



WASHOE COUNTY

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Finance _____
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Risk Mgt. _____
HR _____
Other _____

STAFF REPORT

BOARD MEETING DATE: August 09, 2016

DATE: August 1, 2016
TO: Board of County Commissioners
FROM: Aaron Kenneston, Washoe County Emergency Manager
akenneston@WashoeCounty.us (775) 337-5898
THROUGH: Al Rogers, Management Services Director
SUBJECT: Ratification of a license agreement with UNR for Livestock Sheltering entered into on July 30, 2016 by the Washoe County Emergency Manager. (All Commission Districts.)

SUMMARY

The Board will receive a temporary license agreement with the Board of Regents of the Nevada System of Higher Education on behalf of the University of Nevada, Reno for temporary sheltering of livestock.

PREVIOUS ACTION

N/A

BACKGROUND

On July 28, 2016 at approximately 6:00 pm, a series of lightning strikes started multiple fires in Washoe County. The extreme winds, severe weather, fire, heavy smoke, disruption of utility services, and other potential and related events in Washoe County caused fire response, fire support, voluntary evacuations and sheltering operations as fires threatened areas including, but not limited to, the Red Rock Rancho Haven area, Palomino Valley, Fish Springs, Pyramid Lake area, as well as areas north of Gerlach.

Because of the rural areas affected, some residents evacuated livestock and the Livestock Events Center was made available for large animal sheltering. With the annual Hot August Nights special event beginning August 1, 2016, the Livestock Events Center will not be available as a shelter.

Pursuant to WCC 65.325, Aaron Kenneston, as the Washoe County Emergency Manager and administrator of the Washoe County emergency management program, has the ability to contract with private parties or governmental entities to obtain vital services needed to protect life and property without complying with normal purchasing procedures at the inception and during a disaster or emergency if doing so would unreasonably hamper the implementation of the emergency disaster plan. Due to the conditions described above, Mr Kenneston entered into an agreement with the Nevada

System of Higher Education (NSHE), University of Nevada, Reno (UNR) on July 30, 2016 to allow temporary sheltering of livestock at the UNR Valley Road Equestrian Facility in case of emergency situations requiring livestock evacuations.

On August 1, 2016, the Washoe County Manager formally declared a state of emergency.

The Board is now requested to ratify the license agreement as entered into by Mr. Kenneston.

FISCAL IMPACT

The total costs of temporary sheltering efforts are being compiled under Internal Order # IO 70485 – Rock Fire, and IO 70525 – Anderson Fire Complex. Requests for reimbursement will be submitted to the appropriate agencies.

RECOMMENDATION

It is recommended that the Board approve ratification of a license agreement with UNR for Livestock Sheltering entered into on July 30, 2016 by the Washoe County Emergency Manager .

POSSIBLE MOTION

Should the Board agree with staff's recommendation, a possible motion would be *“move to approve ratification of a license agreement with UNR for Livestock Sheltering entered into on July 30, 2016 by the Washoe County Emergency Manager.”*

LICENSE AGREEMENT

THIS LICENSE AGREEMENT ("License") is entered into this 29th day of July, 2016, between the Board of Regents of the Nevada System of Higher Education on behalf of the University of Nevada; Reno, ("NSHE") and Washoe County, through its Emergency Management Program ("WCEM").

WHEREAS, NSHE is the owner of certain real property in Washoe County, Nevada, which WCEM desires to use for the purpose of providing emergency services and temporary shelter for livestock being evacuated due to wildfires in the Northern Nevada and California area ("Event"), and which NSHE desires to license to WCEM for its use; and,

WHEREAS, the parties desire to create a short-term license with respect to this License and do not wish to create any relationship of partnership, joint venture or other association; and,

WHEREAS, the WCEM Administrator of emergency management, Aaron Kenneston, has determined that an emergency as defined at WCC 65.300(4) exists in that the National Weather Service has declared a "red flag warning" as a result of severe weather, that fire danger is high, which is causing or threatening loss of life, injury to person or property, human suffering or financial loss to the extent that extraordinary measures must be taken to protect the public health, safety and welfare; and,

WHEREAS, pursuant to WCC 65.325 the WCEM Administrator is authorized at the inception of and during an emergency to implement the emergency disaster plan, and to requisition or contract with private parties or other governmental entities, obtain vital services, supplies and equipment needed to protect life and property and implement the plan and may bind the county for the value thereof without being required to comply with the normal purchasing procedures if compliance with those procedures would unreasonably hamper or impair the implementation of the plan; and,

WHEREAS, Washoe County facilities for the provision of temporary shelter for evacuated livestock are full or unavailable and there is an immediate need for such shelter which NSHE has available and is willing to provide,

NOW THEREFORE, based upon the foregoing, and in consideration of the terms and conditions of this License, and for other good and valuable consideration, NSHE and WCEM agree as follows:

1. Property. Subject to the terms and conditions of this License, NSHE shall permit WCEM the right to use a certain portion of real property owned by NSHE, which property is located in Washoe County, Nevada, and is described in Exhibit "A" attached hereto, specifically Sections C and E as identified in Exhibit A ("Property"), and which Property is subject to all existing easements, covenants, conditions, and restrictions of record, if any.

2. Term. The Term of this License shall be from July 30, 2016, through August 30, 2016.

3. Use Fee. In consideration for the use of the Property, WCEM shall agree to indemnify NSHE pursuant to Paragraph 8.

4. Use. WCEM agrees to and shall use the Property for the general purposes of providing emergency services and temporary shelter for the evacuated livestock during the Event. WCEM shall use the Property for no other use without NSHE's prior written consent which shall be withheld or given at NSHE's discretion. WCEM shall not commit or cause to be committed any waste, damage, or misuse of all or any part of the Property. WCEM shall use the Property on the following terms and conditions:

a. Compliance with Laws. WCEM shall, at its own expense, promptly and properly observe and comply with all federal, state and local laws, ordinances and regulations and WCEM shall use the Property in compliance with such laws. WCEM will adhere to all OSHA safety requirements. If for any reason WCEM's use of the Property fails to comply with any federal, state or local law and WCEM fails to bring its use within compliance within 12 hours written notice of such noncompliance, this License shall terminate upon NSHE's delivery of written notice of termination to WCEM and WCEM shall immediately pay to NSHE the full Use Fee.

b. Access. WCEM shall not enter and no access shall be permitted to WCEM by NSHE to any of the buildings, facilities, or improvements existing upon the Property, nor shall any utilities be used by WCEM.

c. Locks and Keys. WCEM shall obtain access keys directly from the University of Nevada, Reno Facilities Services Department, and shall not use any other means to access the Property. WCEM shall be responsible for the cost to repair any damaged locks, gates, fences, or NSHE property that is damaged by unauthorized entry to Property.

d. Temporary Fencing. WCEM shall have the right, at its sole cost and expense, to install temporary fencing and temporary security measures on the Property.

e. Waste/Nuisance/Interference. WCEM shall not use the Property in any manner that will constitute waste, nuisance, or unreasonable annoyance to occupants of adjacent and surrounding properties. WCEM shall keep the Property in safe, neat and clean condition at Licensee's sole expense. WCEM shall not interfere with the normal operation and activities of NSHE and WCEM shall conduct its activities on the Property to minimize damage to the Property and inconvenience to NSHE, its agents, employees and invitees.

f. Dust Abatement. At all times during the term of the License, WCEM shall comply with all applicable local, state and federal ordinances, regulations and laws as to air quality and dust control and ensure that adequate and sufficient dust abatement and control is maintained.

g. Hazardous Materials. Neither WCEM, nor any of WCEM's agents, contractors, employees, licensees or invitees shall at any time handle, use, manufacture, store or dispose of in or about the property any flammables, explosives, radioactive materials, hazardous wastes or materials, toxic wastes or materials, or other similar substances, petroleum products or derivatives or any substance (collectively "Hazardous Materials") subject to regulation by or under any federal, state and local laws and ordinances relating to the protection of the environment or the keeping, use or disposition of environmentally hazardous materials, substances, or wastes, presently in effect or hereafter adopted, all amendments to any of them, and all rules and regulations issued pursuant to any of such laws or ordinances (collectively "Environmental Laws"). WCEM shall protect, defend, indemnify and hold NSHE harmless from and against any and all loss, claims, liability or costs (including court costs and attorney's fees) incurred by reason of any actual or asserted failure of WCEM to fully comply with all applicable Environmental Laws, or the presence, handling, use or disposition in or from the Property of any Hazardous Materials, or by reason of any actual or asserted failure of WCEM to keep, observe, or perform any provision of this paragraph.

6. Maintenance and Repairs. NSHE shall deliver the Property to WCEM in an "as is" condition at the date of commencement of the term of this License. WCEM shall, at WCEM's own cost and expense, maintain and repair the Property, reasonable wear and tear excepted, and shall surrender the Property in no worse condition at the termination of this License than it was prior to WCEM's use.

7. Insurance. WCEM shall, at WCEM's sole expense, procure, maintain, and keep in force for the duration of the License the following insurance conforming to the requirements specified below.

a. Insurance Required

1) Workers' Compensation and Employer's Liability Insurance

i. WCEM shall provide proof of workers' compensation insurance as required by NRS 616B.627 or proof that compliance with the provisions of Nevada Revised Statutes, Chapter 616A-D and all other related chapters, is not required.

2) Commercial General Liability Insurance

i. Limits Required

1. \$2,000,000 General Aggregate
2. \$1,000,000 Products & Completed Operations Aggregate
3. \$1,000,000 Personal and Advertising Injury
4. \$2,000,000 Each Occurrence

ii. Coverage shall be on an occurrence basis and shall be at least as broad as ISO form CG 00 01 and shall cover liability arising from premises, operations, independent contractors, completed operations, personal injury, products, and contractual liability coverage.

3) Business Automobile Liability Insurance

i. Limit required: \$1,000,000 combined single limit per accident for bodily injury and property damage.

ii. Coverage shall include owned, non-owned, and hired vehicles.

iii. Coverage shall be written on ISO form CA 00 01 or a substitute providing equal or broader liability coverage.

b. General Requirements

1) Additional Insured: On all insurance policies required by this License, the Nevada System of Higher Education on behalf of the University of Nevada shall be included as an additional insured as respects to this License.

2) Waiver of Subrogation: Each required liability insurance policy shall provide for waiver of subrogation against Nevada System of Higher Education on behalf of the University of Nevada.

3) Cross-Liability: All required liability policies shall provide cross-liability coverage.

4) Approved Insurer: Each insurance policy shall be issued by insurance companies authorized to do business in the State of Nevada or eligible surplus lines insurers rated at least A- by AM Best and having agents in Nevada upon whom service of process may be made.

c. WCEM may satisfy any and all of the above insurance requirements with a formal program of self-insurance.

8. Indemnification. WCEM shall indemnify, defend, and hold harmless NSHE, its officers, employees, and agents from and against any and all liabilities, claims, losses, costs or expenses to the person or property of another, lawsuits, judgments, and/or expenses, including attorney fees, arising either directly or indirectly from any act or failure to act by WCEM or any of its officers or employees, which may occur during or which may arise out of the performance of this License, or which may occur during or which may arise out of the Event.

9. Termination. NSHE shall have the right to terminate this License at any time and for any reason. At the expiration or earlier termination of this License, WCEM shall immediately cease use of the Property.

10. Surrender. On the last day of the Term hereof, including or on any sooner termination, Licensee shall surrender the Property to NSHE in good, clean and safe condition. If NSHE determines in its discretion that WCEM, its agents or contractors have caused any damage to the Property or the Property is in need of repair in connection with the exercise of this License, NSHE shall notify WCEM of WCEM's responsibility to make such repair. WCEM shall repair and restore the Facility to its original condition as it existed at the commencement of the Term. WCEM shall perform the repair and restoration required hereunder prior to the expiration of this License, or within ten (10) days of the earlier termination of Licensee's rights hereunder. In the event that repair and restoration is performed following the termination of this License, the WCEM Indemnity and Insurance obligations in paragraphs 7 and 8 shall continue until repair and restoration is completed as provided herein.

11. Holding Over. No holdover tenancy by WCEM is allowed under this License.

12. Assignment. Licensee may not assign or sublet this License.

13. Notices. All notices, requests, demands, and other communications hereunder shall be in writing and shall be deemed given if personally delivered or mailed, certified mail, return receipt requested to the following addresses:

If to NSHE, to: Troy Miller
 Director of Real Estate
 University of Nevada, Reno
 Real Estate Office
 1664 North Virginia Street
 Mail Stop 243
 Reno, Nevada 89557

With a copy to: Mary Dugan
General Counsel
University of Nevada, Reno
Mail Stop 0550
1664 N. Virginia Street
Reno, NV 89557-0550

If to WCEM, to: Aaron R. Kenneston
Administrator
Washoe County Emergency Management
5195 Spectrum Blvd
Reno, Nevada 89512

14. Miscellaneous.

a. WCEM shall obtain any and all zoning or other approvals and permits required by law, regulation, or ordinance.

b. This License shall be given effect and construed by application of the laws of the State of Nevada and any action or proceeding arising hereunder shall be brought in the courts of Washoe County in the State of Nevada.

c. Nothing in this License shall be deemed in any way to create between the parties hereto any relationship of partnership, joint venture or association, and the parties hereto hereby disclaim the existence of any such relationship.

d. No determination by any court or any other body that any provision of this License or any amendment thereof is invalid or unenforceable in any instance shall affect the validity or enforceability of any other provision hereof. Each provision shall remain valid and enforceable to the fullest extent allowed by and shall be construed wherever possible as being consistent with applicable law.

e. This License may only be amended by a writing signed by the parties hereto.

f. The headings of the sections, subsections, paragraphs and subparagraphs hereof are provided only for convenience of reference and shall not be considered in construing their contents.

g. NSHE and WCEM hereby agree that both parties were equally influential in preparing and negotiating this License and each had the opportunity to seek advice of legal counsel prior to the execution of this License. Therefore, NSHE and WCES agree that no presumption should arise construing this License more unfavorably against any one party.

h. Each writing or drawing referred to herein as being attached hereto as an exhibit or otherwise designate herein as an exhibit hereto is hereby made a part of the License.

i. WCEM specifically warrants that 1) WCEM is duly organized and validly exists under the laws of the State of Nevada and 2) that this License has been authorized by all necessary representatives of WCEM, is validly executed by an authorized officer or agent of WCEM and is binding upon and enforceable against WCEM in accordance with its terms.

**THE BOARD OF REGENTS OF THE
NEVADA SYSTEM OF HIGHER
EDUCATION ON BEHALF OF THE
UNIVERSITY OF NEVADA, RENO**

**WASHOE COUNTY EMERGENCY
MANAGEMENT**

Date: 7-29-16

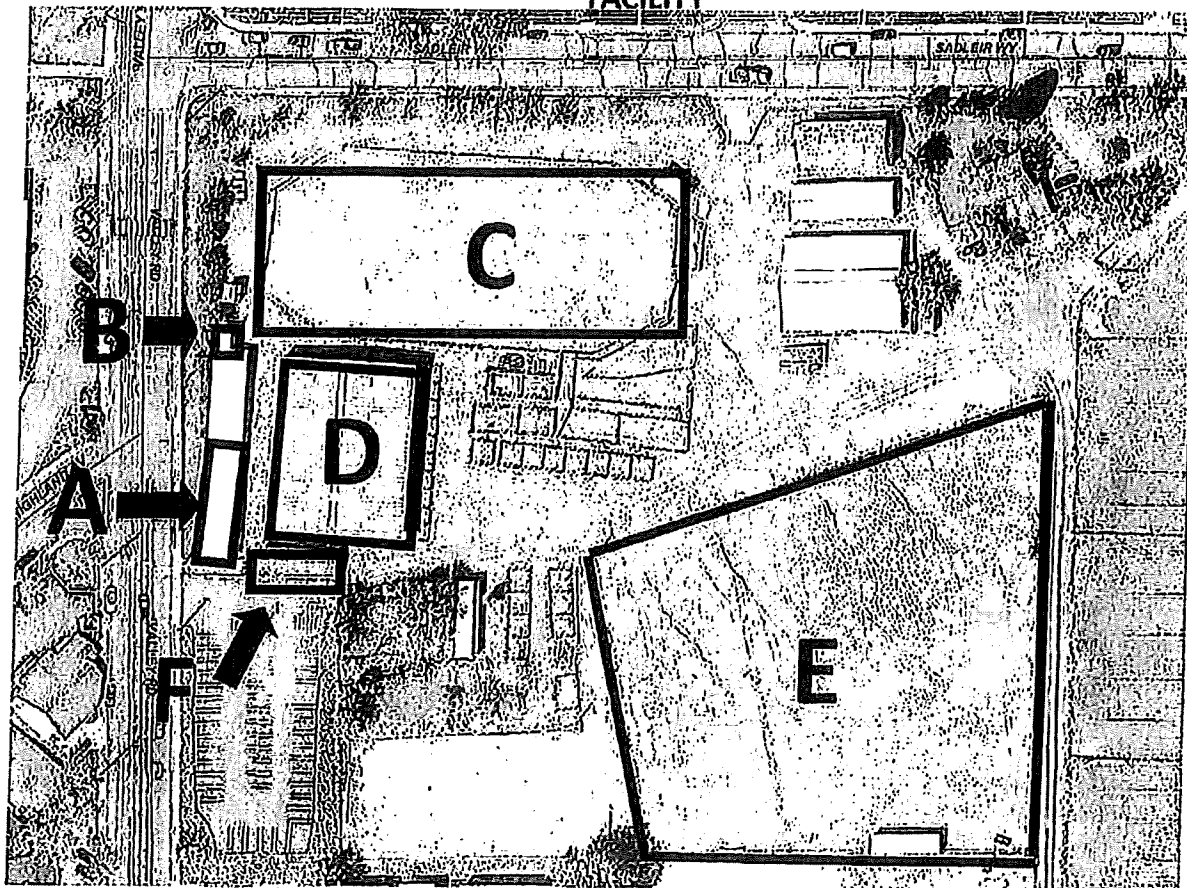
By: Ron Zurek
Ron Zurek
Vice President Business & Finance
University of Nevada, Reno

Date: 7/29/16

By: Aaron R. Kenneston
Aaron R. Kenneston
Administrator
Washoe County Emergency
Management

EXHIBIT A

FACILITY



- A. 6 Pens in stalls next to Valley Road.
- B. Tack room
- C. Area for team to set up jumps, etc.
- D. Inside arena will be used during bad weather.
- E. Dry lot area holding pen to be used during nice weather and while pens are being cleaned and for 3 additional horses
- F. Building that has the bathrooms. Access for bathroom use only.