



COUNTY OF EL DORADO

FACILITY USE AGREEMENT #5196

THIS FACILITY USE AGREEMENT (FUA), entered by and between the County of El Dorado, a political subdivision of the State of California (hereinafter referred to as “County”), and El Dorado County Fire Protection District, whose local place of business is 4040 Carson Road, Camino, California 95709, (hereinafter referred to as “Fire District”) (collectively hereinafter referred to as the “Parties”).

RECITALS

WHEREAS, County owns that certain real property, commonly known as 300 Fair Lane (formerly the Sheriff’s Administration building), Placerville, California 95667 (“Property”); and

WHEREAS, Fire District is responsible for fighting fires in El Dorado County and is in need of a building to train their fire fighters in high risk/low frequency operations in commercial structures; and

WHEREAS, County is in the process of demolishing Property and is allowing Fire District to use the building for training which is beneficial to Fire District, has no impact on County, and shall serve as a public benefit to ensure the fire fighters receive training in high risk/low frequency firefighting operations in commercial structures; and

WHEREAS, it is the intent of the Parties hereto that such use of Property shall be in conformity with all applicable Federal, State, and local laws.

NOW, THEREFORE, in consideration of the performance by the parties of the covenants contained herein, County and Fire District mutually agree as follows:

ARTICLE I

Property Use: County grants to Fire District a non-exclusive right to use, at a daily rate of zero dollars (\$0.00) per day, Property designated as County’s Sheriff’s Administration building, for firefighting training in accordance with Exhibit A, marked “Sheriff’s Administration Building”, incorporated herein and made by reference a part hereof, for the sole purpose of providing a training site for Fire District.

Fire District acknowledges and agrees that:

1. County will provide up to three (3) days of access to Property, and access shall occur prior to December 31, 2020, with a Notice to Proceed issued for each training day. Use of Property by Fire District shall in no way interfere with scheduled demolition of the building which shall occur after December 31, 2020.

2. County will ensure that all power to the building has been disconnected prior to the scheduled dates for training.
3. Fire District shall have up to twenty (20) firefighters and six (6) engines per rotation training with two to three (2-3) rotations per training day.
4. Fire District hours of use for Property during the three (3) training days shall be between the hours of 6:00 am to 6:00 pm.
5. Fire District search drills shall include hose advancement through large commercial buildings and smoke equipment shall be used. There shall also be one (1) ten foot by ten foot (10' x 10') opening cut in the roof to be used as ventilation prop. The opening shall be covered and secured when no personnel are present.
6. Fire District shall maintain and keep the location free of trash and debris resulting from Fire District's use of Property. Fire District shall remove and dispose of said trash and debris.
7. Fire District is solely responsible, and County will have no liability whatsoever, for any vehicles, trailers, personal property, equipment, or materials placed on or brought on Property.
8. Fire District shall, at its sole expense at the end of each training day, remove all property, equipment, and materials from Property.
9. County makes no representations or warranties as to the condition of Property, and Fire District uses Property in an "as-is" condition.

ARTICLE II

Term: This Agreement shall become effective upon final execution by both parties hereto and shall expire on December 31, 2020.

ARTICLE III

Changes to Agreement: This Agreement may be amended by mutual consent of the parties hereto. Said amendments shall become effective only when in writing and fully executed by duly authorized officers of the parties hereto.

ARTICLE IV

Assignment: Fire District shall not assign, sublease, encumber, or otherwise transfer its rights or interests under this Agreement without the express written consent of County first, which consent may be granted or withheld at County's sole discretion. Any attempt to assign this Agreement without complying with this provision shall immediately result in a termination of this Agreement.

ARTICLE V

Default, Termination, and Cancellation:

- A. **Default:** Upon the occurrence of any default of the provisions of this Agreement, a party shall give written notice of said default to the party in default (notice). If the party in default does not cure the default within ten (10) days of the date of notice (Time to Cure), then such party shall be in default. The Time to Cure may be extended at the discretion of the party giving notice. Any extension of Time to

Cure must be in writing, prepared by the party in default for signature by the party giving notice and must specify the reason(s) for the extension and the date on which the extension of Time to Cure expires.

Notice given under this section shall specify the alleged default and the applicable Agreement provision and shall demand that the party in default perform the provisions of this Agreement within the applicable period of time. No such notice shall be deemed a termination of this Agreement unless the party giving notice so elects in this notice, or the party giving notice so elects in a subsequent written notice after the Time to Cure has expired.

- B. Termination or Cancellation Without Cause: Either party may terminate this Agreement in whole or in part upon thirty (30) calendar day's written notice without cause.

ARTICLE VI

Notice to Parties: All notices to be given by the parties hereto shall be in writing and served by depositing same in the United States Post Office, postage prepaid and return receipt requested.

Notices to County shall be addressed as follows:

County of El Dorado
Chief Administrative Office
Facilities Division
3000 Fairlane Court, Suite One
Placerville, California 95667

ATTN.: Russell Fackrell, Facilities Manager

or to such other location as County directs.

Notices to Fire District shall be addressed as follows:

El Dorado County Fire Protection District
4040 Carson Road
Camino, California 95709

ATTN.: Tim Codero, Fire Chief

or to such other location as Fire District directs.

ARTICLE VII

Change of Address: In the event of a change in address for Fire District's principal place of business, or Notices to Fire District, Fire District shall notify County in writing as provided in ARTICLE VI, Notice to Parties. Said notice shall become part of this Agreement upon acknowledgment in writing by County's Contract Administrator, and no further amendment of the Agreement shall be necessary provided that such change of address does not conflict with any other provisions of this Agreement.

ARTICLE VIII

Indemnity: Fire District shall defend, indemnify and hold County, its officers, employees, and agents, harmless from and against any and all liability, loss, expense or claims, including attorneys' fees and costs incurred, which are claimed to or in any way arising out of or are connected with the Fire District's activities, use of the Property, or performance of this Agreement, including any hazardous substance brought onto, released, or deposited on the Property by Fire District, regardless of the existence or degree of fault or negligence on the part of County, its officers, agents, and employees, except for the sole or active negligence of County, its officers and employees, or as expressly prescribed by statute. This duty to indemnify and hold County harmless includes the duties to defend set forth in California Civil Code section 2778.

County shall indemnify, defend, and hold harmless Fire District its officers, agents, and employees from and against any claims, damages, cost, expenses (including reasonable attorney fees), or liabilities arising from the acts or omissions of County or its officers, agents, employees, contractors, or subcontractors related to the performance of this Agreement. The provisions of this section shall survive the termination of this lease for any event occurring prior to the termination.

ARTICLE IX

Insurance:

To the extent authorized by any fire and extended coverage insurance issued to County on the herein demised premises, County releases Fire District from Liability for loss or damage covered by said insurance and waives subrogation rights of insurer.

ARTICLE X

Administrator: The County Officer or employee with responsibility for administering this Agreement is Russell Fackrell, Facilities Division Manager, Chief Administrative Office, or successor.

ARTICLE XI

Authorized Signatures: The parties to this Agreement represent that the undersigned individuals executing this Agreement on their respective behalf are fully authorized to do so by law or other appropriate instrument and to bind upon said parties to the obligations set forth herein.

ARTICLE XII

Partial Invalidity: If any provision, sentence, or phrase of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions, sentences, and phrases will continue in full force and effect without being impaired or invalidated in any way.

ARTICLE XIII

Entire Agreement: This document and the documents referred to herein or exhibits hereto are the entire Agreement between the parties and they incorporate or supersede all prior written or oral agreements or understandings.

ARTICLE XIV

Miscellaneous Provisions:

1. California Forum and Law. Any dispute resolution action arising out of this Agreement, including, but not limited to, litigation, mediation, or arbitration, shall be brought in El Dorado County, California, and shall be resolved in accordance with the laws of the State of California.
2. Attorney’s Fees. Should any litigation commenced between the Parties concerning the Property or this Agreement, the prevailing party in such litigation shall be entitled, in addition to such other relief as may be granted, to a reasonable sum as and for its attorney’s fees in the litigation which all be determined by the court in such litigation or in a separate action brought for that purpose.
3. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be an original and all of which together shall constitute one and the same instrument.
4. Waiver. The waiver of any breach of any of the provisions of this Agreement by County shall not constitute a continuing waiver or a waiver of any subsequent breach by Fire District either of the same or of another provision of this Facility Use Agreement.
5. No Third Party Beneficiary. Nothing in this Agreement is intended, nor will be deemed, to confer rights or remedies upon any person or legal entity not a party to this Agreement.

//

//

//

/IN WITNESS WHEREOF, the parties hereto have executed this Facilities Use Agreement #5196 on the dates indicated below.

-- COUNTY OF EL DORADO --

By: _____ Dated: _____
Board of Supervisors
"County"

Attest:
Kim Dawson
Clerk of the Board of Supervisors

By: _____ Dated: _____
Deputy Clerk

**- - E L D O R A D O C O U N T Y
F I R E P R O T E C T I O N D I S T R I C T - -**

By: _____ Dated: _____
Tim Cordero
Fire Chief

El Dorado County Fire Protection District
Sheriff's Administration Building
Exhibit A

