

Department of Housing and
Community Development
Office of Migrant Services Program
P.O. Box 952052
Sacramento, CA 94252-2052

MIGRANT CENTER LICENSE AGREEMENT FOR EMERGENCY SHELTER PROGRAM

This License Agreement (this "Agreement") is dated as of **September 18, 2019**, for reference purposes only, between the Department of Housing and Community Development, a public agency of the State of California (the "Department" or "Licensor"), and County of **San Benito CSWD**, a public body corporate and politic ("Licensee").

Where the Department operates the Office of Migrant Services ("OMS"), a seasonal program, which provides affordable housing for migratory agricultural workers and their families under Health and Safety Code sections 50710-50715, California Code of Regulations Title 25 Subchapter 7, Sections 7600 et seq., and all applicable law.

Where the primary purpose of the OMS program is to provide seasonal housing to migratory agricultural workers and their families but where the Department has discretion for its 24 OMS centers ("OMS Centers") to be used for alternative purposes, which serve the public interest; and where the Department has consented to this Emergency Shelter use so long as the use, does not incur any cost to the OMS program, and does not impede the normal operations of the OMS Center, which must be prioritized.

RECITALS

A. By a certain master lease and sublease (the "Leases") recorded in the Official Records of **San Benito County**, California, on **March 27, 1998**, as Instrument No. **9803432**, Licensor obtained a leasehold estate and other interests in that property more particularly described in the Leases described in Exhibit A (the "Premises"). The Department is the current holder of the leasehold estate created by the Leases.

B. The parties desire, by this Agreement, to provide for the licensing by Licensor to Licensee, of the revocable right to use and occupy the Premises described in Exhibit A and as set forth in the Leases.

In consideration of the matters described above, and of the mutual benefits and obligations set forth in this License Agreement, the parties agree as follows:

SECTION ONE. GRANT OF LICENSE

Licensor grants to Licensee a revocable license to occupy and use the Premises subject to all of the terms and conditions of this Agreement, and pursuant to Health and Safety Code, Chapter 8.5 of Part 2 of Division 31 Section 50715 and that the Licensee shall comply with all applicable law and specifically with the requirements of Health and Safety Code, Chapter 11.5 commencing with Section 50800.

SECTION TWO. DESCRIPTION OF PREMISES

The Premises is commonly known by the following name and street address:

San Benito Migrant Center
3235 Southside Road
Hollister, CA 95023

SECTION THREE. ACCESS TO UNITS

Subject to the terms and conditions set forth in this Agreement, Licensor authorizes the Licensee to use no more than **20** units on the Premises for the purpose of providing a temporary homeless shelter and associated services to individuals and families (Emergency Shelter Program). The property is comprised of **67** units. The Licensee may use space surrounding the units as is needed and reasonable to carry out the purpose of providing temporary homeless shelter and associated services. On or prior to commencement of this Agreement, the Department, in its sole discretion, will designate in writing the units available for Licensee's use.

SECTION FOUR. ON-SITE MANAGEMENT

Licensee must employ, at its own expense, and prior to allowing occupancy of the Premises, a resident manager and necessary staff to perform the services and duties of Licensee's proposed Emergency Shelter Program. Employment of current OMS-funded personnel, who are employed year-round by the OMS program, is strictly prohibited for employment for purposes of the Emergency Shelter; as said employees are already employed for year-round OMS purposes. Licensee may contract with a management agent for the performance of the services; however, such an arrangement does not relieve the Licensee of responsibility for proper performance of these duties and compliance with the provisions of this Agreement.

SECTION FIVE. UTILITIES

Licensee understands and agrees to provide its own utilities as required for its use of the Premises, including water, electrical, gas, and garbage collection. Licensee must convert all utility service to its own name prior to occupying the Premises, and cover all utility costs through **March 31, 2020**; or agree to a pro-rata share of utilities based on the number of units being used for Winter Shelter versus the number of units being used by Department for housing on-site manager and maintenance staff. Utility payments will be billed monthly to Licensee based on pro-rata of units under this License for the total of all utilities.

If heating devices are needed in each respective unit due to cold weather, and where the OMS Centers were not constructed or equipped to provide year-round housing, Licensee shall provide and install adequate heating devices, whether temporary or permanent, which meet State and local codes and do not exceed the capacity of the migrant housing center's electrical or gas system. In such an event, a letter must be provided to OMS indicating that the heating devices are safe and in proper working order, and have an Underwriters Laboratories (UL) certification or other appropriate approval rating.

SECTION SIX. NO ALTERATIONS

Licensee shall not make any alterations, changes, or additions in or to the Premises without Department's prior written consent.

SECTION SEVEN. INSURANCE

Prior to occupying the Premises, Licensee shall procure and carry, at its own expense, or provide evidence of self-insurance for: commercial general liability insurance with a combined single limit for bodily injury and property damages of not less than \$1 million per occurrence and \$2 million in the aggregate; and, a policy of standard fire, extended coverage and special extended coverage insurance (all risks), including a vandalism and malicious mischief endorsement. Licensee shall have its insurer issuing the insurance described above waive any rights of subrogation that such company may have against Department.

SECTION EIGHT. DURATION OF LICENSE SPECIFIED

Department gives to Licensee the privilege of entering on the above-described Premises to operate the Emergency Shelter Program and associated services **commencing when this Agreement is fully executed** and all prerequisite provisions of this Agreement have been satisfied. This License is to remain valid and in full effect until **March 31, 2020**, unless sooner revoked by the Department in writing pursuant to the terms of this Agreement.

SECTION NINE. RENT AND OTHER INCOME

Licensee shall pay the Licensor, a monthly flat fee without deduction set off, the sum of twelve and no/100 dollars (\$12.00) per unit, per the total amount of authorized units, as described in Section Three. Accordingly, **the rent per month totals seven thousand two hundred and no/100 dollars (\$7,200.00)**. This amount will be payable on a monthly basis and due on the last day of each month in the manner required by the Department. The Licensor has calculated \$12.00 per night per unit as the cost of operating the center. Statutorily the Department cannot incur any associated center costs that are not OMS related. The Licensor is granting use of the Premises for for Emergency Shelter purposes based on timely payment of the cost of operating the OMS Centers at \$12.00 per night, per unit. Licensee has the discretion to use all of the units detailed in Section Three, and accordingly a flat payment will be made for all units.

SECTION TEN. DOCUMENTATION SUBMITTAL TIMELINE

All documentation requested in Section Three of the OMS Emergency Shelter Procedures must be received by OMS no less than ten (10) business days prior to the Emergency Shelter Program start date. Failure to comply with this requirement will prohibit the use of the Premises for the Emergency Shelter Program for the current season.

SECTION ELEVEN. EARLY TERMINATION

Should the Premises or any essential part of such Premises, be destroyed by fire or other casualty, this Agreement will immediately terminate. Any party upon three (3) days written notice may terminate this Agreement for good cause. Said termination will be effective at the end of three (3) days. Licensee shall immediately take steps to remove all persons occupying the Migrant Center upon the receipt of, or giving of notice of termination of the Agreement. The parties' obligation to pay any sums under this agreement survives the termination of this agreement.

SECTION TWELVE. HOLDING OVER AFTER TERMINATION OF LICENSE

Licensee shall have no right to occupy the Premises after termination of this Agreement. If Licensee remains in possession of the licensed area after the expiration or other termination of this Agreement, Licensee shall be responsible for all damages and costs incurred by the Department as a result of such unauthorized occupancy, including but not limited to alternate housing costs for migrant farmworkers scheduled to occupy the premises. Nothing in this paragraph is construed to grant Licensee any right to occupy the licensed Premises after termination.

SECTION THIRTEEN. CONDITION OF PREMISES NOT WARRANTED

Licensors does not warrant nor represent the Premises as safe, healthful, or suitable for the purposes for which it is permitted to be used under the terms of this Agreement.

SECTION FOURTEEN. INDEMNIFICATION OF DEPARTMENT

Licensee shall indemnify, protect, defend and hold the Department harmless from any and all claims arising from Licensee's use of the Premises or from the conduct of its Emergency Shelter Program or from any activity, work or thing which may be permitted or suffered by Licensee in or about the Premises and shall further indemnify, protect, defend and hold the Department harmless from and against any and all claims arising from any breach or default in the performance of any obligation on Licensee's part to be performed under this Agreement or arising from the negligence or willful misconduct of Licensee or any of its agents, contractors, employees, invitees, patrons, customers, or members in or about the Premises and from any and all costs, attorneys' fees and costs, expenses and liabilities incurred in the defense of any claim or any action or proceeding brought thereon, including negotiations in connection therewith. Licensee hereby assumes all risk and damage to property or injury to persons in or about the Premises from any cause during its use or occupancy of the Premises or otherwise in connection with the license afforded by this Agreement, and Licensee hereby waives all claims in respect thereof against the Department in connection therewith; provided, however the foregoing will not extent to the gross negligence or willful misconduct of Licensors.

SECTION FIFTEEN. DESTRUCTION OF PREMISES

Licensee shall keep the units designated to Licensee in good condition and repair. All damage or injury to the Premises from any acts or omissions of Licensee, its employees, agents, guests, and invitees, shall be promptly repaired by Licensee, at its sole cost and expense to the satisfaction of the Department. The Licensee shall bear the cost to repair or replace property and inventory of any said unit (e.g. mattresses, stoves, door handles, etc.) as a result of any and all damages caused by Licensee or any Emergency Shelter Program participants or guests (regardless of whether vetted by the Licensee) that occupy, dwell or visit the unit through the Emergency Shelter Program, as all units must be returned to the Licensors in the same condition delivered to Licensee. Licensee and Department will conduct a pre-occupancy walk through to identify any pre-existing damage. A post-occupancy walk through will be conducted on **March 31, 2020** or earlier if Licensee ceases occupancy prior to the termination date. All damages in the pre-occupancy walk through and post-occupancy walk through will be memorialized in a written report, with the Licensee bearing the full responsibility to restore the post-occupancy condition of the Premises to the pre-occupancy condition. If the Premises are not restored to Licensee's pre-occupancy condition by **March 31, 2020**, Licensee shall cover the cost to house the migrant farmworkers that are scheduled to start reporting to the Premises.

SECTION SIXTEEN. MODIFICATION OF AGREEMENT

Any modification of this Agreement or additional obligation assumed by either party in connection with this Agreement is binding only if evidenced in writing signed by each party or an authorized representative of each party.

SECTION SEVENTEEN. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement regarding the subject matter contained herein between the parties and any prior understanding or representation of any kind preceding the date of this Agreement will not be binding on either party except to the extent incorporated in this Agreement.

SECTION EIGHTEEN. NOTICES

Any notice provided for or concerning this Agreement must be in writing and will be deemed sufficiently given when sent by certified or registered mail if sent to the respective address of each party as set forth below:

To Licensor:
Department of Housing and Community Development
Office of Migrant Services Program
P.O. Box 952052
Sacramento, CA 94252-2052
Attn: OMS Program Manager

To Licensee:
Agency Name: San Benito County Health & Human Services Agency, CSWD
Address: 1111 San Felipe Road #107
Address: Hollister, CA 95023
Attn: Enrique Arreola

SECTION NINETEEN. ASSIGNMENT OF RIGHTS

The rights of the Licensee under this Agreement are personal to that party and may not be assigned or transferred to any other person, firm, corporation, or other entity without the prior, express, and written consent of the Department.

SECTION TWENTY. GOVERNING LAW

This Agreement is governed by, construed, and enforced in accordance with the laws of the State of California.

SECTION TWENTY-ONE. COMPLIANCE WITH APPLICABLE LAW

Licensee must comply with all applicable federal, state, and local law, in connection with their occupancy of the Premises and operation of the emergency shelter, and conform to existing uses, notices, and applicable requirements of any nature.

SECTION TWENTY-TWO. COUNTERPARTS

This Agreement may be executed in several counterparts, each of which is an original and all of which will constitute one and the same instrument.

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the reference date first set forth above.

CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT:

By: _____

Name: _____

Deputy Director, Division of Financial Assistance

LICENSEE: SAN BENITO COUNTY BOARD CHAIR

By: _____

Name: _____

Title: _____

[ALL SIGNATURES MUST BE ACKNOWLEDGED]

APPROVED AS TO LEGAL FORM
SAN BENITO COUNTY COUNSEL

 10-23-19
DEPUTY COUNTY COUNSEL DATE



**SAN BENITO COUNTY
AGENDA ITEM
TRANSMITTAL FORM**

Mark Medina
District No. 1
Chair

Anthony Botelho
District No. 2

Peter Hernandez
District No. 3

Jim Gillio
District No. 4

Jaime De La Cruz
District No. 5
Vice - Chair

Item Number: 7.

MEETING DATE: 11/5/2019

DEPARTMENT: HEALTH AND HUMAN SERVICES AGENCY

DEPT HEAD/DIRECTOR: Tracey Belton

AGENDA ITEM PREPARER: Enrique Arreola

SBC DEPT FILE NUMBER: 130

SUBJECT:

HEALTH AND HUMAN SERVICES AGENCY - T. BELTON

Approve the License Agreement between the County of San Benito and the Department of Housing and Community Development authorizing the limited use of the San Benito County Migrant Center as a Family Winter Shelter Program during the period of December 16, 2019 through March 31, 2020.

SBC FILE NUMBER: 130

AGENDA SECTION:

CONSENT AGENDA

BACKGROUND/SUMMARY:

For over 32 years, Community Services & Workforce Development has been operating the Family Winter Shelter Program at the San Benito County Migrant Center. The program historically serves 20-30 families. This upcoming year, we will serve up to 20 homeless families. The Office of Migrant Services (OMS) is requiring that we enter into a License Agreement for the use of up to 20 units for homeless families.

The County currently has a 50 year lease agreement with the Department of Housing and Community Development recorded in 1998 which restricts the use of the Migrant Center for migrant housing only. The license agreement will allow the County to lawfully use the Migrant Center on a limited basis for the operations of the Winter Shelter Program during the period of December 16, 2019 through March 31, 2020. Historically, the program start date has been December 1st; but since the State approved a post extension for Migrant farm workers to remain at the center until December 15, 2019, the earliest the program can begin is December 16, 2019. The cost has been incorporated in the current year budget.

BUDGETED:

Yes

SBC BUDGET LINE ITEM NUMBER:

240.80.2555

CURRENT FY COST:

50,000

STAFF RECOMMENDATION:

1. Approve the License agreement between the County of San Benito and the Department of Housing and Community Development