

**FIRST AMENDMENT  
MEMORANDUM OF UNDERSTANDING  
BY AND BETWEEN  
COUNTY OF HUMBOLDT  
AND  
CITY OF ARCATA  
FOR FISCAL YEAR 2020-2021**

This First Amendment to the Memorandum of Understanding dated December 15, 2020, by and between the County of Humboldt, a political subdivision of the State of California, hereinafter referred to as "COUNTY," and the City of Arcata, a California municipal corporation, hereinafter referred to as "ARCATA," is entered into this \_\_\_\_ day of \_\_\_\_\_, 2021.

WHEREAS, a novel coronavirus, COVID-19, causes infectious disease and was first detected in Wuhan City, Hubei Province, China in December 2019, and symptoms of COVID-19 include fever, cough and shortness of breath and outcomes have ranged from mild to severe illness, and in some cases death; and

WHEREAS, on January 31, 2020, U.S. Department of Health and Human Services Secretary Alex M. Azar II declared a public health emergency for the United States to aid the nation's health care community in responding to COVID-19; and

WHEREAS, the Centers for Disease Control and Prevention has determined that the virus presents a serious public health threat; and

WHEREAS, Humboldt County had its first confirmed case of COVID-19 on February 20, 2020, and the potential of more COVID-19 cases in Humboldt County is an imminent threat; and

WHEREAS, on March 4, 2020, Governor Gavin Newsom proclaimed a state of emergency to exist in California; and

WHEREAS, on March 11, 2020, Humboldt County Health Officer declared a Local Health Emergency pursuant to Humboldt County Code section 2210-8 for a up to seven (7) days in the county or any area thereof, including but not limited to an imminent and proximate public health threat of the introduction of any contagious, infectious, or communicable disease, chemical agent, noncommunicable biologic agent, toxin, or radioactive agent; and

WHEREAS, on March 13, 2020, President Donald J. Trump declared a federal state of emergency regarding the global pandemic caused by COVID-19; and

WHEREAS, on March 17, 2020, Humboldt County Board of Supervisors ratified the Humboldt County Health Officer's March 11, 2020 Local Health Emergency Declaration; and

WHEREAS, COUNTY, by and through its through its Department of Health and Human Services – Public Health ("DHHS – Public Health"), desired to deploy and operate emergency operations during the COVID-19 pandemic; and

WHEREAS, on December 15, 2020 COUNTY and ARCATA entered into a Memorandum of Understanding for emergency COVID-19 operations; and

WHEREAS, the parties now desire to amend certain provisions of the Memorandum of Understanding to extend the term thereof;

NOW THEREFORE, the parties mutually agree as follows:

1. The Memorandum of Understanding is hereby amended to add the following section regarding Federal requirements:

37. FEDERAL PROVISIONS:

- A. ARCATA acknowledges that Federal Emergency Management Agency (FEMA) financial assistance will be used to fund this Agreement. ARCATA will comply with all applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives.
  - B. ARCATA shall at all times comply with all applicable regulations, policies, procedures, and FEMA Directives as they may be amended or promulgated from time to time during the term of this Agreement, including but not limited to those requirements of 2 CFR 200.317 through 200.326 and more fully set forth in Appendix II to Part 200—Contract Provisions for non-Federal Entity Contracts Under Federal Awards, which is included herein by reference. ARCATA's failure to so comply shall constitute a material breach of this contract.
  - C. ARCATA agrees to include the above clause in each third party subcontract financed in whole or in part with Federal assistance provided by FEMA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.
  - D. Whether or not expressly set forth herein, all contractual provisions required by FEMA are hereby incorporated by reference. In the event of any conflict between any provision of this Agreement or any FEMA term, condition, or requirement, the stricter standard shall apply. ARCATA shall not perform any act, fail to perform any act, or refuse to comply with any requests that would cause COUNTY to be in violation of any FEMA term, condition, or requirement.
  - E. ARCATA agrees to the Federal provisions described in Exhibit B – Federal Provisions, which is attached hereto and incorporated herein by reference as if set forth in full.
2. Exhibit A – Shared Responsibilities ("Exhibit A") of the Memorandum of Understanding is hereby replaced in its entirety with the modified Exhibit A which is attached hereto and incorporated herein by reference. The modified version of Exhibit A shall supersede any and all prior versions thereof as of the execution date of this First Amendment.
  3. Except as modified herein, the Memorandum of Understanding executed on December 15, 2020 shall remain in full force and effect. In the event of a conflict between the provisions of this First Amendment and the original Memorandum of Understanding, the provisions of this First Amendment shall govern.

[Signatures on Following Page]

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

**TWO SIGNATURES ARE REQUIRED FOR CORPORATIONS:**

- (1) CHAIRPERSON OF THE BOARD, PRESIDENT, OR VICE PRESIDENT; AND
- (2) SECRETARY, ASSISTANT SECRETARY, CHIEF FINANCIAL OFFICER OR TREASURER.

**CITY OF ARCATA:**

By: 

Date: 03/03/2021

Name: Karen Diemer

Title: City Manager

**COUNTY OF HUMBOLDT:**

By: 

Date: 3/15/2021

Michele Stephens, Director

DHHS – Public Health

*(Pursuant to the authority granted by the  
Humboldt County Board of Supervisors on  
March 26, 2020 [Item D-1])*

**INSURANCE AND INDEMNIFICATION REQUIREMENTS APPROVED:**

By:   
Kelly Barns (Mar 11, 2021 10:17 PST)  
Risk Management

Date: 03/11/2021

**LIST OF EXHIBITS:**

Exhibit A – Shared Responsibilities

Exhibit B – Federal Provisions

**EXHIBIT A**  
**SHARED RESPONSIBILITIES**  
**ARCATA**  
For Fiscal Year 2020-2021

1. RESPONSIBILITIES OF ARCATA:

- a. Provide access to, and use of, its Facility as needed by COUNTY for COVID-19 operations. Operations include, without limitation, COUNTY's COVID-19 testing and vaccination services. Access to the Facility is restricted to ARCATA, COUNTY, Optum, and volunteer staff only during the hours listed in 1(c).
- b. Provide use of the Facility's surrounding parking lot for the purposes of resident and COUNTY staff parking and drive-through testing services.
- c. Provide use of its Facility between the hours of 7:00 AM and 7:00 PM Monday through Sunday until the termination of this MOU.
  - i. At all times when operations are occurring, a minimum of one (1) COUNTY or Optum representative shall be present on-site supervising operations.

2. RESPONSIBILITIES OF COUNTY:

- a. Provide an estimated timeline for the duration of use of ARCATA's Facility.
- b. Provide a list of COUNTY contacts to ARCATA.
- c. COUNTY is responsible for the collection and disposal of any non-traditional/hazardous waste, including, without limitation, medical waste.
- d. Coordinate the demobilization and return of the Facility at the termination of this MOU.
- e. Return the Facility back to the original condition in which they were at the commencement of this MOU.
- f. COUNTY will notify ARCATA of the closing date for the testing operations.
- g. If at any time a disaster event ("Disaster") occurs which generates the need for a disaster shelter, the American Red Cross, with whom ARCATA has a pre-existing agreement for the use of the Facility as a disaster shelter, shall be given priority use of the Facility. In the event of a Disaster, at ARCATA's request, COUNTY shall immediately remove all personal property of COUNTY from, and repair and restore the Facility as nearly as reasonably possible to the condition that existed prior to COUNTY's entry.
- h. COUNTY may install temporary directional signage related to the operations, provided that such signage does not obstruct walkways or ADA signage.

**EXHIBIT B**  
**FEDERAL PROVISIONS**  
**ARCATA**  
For Fiscal Year 2020-2021

1. ACCESS TO RECORDS:

The following access to records requirements applies to this Agreement:

- A. ARCATA agrees to provide the COUNTY, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of ARCATA which are directly pertinent to this Agreement for the purposes of making audits, examinations, excerpts, and transcriptions.
- B. ARCATA agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- C. ARCATA agrees to provide the FEMA Administrator or their authorized representatives access to construction or other work sites pertaining to the work being completed under the Agreement.
- D. In compliance with the Disaster Recovery Act of 2018, the COUNTY and ARCATA acknowledge and agree that no language in this Agreement is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

2. REMEDIES:

In the event of a breach by ARCATA of any term or provision of this Agreement, the COUNTY shall have the right to pursue all available remedies at law or equity, including recovery of damages and specific performance of this Agreement. The parties hereto agree that monetary damages would not provide adequate compensation for any losses incurred by reason of a breach by it of any of the provisions of this Agreement and hereby further agrees that, in the event of any action for specific performance in respect of such breach, it shall waive the defense that a remedy at law would be adequate. Except as expressly provided elsewhere in this Agreement, each party's rights and remedies under this Agreement are cumulative and in addition to, not exclusive of or in substitution for, any rights or remedies otherwise available to that party.

3. CLEAN AIR ACT:

CONTRACTOR agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. Section 7401 et seq.

ARCATA agrees to report each violation to the COUNTY and understands and agrees that the COUNTY will, in turn, report each violation as required to assure notification to the California Governor's Office of Emergency Services, Federal Emergency Management Agency (FEMA), and the appropriate Environmental Protection Agency Regional Office.

ARCATA agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

4. FEDERAL WATER POLLUTION CONTROL ACT:

ARCATA agrees to comply with all applicable standards, orders, or regulations issued pursuant to the

Federal Water Pollution Control Act, as amended, 33 U.S.C. Sections 1251 et seq.

ARCATA agrees to report each violation to the COUNTY and understands and agrees that the COUNTY will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency (FEMA), and the appropriate Environmental Protection Agency Regional Office.

ARCATA agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

5. DEBARMENT AND SUSPENSION CLAUSE:

This Agreement is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, ARCATA is required to verify that none of ARCATA, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

ARCATA must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

This certification is a material representation of fact relied upon by the COUNTY. If it is later determined that ARCATA did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the COUNTY, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

6. BYRD ANTI-LOBBYING AMENDMENT, 31 U.S.C. §1352 (AS AMENDED)

ARCATA who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to COUNTY.

APPENDIX A, 44 C.F.R. PART 18- CERTIFICATION REGARDING LOBBYING

The undersigned, ARCATA, certifies, to the best of his or her knowledge, that:

- A. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant,

loan, or cooperative agreement.

- B. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- C. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

ARCATA certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, ARCATA understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.



Signature

By: Karen Diemer

Date: 03/03/2021

7. PROCUREMENT OF RECOVERED MATERIALS:

In the performance of this Agreement, ARCATA shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired—

- A. Competitively within a timeframe providing for compliance with the Agreement performance schedule;
- B. Meeting Agreement performance requirements; or
- C. At a reasonable price.

Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>

ARCATA also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

8. DEPARTMENT OF HOMELAND SECURITY (DHS) SEAL, LOGO, FLAGS:

ARCATA shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS

agency officials without specific FEMA pre-approval.

9. NO OBLIGATION BY FEDERAL GOVERNMENT:

The Federal Government is not a party to this Agreement and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the Agreement.

10. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS:

ARCATA acknowledges that 31 U.S.C. Chapter 38 (Administrative Remedies for False Claims and Statements) applies to the ARCATA's actions pertaining to this Agreement.