

**USE AGREEMENT BETWEEN CITY OF COLUSA AND COUNTY OFFICE OF  
EDUCATION FOR STORAGE OF RECORDS**

This Use Agreement is entered into this 19th day of May 2022 by and between the CITY OF COLUSA, a municipal corporation and the COUNTY OF COLUSA OFFICE OF EDUCATION, a political subdivision of the State of California in Colusa County for the use of a portion of space at the building located at 425 Webster Street, owned by City and commonly known as City Hall.

**RECITALS**

**WHEREAS**, the City is the owner of certain real property located at 425 Webster Street, Colusa, California 95932, commonly known as City Hall; and

**WHEREAS**, the City has storage space available on the second floor of City Hall; and

**WHEREAS**, allowing County to use storage space at City Hall on the terms and conditions set out herein will be beneficial to the City and County.

In consideration of the foregoing, the parties mutually agree as follows:

**1. Recitals.**

**2. Premises.** City hereby agrees that the County may use on an exclusive basis storage space in Rooms 15 and 16, located on the second floor of the building known as City Hall, 425 Webster Street, Colusa, California 95932.

**3. Use of the Premises.** County shall use the Premises for record storage purposes only, unless prior written consent from City is obtained.

**4. Term.** This Agreement shall be for a term of two (2) years, beginning on the 17th day of May, 2022 and ending on the 30 day of June, 2024 unless terminated earlier pursuant to the provisions of this Agreement. The Agreement shall automatically renew for one (1) year periods on the same terms and conditions set forth herein.

**5. Condition of Premises.** County acknowledges that it has fully inspected the Premises and accepts the same in its existing condition, and agrees that no demands for alterations, repairs or additions are to be made upon City.

If it shall become necessary to close City Hall, or prevent access to the Premises, due to an unforeseen event outside of City's control including, but not limited to, earthquake, flood,

explosion or other act of God, City shall not be liable to County or any third party for damages due to loss of business, loss of revenue, loss of property or any additional costs.

**6. Use Fee.** County shall pay City a use fee, for the possession and use of the Premises, a total annual payment of Three Thousand Three Hundred Dollars (\$3,300) Use Fee. Such payment shall be made on a quarterly basis, payable in advance on the first day of each calendar quarter, in the sum of Eight Hundred Twenty-Five Dollars (\$825) per quartet.

County will incur a twenty-five dollar (\$25.00) late charge in the event that the Use Fee, or any portion of the Use Fee, is not received by City within fifteen (15) days after the due date.

County shall pay an insufficient funds charge, consistent with the charge currently imposed by City for insufficient checks, for each check that is returned for lack of sufficient funds.

**7. Access to Premises.** County shall have access to the Premises during standard City Hall working hours, unless otherwise agreed to in writing in advance. Currently, standard working hours are Monday thru Thursday 7:30 a.m. to 5:00 p.m., holidays excluded.

**8. Security of Premises.** The Premises are currently equipped with a standard lock, and City will provide County a key to the Premises. City will also retain a key to the Premises, to be used if necessary for inspections or if County needs access to the Premises. City reserves the right to enter into the Premises at any reasonable time for the purpose of inspecting the Premises. County shall not interfere with this right in any way including, but not limited to, installing new door locks or utilizing padlocks or any other type of security measure without providing City with any keys and/or security codes required to access the Premises.

**9. Improvements.** County shall obtain City's written consent prior to making any alterations or improvements to the Premises. City shall have the right to remove any of County's alterations and improvements prior to the expiration of the Agreement. County shall repair any damage caused by attaching any items to, or removing them from, the Premises.

**10. Utilities and Services.** City shall pay for all utilities and at City's expense.

**11. Maintenance.** County shall maintain the Premises, and keep the Premises free of trash and debris. County shall return the Premises to City in broom clean condition, and in same or better shape than when County began using the Premises.

**12. Insurance.** City agrees to obtain and maintain during the Term of this Agreement, fire and extended coverage insurance, or its equivalent, for City Hall. Such insurance shall not be

cancelled without providing advance notice to the County of such cancellation, and it shall be the responsibility of the City to notify County of such change or cancellation.

County agrees to obtain and maintain during the Term of this Agreement public liability and property insurance protecting County and County's property in an amount not less than One Million Dollars (\$1,000,000.00). Such insurance, or its equivalent, shall name the City as an additional insured and the policy shall be so endorsed. Such insurance shall not be cancelled without providing advance notice to the City of such cancellation, and it shall be the responsibility of the County to notify City of such change or cancellation. County shall provide City with a copy of all insurance policies that are required by this Agreement.

**13. Assignment and Subletting.** County shall not assign or sublet the Premises or any part of the Premises.

**14. Destruction and/or Damage to Premises.** In the event the Premises shall be totally or partially destroyed or damaged through fire or any other cause not the fault of the County, County will owe no Use Fee for any period during which the County is substantially deprived of the use of the Premises.

**15. Limitation on City's Liability; Waiver of Claims.** City shall not be responsible for or liable to County, and County hereby assumes the risk of, and waives and releases City from any and all claims arising out of or related to the storage of records at the Premises, including but not limited to damage or destruction of the records. Nothing in this Section shall relieve City from liability caused solely and directly by the gross negligence or willful misconduct of City, but City shall not be liable under any circumstances for any consequential, incidental or punitive damages.

This Section 15 shall constitute a separate agreement between County and City and shall survive any termination of this Agreement.

**16. Indemnification.** County agrees to indemnify, defend and hold harmless City, its officials, officers, employees, agents and consultants from any and all claims that arise out of the storage of the records at the Premises, except for those arising from the sole or gross negligence of the City.

This Section 16 shall constitute a separate agreement between County and City and shall survive any termination of this Agreement.

**17. Termination of Agreement.** Either Party may terminate this Agreement, with or

without cause, upon ninety (90) days written notice to the other Party. County shall not be responsible for payment of Use Fee for the remainder of the Term when this Agreement.

**18. Default.** City shall provide County written notice of any default under this Agreement. Upon receipt of the notice of default, County shall have ten (10) days to cure such default. If County does not cure the default; City may institute legal action to recover possession of the Premises.

**19. Taxes.** This Agreement may create a possessory interest which is subject to property taxation. The Party in whom the possessory interest is vested may be subject to the payment of any property tax levied on such interest. See Revenue and Taxation Code Section 107.6.

**20. Compliance with Law.** County shall comply with all applicable laws, ordinances, and codes of federal, state and local governments when conducting any activities at the Premises pursuant to this Agreement.

**21. Miscellaneous.**

**A. Governing Law and Forum.** This Agreement shall be construed in accordance with the laws and judicial decisions of the State of California and venue for any legal or equitable action shall be in the County of Colusa.

**B. Notices.** All notices required by this Agreement shall be in writing and shall be deemed to have been given if delivered personally or enclosed in a properly addressed envelope and deposited in the United States Mail for delivery by registered or certified mail addressed to the parties at the following addresses:

CITY:

COUNTY:

City of Colusa

Colusa County of Board of Education

Jesse Cain, City Manager

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425 Webster Street

\_\_\_\_\_

Colusa, CA 95932

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**C. Severability.** If any term, condition or covenant of this Agreement is declared or determined by any court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this Agreement shall not be affected thereby and the Agreement shall be read and construed without the invalid, void or unenforceable provision or provisions.

**D. Interpretation of Agreement.** The headings within this Agreement are solely for reference purposes and shall not limit or otherwise affect any of the terms of this Agreement. The parties have had an equal opportunity to participate in the drafting of this Agreement; therefore, the normal construction as against the drafting party shall not apply to this Agreement.

**E. Relationship of Parties.** The parties do not intent that this Agreement constitute, and this Agreement shall not be interpreted under any circumstances as, a partnership, joint venture or other business association. This Agreement does not, and is not intended to create any rights for parties who are not signatories hereto.

**F. Amendments.** This Agreement may only be amended by mutual written consent of both Parties, signed by both Parties to this Agreement.

**22. Entire Agreement.** This Agreement contains the entire agreement between the Parties with respect to the matters contained herein and supersedes all prior or contemporaneous understandings, whether written or oral, with respect thereto.

**WHEREFORE**, the parties have executed this Agreement as of the Effective Date set forth above.

CITY OF COLUSA

COLUSA COUNTY BOARD OF  
EDUCATION

BY: \_\_\_\_\_

By: \_\_\_\_\_

Tom Reische, ( Mayor)

\_\_\_\_\_

Attest:

Attest:

By: \_\_\_\_\_

By: \_\_\_\_\_

Shelly Kittle

\_\_\_\_\_

Approved:

Approved:

By: \_\_\_\_\_

\_\_\_\_\_

Ryan Jones, City Attorney