Agricultural and Food Processing Clearance Order
Pedido de Empleados para Agricultura y Procesamiento de Alimentos

JAN 27 2011

U.S. Department of Labor
Employment and Training Administration
OMB. Approval No. 1205-0134, Expires 11/30/2012

1. Employer's Name and Address (Number, Street, City, State, Zip Code, and telephone number)/ Nombre y Dirección del Empleador (Numero, calle, ciudad, código postal y teléfono) EVERETT ORCHARDS LTD.
675 CALKINS RD.
PERU, NY 12972 (518)643-6824

2. Location and Direction to Work Site/Dirección del lugar de trabajo 3 MILES SW OF PERU ON CALKINS RD. FROM PERU, HEADING NORTH ON PLEASANT ST. (RTE 22B) TURN LEFT ON RIVER RD. TURN RIGHT ONTO BARNEY DOWNS RD. AT STOP SIGN, TURN LEFT ORCHARD IS ~7 MILES ON CALKINS RD.
(If additional space is needed, use separate sheet of paper)

3. Location and Description of Housing / Dirección y Descripción de la Vivienda 675 CALKINS RD.

MLC 1: CONCRETE BLOCK BARRACKS STYLE BUILDING INCLUDING KITCHEN AND BATH FACILITIES. ALL FURNISHINGS PROVIDED. 20 MAN CAPACITY.

(If additional space is needed, use separate sheet of paper)./ Si necesita más espacio, utilice documento adicional.)

Numbers 4, 5, 6, 7 and 8 for State use only.

4. Industry Code/Código de Industria 111331

5. Job Order #/No. Orden de Empleo NY0968946

6. Occupational Title and Code /Titulo Ocupacional y Código Farmworkers + Laborers, Crop 45-2092.02

7. Clearance Order Issue Date / Fecha de Tramite FEB 04 2011

8. Job Order Expiration Date / Fecha de vencimiento 4-26-11

9. Anticipated Period of Employment / Periodo Anticipado de Empleo
From/ Desde: 3/28/2011 To/Hasta: 5/31/2011

10. No. of Worker's Requested / No. de Trabajadores Pedidos 6

11. Anticipated Hours of Work per Week/Horas Anticipadas de Trabajo por Semana. Total: 40
Sunday / Domingo ____ Monday / Lunes 8
Tuesday / Martes 8 Wednesday / Miércoles 8
Thursday / Jueves 8 Friday / Viernes 8
Saturday / Sábado ____

12. Collect Calls Accepted from/Se Aceptan Llamadas a Cobrar de:
Employer / El Empleador Yes ☐ No ☑
Local Office / La Oficina Local Yes ☐ No ☑

13. Board Arrangements / Arreglo de Alojamiento BUY AND PREPARE OWN FOOD. EMPLOYER WILL TRANSPORT ONCE WEEKLY TO PURCHASE SUPPLIES.

14. Referral Instructions / Instrucciones para el Referimiento de Candidatos THOMAS OR WILLIAM EVERETT
CONTACT EMPLOYER DURING REGULAR BUSINESS HOURS.
M-F 7a.m → 4:30p.m (518) 643-6824

15. Job Specifications / Descripción del Trabajo USE HAND TOOLS SUCH AS PRUNING LOPPERS, HAND SAWS, LADDERS, HAND PRUNING SHEARS TO DORMANT PRUNE APPLE TREES. EMPLOYER WILL FURNISH TO WORKERS, WITHOUT COST, ALL TOOLS AND EQUIPMENT REQUIRED IN THE
(If more space is needed, summary of Material Job Specifications in ENGLISH can be included in separate document, and may also be included in SPANISH)

16. Wage Rates, Special Pay Information and Deductions / Tarifa de Pago, Información Sobre Pagos Especiales y Deducciones (Rebajas)

Crop Activities / Cultivos	Hourly Wage / Salario por Hora	Piece Rate / Unit(s) / Pago por Pieza / Unidad(es)	Special Pay (bonus, etc.) / Pagos Especiales (Bono, etc.)	Deductions / Deducciones	YES / SI	NO	Pay Period / Periodo de Pago
APPLE TREE PRUNING	$ 10.16	$ —	—	Social Security / Seguro Social	✓		Weekly / Semanal ✓
	$	$		Federal Tax / Impuestos Federales	✓		
	$	$		State Tax / Impuestos Estatales	✓		Bi-weekly / cada 2 semanas
	$	$		Meals / Comidas		✓	
	$	$		Other (specify)/ Otro		✓	Other / Otro

More Details About the Pay / Mas Detalles Sobre el Pago

(If additional space is needed, use separate sheet of paper. / Si necesita más espacio, utilice documento adicional.)

Item 15. Job Specifications, Cont. : performance of the duties assigned. Workers should report for work with their own suitable work clothing. Workers referred against this order must have ~~6~~ months experience in performing tasks described in this order.

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17. Transportation Arrangements / Arreglos de Transportación EMPLOYER AGREES TO REIMBURSE INBOUND TRANSPORTATION AND SUBSISTENCE EXPENSE TO EACH WORKER OR ANY PERSON, GOVERNMENT AGENCY, OR PRIVATE ORGANIZATION WHICH ON BEHALF OF THE WORKER HAS PAID OR ADVANCED SUCH TRANSPORTATION AND SUBSISTENCE EXPENSES FROM THE RESIDENCE, PLACE OF LAST EMPLOYMENT, OR PLACE OF RECRUITMENT TO JOBSITE

(If additional space is needed, use separate sheet of paper. / Si necesita más espacio, utilice documento adicional.)

18. Is it the prevailing practice to use Farm Labor Contractors (FLC) to recruit, supervise, transport, house, or pay workers for this (these) crop activity(ies)? Es la costumbre en el área de usar Contratistas Agricolas para reclutar, supervisar, transportar, dar vivienda, o pagarle a los trabajadores en estos tipos de cosecha(s)? Yes / Si ☐ No ☑

If you have checked yes, what is the FLC wage for each activity? / Si contesto "Si," cual es el salario quo le paga al Contratista Agricola por cada actividad?

19. Unemployment Insurance provided? Seguro de Desempleo? Yes ☑ No ☐
20. Workers' compensation insurance provided? Indemnización por accidence de trabajo: Yes ☑ No ☐
21. Are tools provided at no charge to the workers? / Se le proveen las herramientas de trabajo a los trabajadores sin cargo alguno? Yes ☑ No ☐

22. List any arrangements which have been made with establishment owners or agents for the payment of a commission or other benefits for sales made to workers. (If there are no such arrangements, enter "None") / Indique lodo acuerdo o convenio con los propietarios del establecimiento o sus representantes con respecto al pago de una comisión u otros beneficios por ventas hechas a los trabajadores. (Si no hay ningún acuerdo o convenio, indique "Ninguno") NONE

23. List any strike, work stoppage, slowdown, or interruption of operation by the employees at the place where the workers will be employed. (If there are no such incidents, enter "None") / Enumere toda huelga, paro o interrupción de las operaciones por parte de los empleados en el lugar de empleo. (Si no hay, indique "Ninguno") NONE

24. Address of Order Holding Office (include Telephone number)/Dirección de la Oficina donde se Radico la Oferta (incluya numero de teléfono)
NEW YORK STATE DEPT. OF LABOR
ONE STOP NEAREST YOU

25. Name of Local Office Representative (include direct dial telephone number) / Nombre del Representante de la Oficina Local (Incluya numero de teléfono) NEW YORK STATE DEPT. OF LABOR. ONE STOP NEAREST YOU

26. Employer's Certification: This job order describes the actual terms and conditions of the employment being offered by me and contains all the material terms and conditions of the job.
Certificación del Empleador: Esta orden de trabajo describe los términos y condiciones de trabajo, y contiene todos los materiales, términos, y condiciones ofrecidos.

Employer's Signature & Title/ Firma y Titulo del Empleador
Thomas Ellett, VP

READ CAREFULLY, In view of the statutorily established basic function of the Employment Service as a no-fee labor exchange, that is, as a forum for bringing together employers and job seekers, neither the ETA nor the State agencies are guarantors of the accuracy or truthfulness of information contained on job orders submitted by employers. Nor does any job order accepted or recruited upon by the One-Stop Career Center constitute a contractual job offer to which the One-Stop Career Center, ETA or a State agency is in any way a party.

Public Burden Statement

Public reporting burden for the ETA Form 790 is estimated to be approximately 60 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and reviewing the collection. Respondents' obligation to reply to these requirements is obligatory by 20 CFR 653.500 and 44 U.S.C. 3501. Persons are not required to respond to this collection of information unless it displays a currently valid OMB Control Number. Public reporting burden for this collection is estimated to average 8 minutes per response, including the time to review instructions, search existing data sources, gather and maintain the data needed, and complete and review the collection of information. Send comments regarding this burden estimate or any other aspect of this collection, including suggestions for reducing this burden, to the U.S. Department of Labor, Migrant and Seasonal Farmworker Program, Room S4209, 200 Constitution Avenue, NW, Washington, DC 20210.

ETA 790 (Rev. July 2009)

New York State Department of Labor
FORM ETA 790 Attachment #1
Terms and Conditions/Clarifications and Assurances

Job Order Number: NY0968946

A: CLARIFICATION OF ITEMS ON FORM ETA 790

Item 3: Housing

a. Housing and utilities are provided at no cost to H-2A workers and those workers in corresponding employment who are unable to return to their place of residence the same day.
b. Housing beds, bedding and mattresses will be furnished at no cost to the workers.
c. Housing will be clean and meet the applicable federal and State housing standards.
d. Workers will be responsible for maintaining housing and surrounding areas in a neat, clean manner.

Item 15: Job Specifications

a. Workers must be able to demonstrate that they are physically able to perform the work as described.
b. Employer may terminate worker with notification to the New York State Department of Labor, if the worker:
    1) Refuses, without cause, to perform work for which the worker was recruited and hired;
    2) Commits serious acts of misconduct; or
    3) Fails, after completing any training or break-in period, to reach production standards
    4) Abandons Job ("Job Abandonment") – is absent for five consecutive previously scheduled days without prior notification to employer.

Item 16: Wage Rates, Special Pay Information and Deductions

a. If piece rate earnings for total hours of work at a piece-rate during a pay period do not result in average hourly earnings equal to the guaranteed minimum hourly rate, the worker will receive make-up pay to the guaranteed minimum wage rate.
b. In New York State, the only deductions that can be taken from worker pay are:
    1. Those required by law, such as Social Security, income tax, and garnishment of wages;
    2. those that benefit workers and are authorized in writing, such as life insurance, or a savings account

    Any other deductions are illegal. This includes deductions:
    - (or deposits) for tools, boots, raincoats, or uniforms necessary for the job
    - As fines or penalties for being late, misconduct or quitting without giving notice
    - For cash shortages
    - For spoilage or breakage; or
    - For damages or losses of any kind.
c. The employer guarantees to offer employment for a minimum of ¾ ("three fourths guarantee") of the hours in the workdays during the period of the contract, and all extensions thereof. This guarantee begins with the first workday after the worker's arrival at the place of employment and ends on the date specified on the job order or extensions thereof. In Act of God terminations, the ¾ guarantee period ends on the date of

Everett ~~85~~

thereof. In Act of God terminations, the ¾ guarantee period ends on the date of termination. Workers will not be required to work more than the number of hours specified in the job order for a workday or on their Sabbath or federal holidays to meet this guarantee. The worker's average hourly earnings will be used under this guarantee where wages are paid on a piece rate basis. Workers who are terminated for cause or who voluntarily abandon their job are not entitled to this guarantee if employer provides timely notification to the NPC and DHS.

d. Workers with school age children who have migrated with such children and who depart in time to return home for the beginning of the school year shall be paid, in addition to the basic wages, any bonus or other incentive payments or other expenses to which they would be entitled had they stayed the entire job order period.

Item 17: Transportation

a. Employer agrees to reimburse inbound transportation and subsistence expenses ($10.64 per day minimum) to each worker, or any person, government agency or private $ 46.00 MAXimum organization which, on behalf of the worker has paid or advanced such transportation and subsistence expenses, from the residence, place of last employment or place of recruitment to the job site after the worker has completed 50% of the stipulated period of employment, from initial date of need or from the day after actual arrival of worker if later than the stated date to report.
b. Employer will provide or pay the cost of return transportation and subsistence to each worker who completes the employment period, or who is terminated for medical reasons, or as the result of an Act of God, from place of employment to place of recruitment, except if the worker is not returning to his place of recruitment and had subsequent employment with an employer who will bear transportation expenses, in which case this employer only pays for the transportation to the next job.
c. Employer will not be responsible for providing return cost of transportation and subsistence from place of employment to place of recruitment if the worker voluntarily abandons the job or is terminated for cause and employer provides timely notification to the NPC and DHS.
d. The amount of the transportation payment will be equal to the most economical and reasonable similar common carrier transportation charges for the distance involved. All transportation provided by the employer will be by common carrier or other transportation facilities which conform to the applicable regulations of the Interstate Commerce Commission or the United States Department of Labor. If requested by the worker, the employer will assist in making transportation arrangements. The amount of daily subsistence will be in accordance with current rates published in the *Federal Register* (for workers with and without receipts).
e. Employer will provide transportation, at no cost to the worker, from the employer provided housing to the actual work site and return at the end of the day.

Item 21: Tools and Equipment

The employer will furnish without cost all tools, supplies, or equipment required in the performance of work.

B: OTHER CLARIFICATIONS AND ASSURANCES

1. The employer agrees to abide by the regulations at 20 CFR 653.501 and 20 CFR 655.~~103~~ 135.
2. The employer will expeditiously notify the State agency by telephone immediately upon learning that a crop is maturing earlier or later, or that weather conditions, over-recruitment, or other factors have changed the terms and conditions of employment.

3. Outreach workers shall have reasonable access to the worker in the conduct of outreach activities pursuant to 20 CFR 653.501(xvi).
4. Where appropriate, the employer is certified in the use and application of pesticides per Federal Environmental Protection Agency and State Department of Environmental Conservation requirements. The employer assures that workers hired under this order who will be handling pesticides will be provided appropriate training.
5. A copy of the contract or this Job Clearance Order will be provided to the worker by the employer no later than on the day the work commences.
6. The employer assures that if acting as a farm labor contractor (FLC) or farm labor contractor employee (FLCE) on the order, he has a valid federal FLC certificate or FLCE identification card.
7. The applicant assures that he/she complies with NYS registration requirements. Farm labor contractors anticipating employment contracting with growers or processors in New York State, growers or processors in New York State who use the services of a farm labor contractor, and growers or processors in New York State who, without using the services of a farm labor contractor, are responsible for bringing into the state five or more out-of-state migrant farm or food processing workers, including H-2A workers, are required to register with the New York State Department of Labor and pay a registration fee in addition to any other fees that may be applicable.

Employer Signature Thomas Everett, VP

New York State Department of Labor

Form ETA 790 Attachment #2 – Additional Information

Item 1:

Employer Email: everapp1 12972 @yahoo.com

Employer Fax:

Item 13: Board Arrangements

Employer will ☐ will not ☒ provide three meals per day and will deduct $ per day. Employer will ☒ will not ☐ furnish free dishes, cooking utensils and convenient kitchen and cooking facilities.

Employer will ☒ will not ☐ provide transportation to assure workers access to stores where they can purchase groceries and/or other incidentals and/or medical necessities

Item 15: Job Specifications

The employer will provide 0 days of training and/or allow 0 days of work for worker to reach production standards if applicable.

Production Standards (if applicable): After completion of training or break-in period, employer will expect worker to: NA

Item 16: Wage Rates, Special Pay Information and Deductions

The employer will provide workers referred through the interstate clearance system 40 hours of work for the week beginning with the anticipated date of need, unless employer has amended the date of need by notifying the State agency no later than 10 business days before the date of need. If the employer fails to notify NYS Department of Labor office, then employer shall pay an eligible worker referred through the clearance system $406.40 for the first week starting with the originally anticipated date of need. If worker referred fails to notify the NYS Department of Labor of continued interest in the job at least 5 days before date of need, worker will be disqualified from this assurance. Employer will ☒ will not ☐ require worker to perform alternative work if the guarantee cited in this section is invoked.

Alternative work: PRUNE APPLE TREES

Employer will maintain adequate payroll records. Workers will be paid weekly on SAT. for work through the previous WED.

Item 20: Workers' Compensation

The employer assures that Policy # 483-0279 issued by STATE INSURANCE FUND provides the required insurance for injuries arising out of and in the course of employment.

Employer's proof of insurance coverage will be provided to the Chicago Processing Center before certification is granted.