

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE MONTEREY COUNTY DEPARTMENT OF SOCIAL SERVICES
AND

FOR THE PROVISION OF
RESTAURANT MEALS PROGRAM TO ELIGIBLE HOMELESS, ELDERLY AND
DISABLED CALFRESH HOUSEHOLDS

This Non-Financial Memorandum of Understanding (MOU) is entered into by and between the COUNTY OF MONTEREY DEPARTMENT OF SOCIAL SERVICES, hereinafter referred to as “DSS,” and _____, hereinafter referred to as “MEAL PROVIDER.” This MOU contains program content and purpose along with specific guidelines for the implementation and administration of the Restaurant Meals Program (RMP).

DSS and MEAL PROVIDER may be referred to individually as “Party” and collectively as “the Parties.” The relationship between DSS and MEAL PROVIDER, with regard to this MOU, is based upon the following:

1. This MOU is authorized and provided for pursuant to 7 CFR 274, 7 CFR 278 and Welfare and Institutions Code Sections 10553, 10554, and 18904.
2. The Food and Nutrition Services (FNS) Branch of the U.S. Department of Agriculture (USDA), through the California Department of Social Services (CDSS), has authorized a Supplemental Nutrition Assistance Program (SNAP) acceptance and redemption program, through the use of an electronic benefit transfer (EBT) card, at approved RMP facilities. Restaurants participating in the RMP may include both SNAP approved restaurants and approved food vendors at postsecondary educational institutions pursuant to AB 1747. A chain of two or more restaurants under the same ownership and structure may participate under one MOU with DSS.
3. MEAL PROVIDER, having applied for and received approval from the Food and Nutrition Services Branch of the USDA to participate in the RMP, and DSS, as administrator of the CalFresh program in Monterey County to eligible homeless, elderly, and disabled persons, within the County of Monterey agree to enter into this MOU for purposes of implementing the RMP.
4. This MOU contains the procedural guidelines authorized by both Parties in providing services.
5. It is expressly understood that this MOU does not constitute a financial commitment between the Parties; rather, the intent of this MOU is a commitment by the Parties to perform their respective responsibilities.

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I. TERM

The term shall commence on _____, and terminate on _____, unless earlier terminated in accordance with Paragraph XVI of this MOU. However, the Parties shall be obligated to perform such duties as would normally extend beyond this term including, but not limited to, obligations with respect to indemnification and confidentiality.

II. PURPOSE

The purpose of this MOU is to establish the procedure for the implementation and administration of the RMP for Meal Provider locations in Monterey County that serve eligible homeless, elderly, and disabled CalFresh households utilizing an EBT card at restaurant facilities approved by the USDA, for individuals who meet the criteria in Paragraph IV, below.

III. DEFINITIONS

- A. Low Cost Meals: Meals that cost less than what would be charged to customers not using CalFresh benefits; or discounted meals already offered to certain customers; or advertised special or sale priced meals offered to all customers.
- B. EBT Card: Golden State Advantage Electronic Benefit Transfer card allowing Participants electronic access to their CalFresh benefits.
- C. Participants: People eligible pursuant to California Department of Social Services MPP Regulations 63-102(e) to receive Low Cost Meals through the RMP. This population is limited to homeless, disabled, and elderly (age 60 and older) individuals receiving CalFresh benefits.
- D. Healthy Meal: Meals that include one or more of the following fresh, baked or grilled items: fruits, vegetables, poultry, fish or low fat meats.

IV. POPULATION TO BE SERVED

MEAL PROVIDER shall provide services to eligible homeless, elderly, and disabled CalFresh households.

V. GOAL

The goal of this MOU is to provide Low Cost Meals and offer Healthy Meal options to Participants at Meal Provider Monterey County locations. The goal of RMP is to increase food access for Participants who do not have a place to store or cook food, are not able to prepare food or lack access to a grocery store.

VI. SUBCONTRACT/ASSIGNMENT

- A. In the performance of this MOU, MEAL PROVIDER may neither delegate its duties or obligations nor assign its rights, either in whole or in part, without the prior written consent of DSS. Any attempted delegation or assignment without prior written consent shall be void. The transfer of assets in excess of ten percent (10%) of the total assets of MEAL PROVIDER, or any change in the corporate structure, the governing body, or the management of MEAL PROVIDER, which

occurs as a result of such transfer, shall be deemed an assignment of benefits under the terms of this MOU requiring DSS approval.

- B. MEAL PROVIDER shall not subcontract for services under this MOU without the prior written consent of DSS. If DSS consents in writing to a subcontract, in no event shall the subcontract alter, in any way, any legal responsibility of MEAL PROVIDER to DSS. All subcontracts must be in writing and copies of same shall be provided to DSS. MEAL PROVIDER shall include in each subcontract any provision DSS may require.

VII. MEAL PROVIDER RESPONSIBILITIES

MEAL PROVIDER shall undertake the following responsibilities in order to participate in the RMP:

- A. Have its food services physically located in Monterey County and provide a Low Cost Meal with options for Healthy Meals for breakfast, lunch and/or dinner during the Meal Provider's regular business hours to Participants.
- B. Provide a copy to the DSS of the USDA SNAP Application for Meal Services approval for Meal Provider to participate in the RMP. Copies shall be mailed to DSS pursuant to Section XIV.
- C. Abide by the rules and regulations of the USDA regarding the acceptance of CalFresh benefits using the EBT Card. Refrain from any illegal or unauthorized EBT Card transactions.
- D. Obtain and utilize USDA approved Point of Sale (POS) equipment compatible with RMP EBT transactions. MEAL PROVIDER is responsible for any maintenance and vendor costs associated with POS equipment and services. The POS equipment is the property and responsibility of the MEAL PROVIDER and not the DSS.
- E. Post DSS's designated signage or decal in a manner and place prescribed by DSS informing the general public of MEAL PROVIDER's participation in the RMP. DSS designated signage and decal shall be the property of the DSS and the DSS reserves the right to remove or alter the signage or decal in any way.
- F. Collect payment from Participants by the use of the EBT Card or a combination of EBT Card and cash. EBT Cards cannot be used to receive cash back to Participants.
- G. Shall not discriminate against any Participant on the grounds of race, color, national origin, age, sex, handicap (disability), political belief or religion.
- H. Shall not include a service gratuity in the cost of the meals to be offered, and shall not accept CalFresh benefits as payment of a gratuity. MEAL PROVIDER is also prohibited from charging a sales or meals tax to any Patron.
- I. Prohibit the acceptance of the EBT Cards for the purchase of alcoholic beverages, tobacco, gift cards and non-food items.
- J. Comply with all local, state and federal health and safety regulations pertaining to retail food operations. MEAL PROVIDER shall maintain a current public health operating permit, issued by the County of Monterey Health Care Agency, Environmental Health, throughout the term of this MOU. MEAL PROVIDER shall provide a copy of such current permit upon request of DSS.
- K. Furnish all information, statements, records and reports necessary for DSS to

monitor, review and evaluate Meal Provider compliance.

- L. Immediately notify DSS of any change in contact information so RMP Restaurant Participation lists can be maintained and current for Participants.
- M. Immediately notify DSS of any request for records or information regarding RMP services.
- N. Pursuant to AB 1747, Meal Providers to this MOU who are an institution of higher education must inform students annually of any qualified and approved RMP facilities on campus.

VIII. DSS RESPONSIBILITIES

DSS shall undertake the following responsibilities in connection with the RMP:

- A. Certify homeless, elderly and disabled CalFresh recipients as eligible to purchase meals with their CalFresh benefits in participating restaurants.
- B. Inform Participants of the names and addresses of the restaurants participating in the RMP and of the ability of the Participants to purchase Low Cost Meals with CalFresh benefits.
- C. DSS shall develop a Quality Assurance Monitoring Plan to monitor MEAL PROVIDER's operations of the RMP to ensure compliance with the terms and conditions of this MOU. DSS may conduct annual compliance reviews including review of any customer complaints, MEAL PROVIDER reports requested by DSS, and documentation of MEAL PROVIDER's current public health operating permit and liability insurance certificate.
- D. DSS shall meet with MEAL PROVIDER, as needed, to resolve any non-compliance issues. This does not limit the DSS's ability to terminate this MOU pursuant to Section XVI.

IX. FACILITIES

It is mutually understood that MEAL PROVIDER will provide services at the following facility(ies):

X. NON-DISCRIMINATION

- A. In the performance of this MOU, MEAL PROVIDER agrees that it shall not engage nor employ any unlawful discriminatory practices in the provision of services or benefits, assignment of accommodations, treatment, evaluation, employment of personnel or in any other respect on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, military and veteran status or any other protected group in accordance with the requirements of all applicable Federal or State laws.

XI. CONFIDENTIALITY

- A. MEAL PROVIDER agrees to maintain confidentiality of all records pursuant to WIC Sections 827 and 10850-10853, the CDSS MPP, Division 19-000, and all other provisions of law, and regulations promulgated thereunder relating to privacy and confidentiality, as each may now exist or be hereafter amended.
- B. All records and information concerning any and all persons served under this MOU shall be considered and kept confidential by MEAL PROVIDER, MEAL PROVIDER's staff, agents, employees and volunteers. MEAL PROVIDER shall require all of its employees, agents, subcontractors and volunteer staff who may provide services for MEAL PROVIDER under this MOU to sign an agreement with MEAL PROVIDER before commencing the provision of any such services, to maintain the confidentiality of any and all materials and information with which they may come into contact, or the identities or any identifying characteristics or information with respect to any and all participants provided services under this MOU, except as may be required to provide services under this MOU or to those having the capacity to audit MEAL PROVIDER, and as to the latter, only during such audit. MEAL PROVIDER shall provide reports and any other information required by DSS in the administration of this MOU, and as otherwise permitted by law.
- C. MEAL PROVIDER shall inform all of its employees, agents, subcontractors, volunteers and partners of this provision and that any person violating the provisions of said State law may be guilty of a crime.
- D. MEAL PROVIDER agrees that any and all subcontracts entered into shall be subject to the confidentiality requirements of this MOU.
- E. Meal Provider agrees that DSS shall not be liable for any breach of confidentiality.

XII. INDEMNIFICATION

MEAL PROVIDER shall indemnify, defend, and hold harmless the County of Monterey, the California Department of Health and Human Services, the State of California, and all of their elected and appointed officials, officers, employees, agents and those special districts and agencies which the Monterey County Board of Supervisors acts as the governing Board ("COUNTY INDEMNITEES") harmless from any and all claims, liabilities, and losses whatsoever (including damages to property and injuries to or death of persons, court costs, and reasonable attorney's fees) occurring or resulting to any and all persons, firms or corporations furnishing or supply work, services, materials, or supplies in connection with the performance of 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 MEAL PROVIDER's performance of this MOU, unless such claims, liabilities or losses arise out of the sole negligence or willful misconduct of the COUNTY INDEMNITEES. "MEAL PROVIDER's performance" includes MEAL PROVIDER's action or inaction and the action or inaction of MEAL PROVIDER's officers, employees, agents and subcontractors.

XIII. INSURANCE

- A. Prior to the provision of services under this MOU, MEAL PROVIDER agrees to purchase all required insurance at MEAL PROVIDER's expense and to deposit with DSS Certificates of Insurance, including all endorsements required herein, necessary to satisfy the County of Monterey that the insurance provisions of this MOU have been complied with, and to keep such insurance coverage and the certificates therefore on deposit with DSS during the entire term of this MOU.
- B. All self-insured retentions (SIRs) shall be clearly stated on the Certificate of Insurance. Any self-insured retention (SIR) in an amount in excess of Fifty Thousand Dollars (\$50,000) shall specifically be approved by the County's Risk Manager, or designee, upon review of MEAL PROVIDER's current audited financial report. If MEAL PROVIDER's SIR is approved, MEAL PROVIDER, in addition to, and without limitation of, any other indemnity provision(s) in this MOU, agrees to all of the following:
 - 1. In addition to the duty to indemnify and hold the County of Monterey harmless against any and all liability, claim, demand or suit resulting from MEAL PROVIDER's, its agents, employee's or subcontractor's performance of this MOU, MEAL PROVIDER shall defend the County of Monterey at its sole cost and expense with counsel approved by Board of Supervisors against same; and
 - 2. MEAL PROVIDER's duty to defend, as stated above, shall be absolute and irrespective of any duty to indemnify or hold harmless; and
 - 3. The provisions of California Civil Code Section 2860 shall apply to any and all actions to which the duty to defend stated above applies, and the MEAL PROVIDER's SIR provision shall be interpreted as though the MEAL PROVIDER was an insurer and the County of Monterey was the insured.
- C. If the MEAL PROVIDER fails to maintain insurance acceptable to the County of Monterey for the full term of this MOU, the County of Monterey may terminate this MOU.
- D. Qualified Insurer:
 - 1. The policy or policies of insurance required herein must be issued by an issuer with a minimum rating of A- (Secure A.M. Best's Rating) and VIII (Financial Size Category as determined by the most current edition of the Best's Key Rating Guide/Property-Casualty/United States or ambest.com). It is preferred, but not mandatory, that the insurer be licensed to do business in the state of California (California Admitted Carrier).
 - 2. If the Insurance carrier does not have an A.M. Best Rating of A-/VIII, the Office of Risk Management retains the right to approve or reject a carrier after a review of the company's performance and financial rating.
- E. The policy or policies of insurance maintained by MEAL PROVIDER shall provide the minimum limits and coverage as set forth below:

Coverage	Minimum Limits
Commercial General Liability	\$1,000,000 per occurrence
Business Automobile Liability	\$1,000,000 per occurrence
Workers' Compensation	\$1,000,000 each person, \$1,000,000 each accident, and \$1,000,000 each disease
Employer's Liability Insurance	\$1,000,000 per occurrence

- F. Business Automobile Liability Insurance shall cover 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.
- G. Worker's Compensation Insurance shall be required if MEAL PROVIDER employs others in accordance with the California Labor Code section 3700.
- H. Required Coverage Forms:
1. Commercial General Liability coverage shall be written on Insurance Services Office (ISO) form CG 00 01 or a substitute form providing liability coverage at least as broad.
- I. Required Endorsements:
- Commercial General Liability and Business Automobile Liability policies shall contain the following endorsements, which shall accompany the Certificate of Insurance:
1. An Additional Insured endorsement using ISO form CG 20 26 04 13 or a form at least as broad naming the ***County of Monterey its elected and appointed officials, officers, agents and employees*** as Additional Insureds, or provide blanket coverage, which will state ***AS REQUIRED BY WRITTEN AGREEMENT.***
 2. A primary non-contributing endorsement using ISO form CG 20 01 04 13, or a form at least as broad evidencing that the Contractor's insurance is primary and any insurance or self-insurance maintained by the County of Monterey shall be excess and non-contributing.
- J. All insurance policies required by this MOU shall waive all rights of subrogation against the County of Monterey, its elected and appointed officials, officers, agents and employees when acting within the scope of their appointment or employment.
- K. MEAL PROVIDER shall notify DSS in writing within thirty (30) days' of any

policy cancellation and ten (10) days for non-payment of premium and provide a copy of the cancellation notice to County. Failure to provide written notice of cancellation may constitute a material breach of the contract, upon which DSS may suspend or terminate this MOU.

- L. The Commercial General Liability policy shall contain a severability of interests clause also known as a “separation of insureds” clause (standard in the ISO CG 0001 policy).
- M. Insurance certificates should be mailed to DSS at the address indicated in Paragraph XIV of this MOU.
- N. Prior to the execution of this MOU by DSS, MEAL PROVIDER shall file certificates of insurance with DSS showing that the MEAL PROVIDER has in effect the insurance required by the MOU. The MEAL PROVIDER shall file a new or amended certificate of insurance within five 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 MOU, which shall continue in full force and effect.
- O. DSS expressly retains the right to require MEAL PROVIDER to increase or decrease insurance of any of the above insurance types throughout the term of this MOU. Any increase or decrease in insurance will be as deemed by County of Monterey Risk Manager as appropriate to adequately protect the County of Monterey.
- P. The procuring of such required policy or policies of insurance shall not be construed to limit MEAL PROVIDER’s liability hereunder nor to fulfill the indemnification provisions and requirements of this MOU, nor act in any way to reduce the policy coverage and limits available from the insurer.

XIV. NOTICE AND CORRESPONDENCE

- A. All correspondence concerning this MOU will be in writing and sent to:

DSS: Monterey County Department of Social Services
Christine Alvarez
1000 S. Main Street, Suite 208
Salinas, CA 93901

MEAL PROVIDER:

Attn: _____

- B. All notices shall be deemed effective when in writing and deposited in the United States mail, first class, postage prepaid and addressed as above. Any notices and correspondence authorized or required by this MOU addressed in any other fashion shall be deemed not given. DSS and MEAL PROVIDER may mutually agree to change the addresses to which notices are sent. Any agreement must be in writing.

XV. RESOLUTION OF CONFLICTS

For resolution of conflicts between DSS and MEAL PROVIDER in regards to the provisions of this MOU, the following shall apply:

- Step 1: Conference between the Adult Services & Assistance Programs/Program Compliance/CalFresh program manager and MEAL PROVIDER manager.
- Step 2: Conference between the Deputy Director, Adult Services & Assistance Programs/Program Compliance or designee, and MEAL PROVIDER Owner.
- Step 3: Conference between the Division Director, Adult Services & Assistance Programs or designee and MEAL PROVIDER Owner.

XVI. TERMINATION

- A. Either party may terminate this MOU without penalty immediately with cause or after thirty (30) days' written notice without cause, unless otherwise specified. Notice shall be deemed served on the date of mailing. Cause shall be defined as any breach of this MOU, any misrepresentation, or fraud on the part of either party. Exercise by either party of the right to terminate this MOU shall relieve the Parties of all further obligations under this MOU with the exception of such duties as would normally extend beyond the term of this MOU including, but not limited to, obligations with respect to indemnification and confidentiality.
- B. The obligations of DSS under this MOU are contingent upon the availability of Federal and/or State funds, as applicable, and inclusion of sufficient funds for the services hereunder in the budget approved by the Monterey County Board of Supervisors each fiscal year this MOU remains in effect or operation. In the event that such funding is terminated or reduced, DSS may immediately terminate or modify this MOU, without penalty. The decision of DSS shall be binding on MEAL PROVIDER. DSS shall provide MEAL PROVIDER with written notification of such determination. MEAL PROVIDER shall immediately comply with DSS's decision.

XVII. GENERAL PROVISIONS

- A. Nothing herein contained shall be construed as creating the relationship of employer and employee, or principal and agent, between DSS and any eligible CalFresh recipient household member participating in this program, or any of MEAL PROVIDER's agents or employees.
- B. This MOU represents the entire understanding of the Parties with respect to the subject matter. No change, modification, extension, termination or waiver of this MOU, or any of the understandings herein contained, shall be valid unless made in writing and signed by duly authorized representatives of the Parties hereto.
- C. This MOU has been negotiated and executed in the State of California and shall be governed by and construed under the laws of the State of California. In the event of any legal action to enforce or interpret this MOU, the sole and exclusive venue

shall be a court of competent jurisdiction located in MONTEREY County, California, and the parties hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure Section 394. Furthermore, the parties specifically agree to waive any and all rights to request that an action be transferred for trial to another county.

- D. MEAL PROVIDER shall maintain all licenses and permits required to perform the services required under this MOU.
- E. MEAL PROVIDER shall develop, implement and maintain procedures for responding to customer complaints.
- F. MEAL PROVIDER represents and warrants that the person executing this MOU on behalf of and for MEAL PROVIDER is an authorized agent who has actual authority to bind MEAL PROVIDER to each and every term, condition and obligation of this MOU and that all requirements of MEAL PROVIDER have been fulfilled to provide such actual authority.
- G. MEAL PROVIDER shall comply with all federal, state and local standards, laws, statutes, restrictions, ordinances, codes, rules, regulations and licensing requirements and all other laws applicable to the Services at the time the Services are provided to and accepted by DSS.
- H. County of Monterey owns all rights to the name, logos and symbols of the DSS and County of Monterey. The use and/or reproduction of DSS and other County of Monterey name and/or logos for any purpose, including commercial advertisement, promotional purposes, announcements, displays or press releases, without DSS prior written consent is expressly prohibited. Furthermore, any press release, including graphic display information to be published in newspapers, magazines, etc., are to be administered only by DSS unless otherwise agreed to by both Parties.

WHEREFORE, the parties hereto have executed the Memorandum of Understanding in the COUNTY OF MONTEREY.

By: _____
_____, Director
Monterey County of Department of Social
Services

By: _____

[Restaurant Name]

Dated: _____

Dated: _____

Approved As To Form
County Counsel
Monterey County, California

By: _____
Deputy

Dated: _____