

Memorandum of Understanding between the County of Monterey and the Foundation for Monterey County Free Libraries

This Memorandum of Understanding (this “MOU”) is entered into the 23 day of May, 2023, by and between the County of Monterey (“County”), and the Foundation for Monterey County Free Libraries (“Foundation”).

RECITALS

WHEREAS, this memorandum of understanding establishes a formal working partnership between the County of Monterey and the Foundation for Monterey County Free Libraries.

WHEREAS, County and Foundation desire to enter into this Memorandum of Understanding setting forth the roles and responsibilities of their formal working partnership.

WHEREAS, the goal of this partnership is to guide the use of County resources, staff services, and physical space inside and immediately outside the branch library locations and Administrative Offices (188 Seaside Circle Marina, CA 93933) of Monterey County Free Libraries by the Foundation; to provide space and support for meetings of the Foundation Board, Committees, and working groups; to support the Foundation in public programming, fundraising activities, and other public events on County premises; to guide the housing of documents and records managed by the Foundation at the Library Administrative Offices; to enable receipt of mail belonging to the Foundation at the Administrative Offices; to allow access to the fundraising module in the software package “Beanstack” administered by the Library; and to enable the occasional use of wireless printing, scanning, and copying on Library equipment by the Foundation.

Background

The Foundation and County have had a long and productive partnership, resulting in many facets of community benefit.

The County has provided staff support to the Foundation’s activities including staffing fundraising events, conducting research and grant writing, collecting surveys from Library users, promotion of activities of the Foundation, collecting voluntary “opt in” permission for the Foundation’s mailing list from new Library Card applicants, writing content, collecting photographs of Library activities, and connecting the Foundation’s Board and Staff with Library associations, entities, and advocates.

The Foundation has supported the operations of the Monterey County Free Libraries through fundraising and donations toward library programs, materials, equipment, and services; conducting Library advocacy, maintaining deposit accounts and acting as fiscal agent for branch libraries without a separate “Friends” non-profit group; promotion of Library services and activities; and with ongoing fundraising and community support for library buildings and physical amenities.

This partnership is beneficial to both organizations, and to the patrons of the Monterey County Free Libraries, which benefit from the enhanced collections, materials, programs, and activities.

Purpose and Scope

The purpose of this MOU is to clearly identify the roles and responsibilities of each party as they relate to the use of Monterey County Free Libraries resources and space to conduct the above activities.

Responsibilities Under This MOU

The County shall undertake the following activities:

- Provide access to library facilities for the Foundation, or their volunteers for identified activities.
- Allow designated Foundation representatives facility access on mutually negotiated schedule and duration, to be determined in advance, and in accordance with any policies for space shared with Library operations, or other applicable community uses.
- Provide applicable support and workspace for Foundation activities, so long as it does not interfere with Library operations, or otherwise violate any applicable law, County policy, or other applicable agreement.
- Provide current and complete County and Library access and safety policies and protocols to Foundation Board and designees.
- Provide appropriate documentation, forms, equipment, tools, and products to comply with County and Library access and safety policies and protocols at the Monterey County Free Libraries.
- Provide an open channel of communication to and with the Library staff, and Library Administrative Staff.
- House limited Foundation documents within the Administrative Office, with the understanding that the County is not responsible for compiling, organizing, discarding, or providing any public access to records of the Foundation.
- Receive and sign for any mail for the Foundation and store in an assigned mailbox within the Administrative Office.
- Allow Foundation use of the fundraising module in the software package “Beanstack” which is administered by the Library, with financial arrangements (service fees, credit card use, etc.) separately approved by both County and Foundation.

The Foundation shall undertake the following activities:

- Ensure that County and Library access and safety policies and protocols are communicated through the Board of the Foundation, and to all appropriate designees and volunteers undertaking the designated Foundation activities.
- Ensure that all Board, volunteers, and designees follow County and Library access and safety policies and protocols.
- Provide an open channel of communication to and with the Foundation Board and staff.
- Manage all mail, storage, filing, discarding, duplication, or public access to documents and records owned by the Foundation, and stored at the Administrative Office.

TERM

This MOU is in effect upon signing and will be for a term of three (3) years. This MOU may be terminated on terms mutually agreed upon by the parties, or upon 30 days advance written notice, without cause, by either party. This MOU may be extended by mutual agreement of the parties on a year-by-year basis, for a maximum of two (2) additional years.

INDEMNITY: In consideration and furtherance of the above specified purpose, Foundation for Monterey County Free Libraries, shall indemnify, defend, and hold harmless the County, its officers, Foundation for Monterey County Free Libraries MOU May 2023

agents, and employees, from and against any and all claims, liabilities, and losses whatsoever (including damages to property and injuries to or death of persons, court costs, and reasonable attorneys' fees) occurring or resulting to any and all persons, firms or corporations furnishing or supplying work, services, materials, or supplies in connection with this MOU, and from any and all claims, liabilities, and losses occurring or resulting to any person, firm, or corporation for damage, injury, or death arising out of or connected with the Foundation for Monterey County Free Libraries' performance of this Agreement, unless such claims, liabilities, or losses arise out of the sole negligence or willful misconduct of the County. "Foundation for Monterey County Free Libraries' performance" includes their action or inaction and the action or inaction of the Foundation's officers, employees, agents, invitees, volunteers, contractors, and subcontractors.

INSURANCE: Evidence of Coverage: Prior to commencement of this MOU, Foundation for Monterey County Free Libraries shall provide a "Certificate of Insurance" certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate. In addition, Foundation for Monterey County Free Libraries upon request shall provide a certified copy of the policy or policies. This verification of coverage shall be sent to the County's, Contracts/Purchasing Department, unless otherwise directed. This approval of insurance shall neither relieve nor decrease the liability of the Foundation for Monterey County Free Libraries.

Qualifying Insurers: All coverages, except surety, shall be issued by companies which hold a current policy holder's alphabetic and financial size category rating of not less than A- VII, according to the current Best's Key Rating Guide or a company of equal financial stability that is approved by the County's Purchasing Officer.

Insurance Coverage Requirements: Without limiting the Foundation's duty to indemnify, Foundation for Monterey County Free Libraries shall maintain in effect throughout the term of this Agreement a policy or policies of insurance with the following minimum limits of liability:

- Commercial general liability insurance, including but not limited to premises and operations, including coverage for Bodily Injury and Property Damage, Personal Injury, Contractual Liability, Broadform Property Damage, Independent Contractors, Products and Completed Operations, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.
- Business automobile liability insurance, covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this Agreement, with a combined single limit for Bodily Injury and property Damage of not less than \$1,000,000 per occurrence.
- Workers' Compensation Insurance, if Foundation for Monterey County Free Libraries employs others in the performance of this Agreement, in accordance with California Labor Code section 3700 and with Employer's Liability limits not less than \$1,000,000 each person, \$1,000,000 each accident and \$1,000,000 each disease.

Other Insurance Requirements:

All insurance required by this Agreement shall be with a company acceptable to the County and issued and executed by an admitted insurer authorized to transact Insurance business in the State of California. Unless otherwise specified by this Agreement, all such insurance shall be written on an occurrence basis, or, if the policy is not written on an occurrence basis, such policy with the coverage required herein shall continue in effect for a period of three (3) years following the date Foundation for Monterey County Free Libraries MOU May 2023

County Free Libraries completes all the work or performs all the services under this Agreement. Each liability policy shall provide that the County shall be given notice in writing at least thirty (30) days in advance of any endorsed reduction in coverage or limit, cancellation, or intended non-renewal thereof. Each policy shall provide coverage for Foundation for Monterey County Free Libraries and additional insureds with respect to claims arising from each subcontractor, if any, performing work or services under this Agreement, or be accompanied by a certificate of insurance from each subcontractor showing each subcontractor has identical insurance coverage to the above requirements. Commercial general liability and automobile liability policies shall provide an endorsement naming the County of Monterey, its officers, agents, and employees as Additional Insureds with respect to liability arising out of the Foundation's work, including ongoing and completed operations, and shall further provide that such insurance is primary insurance to any insurance or self-insurance maintained by the County and that the insurance of the Additional Insureds shall not be called upon to contribute to a loss covered by the Foundation's insurance. The required endorsement form for Commercial General Liability Additional Insured is ISO Form CG 201011-85 or CG 201010 01 in tandem with CG 20 3710 01 (2000). The required endorsement form for Automobile Additional Insured endorsement is ISO Form CA 20 48 02 99. Prior to the execution of this Agreement by the County, Foundation for Monterey County Free Libraries shall file certificates of insurance with the County's contract administrator and County's Contracts/Purchasing Division, showing that the Foundation for Monterey County Free Libraries has in effect the insurance required by this Agreement.

The Foundation for Monterey County Free Libraries shall file a new or amended certificate of insurance within five (5) calendar days after any change is made in any insurance policy, which would alter the information on the certificate then on file. Acceptance or approval of insurance shall in no way modify or change the indemnification clause in this Agreement, which shall continue in full force and effect. Foundation for Monterey County Free Libraries shall at all times during the term of this Agreement maintain in force the insurance coverage required under this Agreement and shall send, without demand by County, annual certificates to County's Contract Administrator and County's Contracts/Purchasing Division. If the certificate is not received by the expiration date, County shall notify Foundation for Monterey County Free Libraries and Foundation for Monterey County Free Libraries shall have five (5) calendar days to send in the certificate, evidencing no lapse in coverage during the interim. Failure by Foundation for Monterey County Free Libraries to maintain such insurance is a default of this Agreement, which entitles County, at its sole discretion, to terminate this MOU immediately. Foundation for Monterey County Free Libraries shall be a licensed, bonded and a properly insured (or permissibly self-insured) contractor, and be responsible for restoring the Property to a condition acceptable to the County upon completion of its purpose for using the Property.

Non-Discrimination/Compliance with Applicable Laws:

During the term of this MOU, the Foundation and their employees, agents, and/or subcontractors shall not unlawfully discriminate against any person because of race, religious creed, color, sex, national origin, ancestry, physical disability, mental disability, medical condition, marital status, age, or sexual orientation. The Foundation agrees to comply with all federal, state and local laws, regulations and ordinances of these authorities, including any health and safety orders or requirements issued by local or state authorities.

No Employment Relationship: this MOU is not intended to and shall not be construed to create an employment relationship between the County and Foundation for Monterey County Free Libraries or its agents, employees and/or volunteers.

Governing Law: This MOU shall be governed by and interpreted under the laws of the State of California; venue shall be Monterey County.

Assignment: The Foundation shall not assign or transfer interest in this MOU to any other parties without written consent from the County.

Amendment: This MOU may be amended or modified only by an instrument in writing signed by the County and the Foundation.

Authority: Any individual executing this MOU on behalf of the County or the Foundation represents and warrants hereby that he or she has the requisite authority to enter into this MOU on behalf of such party and bind the party to the terms and conditions of this MOU.

IN WITNESS WHEREOF, the parties hereto have executed this MOU as of the day and year written above.

BY: _____

Hillary A. Theyer

Title: Library Director, Monterey County Free Libraries

Date: _____

BY: _____

Melanie R. Zaragoza

Title: Director, Foundation for Monterey County Free Libraries

Date: _____