U.S Department of Labor
Employment and Training Administration

OMB Control No. 1205-0134
Expiration Date: November 30, 2012

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

1. Employer's Name and Address (Number, Street, City, State, Zip Code, and telephone number) Nombre y Dirección del Empleador (Número, calle, ciudad, Estado, Código Postalo)

Otisco Orchards
2431 Buckwheat Rd.
Marietta, NY 13110

Telephone number.Teléfono: (315) 696-5062 Fax:

Numbers 4,- 8for State use only.
Números 4 a 8 para USO ESTATAL

4. Industry Code / Código de Industria: 111331

5. Job Order # / No. Orden de Empleo: NY0983013

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

7. Clearance Order Issue Date / Fecha de Tramite: JUN 06 2011

8. Job Order Expiration Date / Fecha de Expiración: 8/6/11

9. Anticipated Period of Employment / Periodo Anticipado de Empleo
From/ Desde: 8/6/11 To / Hasta: 11/1/11

2. Location and Direction to Work Site / Ubicaciìon y Dirección del Lugar deTtrabajo

At 2431 Buckwheat Rd, 2.5 miles south of Rt. 20 in Marietta, New York.

(If additional space is needed, use separate sheet of paper. / Si necesita mas espacio, utilices otra hoja de papel)

10. No. of Workers Requested / No. de Trabajadores Solicitados: 2

11. Anticipated Hours of Work per Week / Horas Anticipadas de Trabajo por Semena
Total: 40

Sunday/Domingo
Monday/Lunes 7
Tuesday/Martes 7
Wednesday/Miércoles 7
Thursday/Jueves 7
Friday/Viernes 7
Saturday/Sábado 5

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

Barracks style housing consisting of 1 mobile home at 2041 NY St Rt. 80 in Tully NY.

Barracks/Barracas

Number/Numero	Total Capacity/Capacidad Total
1	2

(If additional space is needed, use separate sheet of paper. / Si necesita mas espacio, utilices otra hoja de papel)

12. Collect Calls Accepted/Se Aceptan Llamadas a Cobrar de:

Employer / El Empleador: Yes No ☒

Local Office/Oficina Local: Yes ☐ No X

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13. Board Arrangements / Arreglo de Alojamiento

Yes/Si Workers must buy and prepare own meals

14. Referral Instructions / Instruciones sobre cómo Referir de Candidatos

Contact Employer, Steve Reed directly, at (315) 696-5062 or Nearest One Stop Office

15. Job Specifications Especificaciones del Trabajo

(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)

Manually plant, cultivate, and harvest fruits. Use hand tools, such as shovels, trowels, hoes, tampers, pruning hooks, shears, and knives. Duties may include tilling soil and applying fertilizers; transplanting, weeding, thinning, or pruning crops; applying pesticides; cleaning, packing, and loading harvested products. May repair fences and farm buildings, or participate in irrigation activities. Set up and operate irrigation equipment. Operate tractors, tractor-drawn machinery, and self-propelled machinery to plow, harrow and fertilize soil, or to plant, cultivate, spray and harvest crops. Repair and maintain farm vehicles, implements, and mechanical equipment. Harvest fruits by hand. Apply pesticides, herbicides or fertilizers to crops. Inform farmers or farm managers of crop progress. Identify plants, pests, and weeds to determine the selection and application of pesticides and fertilizers. Record information about crops, such as pesticide use, yields, or costs. Apples injured by bruising during picking shall not exceed 1% (WNY) for fresh and 1% (WNY) for processing as defined in the U.S. standard for grades. Productivity must be at least 4 bins fresh market and/or 6 bins processing fruit per day. Workers must be physically able to lift up to 80 pounds. Employer will furnish to workers, without cost, all tools and equipment required in the performance of the duties assigned. Workers should report for work with their own suitable work clothing. Field temperatures may range from 0 to 90+ degrees (F) with possible wet morning conditions. Due to health and safety concerns relating to pesticide application and the operation of equipment on our farm, workers are required to have the ability to comprehend simple instructions in English. After hiring, employer may conduct random drug tests at employer's expense. *Workers referred against this order must have a minimum of 1 months verifiable experience in performing tasks described in this order.

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

Crop Activities / Cultivos	Hourly Wage / Salario por Hora	Piece Rate/Unit(s) / Pago per Pieza/ Unidad(ès)	Sepecial Pay (bonus, etd.) / Pagos Especiales (bono, ets.)	Deductions / Deducciones	Yes/Si	No	Pay Period Periodo de Pago
Farm Equipment Operation	$10.25	$		Social Security/ Seguro Social	X	☐	Weekly /Semanal
Apples	$10.25	$		Federal Tax Impuestos Federales	X	☐	☒
	$	$		State Tax Impuestos Estatales	X	☐	Bi-weekly / Quincenal
	$	$		Meals/Comidas	☐	X	☐
	$	$		Other(specify)/ Otro (especifica	☐	X	Other / Otro ☐

More Details About thePay/Más Detalles Sobre el Pago

None/Ninguno

(If additional space is needed, use separate sheet of paper. / Si necesita mas espacio, utilices otra hoja de papel)

17. Transportation Arrangements / Arreglos de Transportación

Employer will provide transportation from the employer provided housing to the actual work site and return at the end of the day. Transportation will meet all requirements at CFR 655.122(h)

(See Attachments/Vea Anexos #2

(If additional space is needed, use separate sheet of paper. / Si necesita mas espacio, utilices otra hoja de papel)

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 Práctica habitual de usar Contratistas de TrabajoAgícolas para reclutar, supervisar, transportar, dar vivienda, y/ó pagarle a los trabajadores para este(os) tipo(s) de cosecha(s)? Yes/Si ☐ No X
If you have checked yes, what is the FLC wage for each activity?/Si contesto "Si," cual es el salario que le pagas al Contratista de Trabajo Agrícola por cada actividad?

19. Unemployment Insurance provided / Seguro por Desempleo: Yes /Si No X

20. Workers' compensation insurance provided / Se le prove seguro de comensación/Indemnización al trabajador: Yes /Si X No ☐

21. Are tools provided at no charge to the workers? / ¿Se les proveen herramientas sin costo alguno de trabajo a los trabajadores? Yes /Si X 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")/Enumere todos los acuerdos o hechos con los propietarios del establecimiento o sus agentes para el pago de una comisión u otros beneficios por ventas hechas a los trabajadores. (Si no hay ningún acuerdo o convenio, indique "Ninguno")

None/Ninguno

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 todo huelga, paro o interrupción de operaciones de trabajo por parte de los empleados en el lugar de empleo. (Si no hay incidents de este tipo,, indique "Ninguno")

None/Ninguno

24. Address of Order Holding Office (include Telephone number)/Dirección de la Oficina donde se radicó la oferta (incluya el número de teléfono)	25. Name of Local Office Representative (include direct dial telephone number) / Nombre del Representante de la Oficina Local (Incluya el numero de telefono de su linea directa)
Full order is available on the NYSDOL website.	Full order is available on the NYSDOL website.

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. Certificacion del Empleador: Esta orden de trabajo describe los términos y condiciones del empleo que se le ofrece, y contiene todos los materials, terminus, y condiciones materiales ofrecidos

Owner

Employer's Signature & Title/ Firma y Titulo del Empleador

Date 6-1-11

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 truth-fullness 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.
LEA CON CUIDADO, En vista de la función básica del Servicio de Empleo, establecida por ley, como una entidad de intercambio laboral sin comisiones, es decir, como un foro para reunir a los empleadores y los solicitantes de empleo, ni ETA ni las agencias del estado pueden garantizar la exactitud o veracidad del la información contenida en las órdenes de trabajo sometidas por los empleadores. Ni ninguna orden de trabajo aceptado o contratado en el Centro de Carreras (One-Stop Career Center) constituyen una oferta de trabajo contractuales a las que el One-Stop Career Center, ETA o un organismo estatal es de ninguna manera una de las partes.

Public reporting burden for responding ETA Form 790, which is required to obtain or retain benefits (44 USC 3501) is estimated to be approximately 60 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and reviewing the collection. The public need not respond to this collection of information unless it displays a currently valid OMB control number. This is public information and there is no expectation of confidentiality. 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 Ave, NW, Washington, D.C. 20210.

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

Job Order Number: N.Y.0983013

A: Clarification of Items on Form ETA 790

Item #3 - Housing:

a. Housing and utilities are provided at no cost to H2A workers and those workers in corresponding employment unable to return to their places of residence the same day.
b. 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 timely notification to the NPC and DHS, if the worker:
    1) Refuses, without cause, to perform work for which the worker was recruited and hired;
    2) Commits serious acts of misconduct;
    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:

The employer will offer, advertise in its recruitment and pay a wage that is the highest of the AEWR, the prevailing hourly wage or piece rate, the agreed upon collective bargaining wage, or the Federal or State minimum wage, except where a special procedure is approved for an occupation or specific class of agricultural employment. Employer assures that if a change in the AEWR requires an increase such increase will be paid as of the effective date of the increase. Also if the AEWR is decreased this will become the wage effective of the date of the decrease.

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 taxes and wage garnishments;
    2) Those benefitting workers and authorized in writing such as insurance or savings plans.
    Any other deductions are illegal.
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 fire, weather or Act of God terminations, the ¾ guarantee period ends on the date of termination. The employer must make efforts to transfer the worker to other comparable employment acceptable to the worker, consistent with existing immigration law. If such transfer is not effected, the employer must return the worker, at the employers expense, to

the place from which the worker (disregarding intervening employment) came to work for the employer, or transport the worker to the workers next certified H2A employer, whichever the worker prefers; reimburse the workers the full amount of any deductions made from the worker's pay by the employer for transportation and subsistence expenses to the place of employment; and pay the worker for any costs incurred by the worker for transportation and subsistence expenses to that employer's place of employment. The amount of the transportation payment must not be less (and is not required to be more) than the most economical and reasonable common carrier transportation charges for the distance involved.

d. 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.

e. 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:

Employer agrees to reimburse inbound transportation and subsistence expenses ($10.73/day without receipts or up to $46.00/day with receipts) 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 place from which the worker has come to work for the employer, whether in the U.S. or abroad to the place of employment, 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.

a. 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/her place of recruitment and has subsequent employment with an employer who will bear transportation expenses, in which case this employer only pays for transportation to the next job.

b. 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 notify the NPC and DHS.

c. The amount of 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 daily subsistence will be in accordance with current rates as published in the *Federal Register* (for workers with and without receipts).

d. 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 655.135.
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. The employer will provide to H2A workers no later than the time at which the worker applies for the visa, or to workers in corresponding employment no later than on the day work commences, a copy of the work contract between the employer and the workers in a language understood by the workers.
6. The employer assures that if acting as a Farm Labor Contractor (FLC) or Farm Labor Contractor Employee (FLCE) on the order, s/he has a valid federal FLC certificate or FLCE identification card.
7. The employer (if required) assures that s/he complies with New York State Department of Labor Grower Registration requirements. Growers or Processors who are responsible for bringing five or more migrant workers (including H2A workers) into New York State must register with the New York State Department of Labor and pay a registration fee in addition to any other fees that may apply.
8. Farm Labor Contractors anticipating employment contracting with growers or processors in New York State will be required to register with the New York State Department of Labor and pay a crew leader registration fee in addition to any other fees that may be applicable.
9. All workers hired under this order will be required to show evidence of right to work in the United States.

Employer Signature: _____

New York State Department of Labor
Form ETA 790 Attachment #2 – Additional Information

Item #1: Employer Email: _____

Employer FAX: _____

Item #13 – Board Arrangements:

Employer **will not** provide three meals per day and will deduct $ **N/A** per day.

Employer **will** furnish free dishes, cooking utensils and convenient kitchen and cooking facilities.

Employer **will** provide transportation to assure workers access to stores where they can purchase groceries, other incidentals and/or medical necessities.

Item #15 – Job Specifications:

Employer will provide 0 days of training and/or allow 0 days of work for workers to reach productivity.

Production Standards: 4 Bins Fresh and/or 6 Bins Process per day.

Item #16 – Wage Rates, Special Pay Information and Deductions:

a. 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, the employer shall pay eligible workers referred through the clearance system a minimum of $410 for the first week starting with the originally anticipated date of need. If workers referred fail to notify the NYS Department of Labor of continued interest in the job at least five days before date of need, workers will be disqualified from this assurance. The employer will not require workers to perform alternative work if the guarantee cited in this section is invoked.

b. Employer will maintain adequate payroll records. Workers will be paid weekly on Friday for work through previous Wednesday. A written statement showing (1) employers full name and address, (2) worker's social security number, (3) total hours offered and total hours actually worked or total number of units, if piece rate, (4) total earnings for the pay period, and (5) deductions will be furnished to the workers each pay day.

Item #20 – Workers' Compensation:

Employer assures that policy # Z 123 546-35 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 National Processing Center before certification is granted.