

**MEMORANDUM OF UNDERSTANDING**  
**BETWEEN IMPERIAL COUNTY FREE LIBRARY**  
**AND HEBER ELEMENTARY SCHOOL DISTRICT**

THIS MEMORANDUM OF UNDERSTANDING (“MOU”), made and entered into effective the \_\_\_ day of \_\_\_\_\_, 2017, by and between the COUNTY OF IMPERIAL, a political subdivision of the State of California, by and through the Imperial County Free Library (“COUNTY”) and HEBER ELEMENTARY SCHOOL DISTRICT (“HESD”) (individually, “PARTY;” collectively, “PARTIES”) shall be as follows:

**RECITALS**

**WHEREAS**, COUNTY desires to partner with HESD in participating in the United States Department of Agriculture’s (“USDA”) Summer Food Service Program (“SFSP”); and

**WHEREAS**, COUNTY is to become a summer meal site at the Heber library location; and

**WHEREAS**, HESD wishes to sponsor the library to distribute free meals to children ages 0 – 18 in the summer and act as the administrative and fiscal agent for SFSP; and

**WHEREAS**, HESD shall receive funding from the USDA to prepare meals and report data back to the USDA; and

**WHEREAS**, COUNTY and HESD shall not exchange any monies for this work.

**NOW THEREFORE**, and in consideration of the covenants and conditions hereinafter contained, it is agreed between the PARTIES as follows:

**1. SCOPE OF WORK.**

**1.1.** COUNTY shall be responsible for providing services as contained in “County Responsibilities”, attached hereto as **Exhibit “A”** and incorporated by reference as though fully set forth herein.

**1.2.** HESD shall be responsible for providing services as contained in “HESD Responsibilities”, attached hereto as **Exhibit “B”** and incorporated by reference as though fully set forth herein.

1 **2. PROGRAM COORDINATION.**

2 **2.1.** The County Librarian, or his/her designee, shall be the representative of COUNTY for  
3 all purposes under this MOU. The County Librarian, or his/her designee, is hereby  
4 designated as the Program Manager for COUNTY. He/she shall supervise the progress  
5 and execution of this MOU.

6 **2.2.** HESD shall assign a single Program Manager to have overall responsibility for the progress  
7 and execution of this MOU.

8 **2.3.** Should circumstances or conditions subsequent to the execution of this MOU require a  
9 substitute Program Manager for any reason, the Party requesting such substitution shall  
10 give notice the other as described under Paragraph 11.

11 **3. SCHEDULE OF SERVICES.**

12 **3.1.** PARTIES shall adhere to a mutually agreed upon schedule for providing the services. Said  
13 schedule is attached hereto as **Exhibit "C,"** and incorporated by this reference as though  
14 fully set forth herein.

15 **3.2.** Any changes or amendments to the schedule of services shall be made upon mutual  
16 consent of both PARTIES.

17 **4. TERM.**

18 **4.1.** Unless otherwise terminated or extended by written notice, this MOU shall become  
19 effective upon the signing by both parties of this MOU and shall continue in effect for  
20 one (1) year.

21 **4.2.** The term of this MOU may be extended for an additional one (1) year period, upon  
22 mutual written agreement of both PARTIES.

23 **5. REPRESENTATIONS BY HESD.**

24 **5.1.** HESD represents and warrants that the person executing this MOU on its behalf has the  
25 authority of HESD to sign the MOU and bind HESD to the performance of all duties and  
26 obligations assumed by HESD herein.

27 **5.2.** HESD represents and warrants that any employee, contractor, or agent who will be  
28 performing any of the duties and obligations of HESD, as set forth herein, possesses all

1 required licenses and authorities, as well as the experience and training, to perform such  
2 tasks.

3 **5.3.** HESD represents that the services provided herein shall be performed in a professional  
4 and lawful manner and shall be of high professional quality.

5 **5.4.** HESD understands that COUNTY considers the representations made herein to be  
6 material and would not enter into this MOU with HESD if such representations were not  
7 made.

8 **5.5.** HESD represents and warrants that it has not been engaged by, nor will it be engaged  
9 by, and owes no duty of performance to any other person or entity that would constitute  
10 a conflict.

11 **5.6.** HESD will, at all times during the course of this MOU, comply with all applicable  
12 federal, state and local laws, statutes, ordinances and regulations. It is understood that in  
13 the event COUNTY is investigated or audited by any State or Federal Governmental  
14 Agency, or any other recognized investigative/auditing entity, HESD shall fully  
15 cooperate with such agencies' reasonable and lawful request for information.

16 **6. INDEPENDENT CONTRACTOR.**

17 **6.1.** In all situations and circumstances arising out of the terms and conditions of this MOU,  
18 HESD is an independent contractor.

19 **6.1.1.** HESD shall be responsible to COUNTY only for the requirements and results  
20 specified by this MOU.

21 **6.1.2.** Except as specifically provided in this MOU, HESD shall not be subject to  
22 COUNTY's control with respect to the physical actions or activities of HESD in  
23 fulfillment of the requirements of this MOU.

24 **6.2.** HESD is not, and shall not be, entitled to receive from or through COUNTY, and  
25 COUNTY shall not provide, or be obligated to provide HESD with workers'  
26 compensation coverage or any other type of employment or worker insurance or benefit  
27 coverage required or provided by any Federal, State or local law or regulation for, or  
28 normally afforded to, an employee of HESD.

1 **7. INSURANCE REQUIREMENTS**

2 PARTIES agree to procure and maintain insurance coverages sufficient to cover their respective  
3 risks.

4 **8. ASSIGNMENT.**

5 Neither this MOU nor any rights, duties, or obligations hereunder shall be assignable by any  
6 PARTY without the prior written consent of the other.

7 **9. FAIR EMPLOYMENT PRACTICES.**

8 **9.1.** During the performance of this MOU, HESD shall not unlawfully discriminate, harass,  
9 or allow harassment against any employee or applicant for employment because of:

10 **9.1.1.** Age (forty (40) and over);

11 **9.1.2.** Ancestry;

12 **9.1.3.** Color;

13 **9.1.4.** Religious creed, including religious dress and grooming practices;

14 **9.1.5.** Denial of family and medical care leave;

15 **9.1.6.** Disability, both mental and physical, including HIV and AIDS;

16 **9.1.7.** Marital status;

17 **9.1.8.** Medical condition, including cancer and genetic characteristics;

18 **9.1.9.** Genetic information;

19 **9.1.10.** Military and veteran status;

20 **9.1.11.** National origin, including language use restrictions;

21 **9.1.12.** Race;

22 **9.1.13.** Sex, which includes pregnancy, childbirth, breastfeeding, and medical conditions  
23 related to pregnancy, childbirth, or breastfeeding;

24 **9.1.14.** Gender, gender identity, and gender expression; and

25 **9.1.15.** Sexual orientation.

26 **9.2.** HESD shall ensure that the evaluation and treatment of its employees and applicants for  
27 employment are free from such discrimination and harassment.

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1           **9.3.** HESD shall comply with the provisions of the Fair Employment and Housing Act (Gov.  
2           Code §12990 (a-f) et seq.) and the applicable regulations promulgated thereunder  
3           (California Code of Regulations, Title 2, §7285 et seq.).

4           **9.4.** The applicable regulations of the Fair Employment and Housing Commission  
5           implementing Government Code §12990 (a-f), set forth in Chapter 5 of Division 4 of  
6           Title 2 of the California Code of Regulations, are incorporated into this MOU by  
7           reference and made a part hereof as if set forth in full.

8           **9.5.** The applicable regulations of §504 of the Rehabilitation Act of 1973 (29 U.S.C. §794  
9           (a)) are incorporated into this MOU by reference and made a part hereof as if set forth in  
10          full.

11          **9.6.** HESD shall give written notice of its obligations under Paragraph 9 to labor  
12          organizations with which it has collective bargaining or other agreements. HESD shall  
13          include the nondiscrimination and compliance provisions of Paragraph 9 in all  
14          subcontracts to perform work under this MOU.

15 **10.    INDEMNIFICATION.**

16          HESD shall indemnify, hold harmless, and defend the COUNTY and any and all of its officers,  
17          agents, servants, or employees against any and all claims, loss, damage, charge or expense, including  
18          reasonable attorney's fees, to which the COUNTY or such officers, agents, servants, or employees may  
19          be put or subject to, by reason of any damage, loss or injury of any kind or nature whatever to persons  
20          or property to the extent caused by the negligent act or action, or any neglect, or failure to act, when  
21          under a duty to act, on the part of HESD, or either of them, in its performance hereunder. In the event  
22          claims, losses, damages, charges, or expenses are caused by the joint or concurrent negligence of  
23          COUNTY and HESD, they shall be borne by each party in proportion to its negligence.

24 **11.    NOTICES AND COMMUNICATIONS.**

25          Any notice by either party to the others shall be personally delivered to the party or sent by  
26          certified mail, return receipt requested, to the addresses set forth below, or to such other addresses as  
27          any party may from time to time notify the others in writing:

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1 **17. PARTIAL INVALIDITY.**

2 If any provision of this MOU is held by a court of competent jurisdiction to be invalid, void, or  
3 unenforceable, the remaining provisions shall continue in full force and effect.

4 **18. ENTIRE MOU.**

5 **18.1.** This MOU constitutes the sole and complete agreement between the PARTIES.

6 **18.2.** Any and all agreements or services respecting this MOU or any other matters pertaining  
7 to this MOU are null and void.

8 **19. COUNTERPARTS.**

9 This MOU may be executed in counterparts.

10 **20. AUTHORITY.**

11 Each individual executing this MOU on behalf of HESD represents and warrants that:

12 **20.1.** He/She is duly authorized to execute and deliver this MOU on behalf of HESD;

13 **20.2.** Such execution and delivery is in accordance with the terms of the Articles of  
14 Incorporation or Partnership, any by-laws or Resolutions of HESD, if applicable, and;

15 **20.3.** This MOU is binding upon HESD in accordance with its terms.

16 **21. GENDER AND INTERPRETATION OF TERMS.**

17 **21.1.** As used in this MOU and whenever required by the context thereof, each number, both  
18 singular and plural, shall include all numbers, and each gender shall include both  
19 genders.

20 **21.2.** HESD, as used in this MOU or in any other document referred to in or made a part of  
21 this MOU, shall likewise include both singular and the plural, a corporation, a  
22 partnership, individual, firm or person acting in any fiduciary capacity as executor,  
23 administrator, trustee or in any other representative capacity or any other entity.

24 **21.3.** All covenants herein contained on the part of HESD shall be joint and several if more  
25 than one person, firm or entity executes the MOU.

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1 **22. NON-APPROPRIATION.**

2 This MOU is based upon the availability of public funding. In the event that public funds are  
3 unavailable and not appropriated for the performance of the services set forth in this MOU, the MOU  
4 shall be terminated without penalty after written notice to HESD of the unavailability and/or non-  
5 appropriation of funds.

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7 **IN WITNESS WHEREOF**, the parties have executed this MOU on the day and year first above  
8 written.

9  
10 **COUNTY OF IMPERIAL**

**HEBER ELEMENTARY SCHOOL DISTRICT**

11  
12 By: \_\_\_\_\_  
13 Michael W. Kelley, Chairman  
14 Imperial County Board of Supervisors

By: \_\_\_\_\_  
Juan Cruz, Superintendent  
Heber Elementary School District

15 **ATTEST:**

16  
17  
18 \_\_\_\_\_  
19 Blanca Acosta, Clerk of the Board,  
County of Imperial, State of California

20  
21 **APPROVED AS TO FORM:**

22 Katherine Turner,  
23 County Counsel

24 By: \_\_\_\_\_  
25 Sarah A. Sauer,  
26 Deputy County Counsel



**EXHIBIT A**

**County Responsibilities**

As a meal service site, the following are the responsibilities and duties of COUNTY:

1. Attend the sponsor's training;
2. Supervise activities and meal service at the site;
3. Manage volunteers;
4. Distribute meals by following Summer Food Service Program guidelines;
5. Keep daily records of meals served;
6. Store food appropriately;
7. Keep the site clean and sanitary; and
8. Help the sponsor promote the program in the community.

**EXHIBIT B**

**HESD Responsibilities**

As the sponsor, the following are the responsibilities and duties of HESD:

1. Maintain State's agency training requirement;
2. Train and supervise staff and volunteers;
3. Arrange for meals to be prepared and delivered;
4. Monitor the site;
5. Prepare claims for reimbursement; and
6. Promote the new site as a program in the community.

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**EXHIBIT C**

**Schedule of Services**

Between \_\_\_\_\_, 2017 and \_\_\_\_\_, 2017 meals shall be served every Monday, Tuesday, and Thursday from 12:00 p.m. until 2:00 p.m.