representative of each PARTNER hereto.

9. DISPUTE RESOLUTION:

Each party hereto agrees to make their best efforts to resolve any and all disputes arising hereunder, or relating hereto, by good faith discussion whenever possible. If any party believes that a breach of this MOU has occurred or is not satisfied that a dispute has been resolved, that party may request to meet and confer with the Humboldt County Administrative Officer and the party's City Manager.

10. MUTUAL INDEMNIFICATION:

Each party hereto shall hold harmless, defend and indemnify the other parties and their agents, officers, officials, employees and volunteers from and against any and all claims, demands, losses, damages, liabilities and costs of any kind or nature, including, without limitation, attorney's fees and other costs of litigation, arising out of, or in connection with, the negligent performance of, or failure to comply with, any of the duties and/or obligations contained herein, except such loss or damage which was caused by the sole negligence or willful misconduct of the other parties or their agents, officers, officials, employees or volunteers.

11. RELATIONSHIPS OF PARTIES:

It is understood that this MOU is by and between eight (8) independent entities and is not intended to, and shall not be construed to, create the relationship of agent, servant, employee, partnership, joint venture or any other similar association.

12. CONFLICTING TERMS OR CONDITIONS:

In the event of any conflict in the terms or conditions set forth in any other agreements in place between the parties hereto and the terms and conditions set forth in this MOU, the terms and conditions set forth herein shall have priority.

13. INTERPRETATION:

This MOU, as well as its individual provisions, shall be deemed to have been prepared equally by all of the parties hereto, and shall not be construed or interpreted more favorably for one (1) party on the basis that the other party prepared it. This MOU shall be construed in accordance with the provisions of the Professional Services Agreement, appended as Attachment A and in the event of any conflict between the terms of this MOU and the terms of the Professional Services Agreement, the terms of the Professional Services Agreement shall control.

14. INDEPENDENT CONSTRUCTION:

The titles of the sections and subsections set forth herein are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of the provisions of this MOU.

15. FORCE MAJEURE:

No party hereto shall be liable or responsible for delays or failures in performance resulting from events beyond the reasonable control, and without the fault or negligence, of such party. Such events shall include, without limitation, acts of God, strikes, lockouts, riots, acts of war, epidemics, acts of government, fire, power failures, nuclear accidents, earthquakes, unusually severe weather, acts of terrorism or other disasters, whether or not similar to the foregoing.

16. NUCLEAR-FREE HUMBOLDT COUNTY ORDINANCE COMPLIANCE:

By executing this Agreement, each JURISDICTION certifies that it is not a Nuclear Weapons Contractor, in that each JURISDICTION is not knowingly or intentionally engaged in the research, development, production or testing of nuclear warheads, nuclear weapons systems or nuclear weapons components as defined by the Nuclear-Free Humboldt County Ordinance. Each JURISDICTION agrees to notify COUNTY immediately if it becomes a Nuclear Weapons Contractor as defined above. COUNTY may immediately terminate this MOU if it determines that the foregoing certification is false or if a JURISDICTION subsequently becomes a Nuclear Weapons Contractor.

17. ADVERTISING AND MEDIA RELEASE:

Any and all informational material related to this MOU shall receive approval from COUNTY prior to being used as advertising or released to the media, including, without limitation, television, radio, newspapers and internet. JURISDICTIONS shall inform COUNTY of any and all requests for interviews by the media related to this MOU before such interviews take place. COUNTY shall be entitled to have a representative present at any and all interviews concerning the subject matter of this MOU. Any and all notices required by this provision shall be given to Humboldt County Director of Public Works Thomas K. Mattson in accordance with the notice requirements set forth herein.

18. SURVIVAL OF PROVISIONS:

The duties and obligations of the parties set forth in Section 5(c) – Compensation upon Termination and Section 10 – Indemnification shall survive the expiration or termination of this Agreement. 19. SEVERABILITY:

If any provision of this MOU, or any portion thereof, is found by any court of competent jurisdiction to be unenforceable or invalid for any reason, such provision shall be severable and shall not in any way impair the enforceability of any other provision of this MOU.

20. JURISDICTION AND VENUE:

This MOU shall be construed in accordance with the laws of the State of California. Any dispute arising hereunder, or relating hereto, shall be litigated in the State of California and venue shall lie in the County of Humboldt unless transferred by court order pursuant to California Code of Civil Procedure Sections 394 or 395.

21. ENTIRE AGREEMENT:

This MOU contains all of the terms and conditions agreed upon by the parties hereto and no other agreements, oral or otherwise, regarding the subject matter of this MOU shall be deemed to exist or to bind either of the parties hereto. In addition, this MOU shall supersede in their entirety any and all prior agreements, promises, representations, understandings and negotiations of the parties, whether oral or written, concerning the same subject matter. Any and all acts which may have already been consummated pursuant to the terms and conditions of this MOU are hereby ratified.

22. COUNTERPART EXECUTION:

This MOU, and any amendments hereto, may be executed in one (1) or more counterparts, each of which shall be deemed to be an original and all of which, when taken together, shall be deemed to be one (1) and the same agreement. This MOU, and any amendments hereto, may be signed by manual or electronic signatures in accordance with any and all applicable local, state and federal laws, regulations and standards, and such signatures shall constitute original signatures for all purposes. A signed copy of this MOU, and any amendments hereto, transmitted by email or by other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original executed copy of this MOU and any amendments hereto.

23. AUTHORITY TO EXECUTE:

Each person executing this MOU represents and warrants that he or she is duly authorized and has legal authority to execute and deliver this MOU. Each party represents and warrants to the others that the execution and delivery of this MOU and the performance of such party's obligations hereunder have been duly authorized.

IN WITNESS WHEREOF, the parties have entered into this MOU as of the date first written above.

CITY OF ARCATA:

By: _____ Dated: _____
Karen Diemer, City Manager

CITY OF BLUE LAKE:

By: _____ Dated: _____
Amanda Mager, City Manager

CITY OF EUREKA:

By: _____ Dated: _____
Miles Slattery, City Manager

CITY OF FERNDALE:

By: _____ Dated: _____
Jay Parrish, City Manager

CITY OF FORTUNA:

By: _____ Dated: _____
Merritt Perry, City Manager

CITY OF RIO DELL:

By: _____ Dated: _____
Kyle Knopp, City Manager

CITY OF TRINDAD:

By: _____ Dated: _____
Eli Naffah, City Manager

COUNTY OF HUMBOLDT:

BY: _____ Dated: _____
Thomas K. Mattson, Public Works Director