

EMERGENCY OCCUPANCY AGREEMENT FOR USE OF KELSEYVILLE MOTEL

Preamble

THIS OCCUPANCY AGREEMENT, made and entered into this 18 day of July, 2020 by and between Kelseyville Motel, hereinafter called the Owner, and the County of Lake, a political subdivision of the State of California, hereinafter called the County for the rental of hotel rooms as set forth hereinafter at Kelseyville Motel.

WITNESSETH

WHEREAS, pursuant to the Governor's State of Emergency Proclamation dated March 4, 2020 and Executive Order N-25-20 in response to COVID-19, emergency housing is needed for the preservation of public health and safety, including the housing of persons subject to quarantine and/or isolation orders; and

WHEREAS, the County of Lake solicited a Request for Offers to local hotels to provide emergency housing; and

WHEREAS, Kelseyville Motel has offered to provide housing that the Lake County Public Health Officer has determined is suitable for the purposes set forth in the Governor's Proclamation and Order, including the housing of persons subject to quarantine and/or isolation orders.

NOW, THEREFORE, the parties hereto agree as follows:

Description

1. Subject to the terms and conditions, stipulations and limitations set forth hereinafter, the Owner hereby authorizes the County and the County hereby hires from the Owner those certain premises in "AS IS" condition, along with appurtenances, at Kelseyville Motel, located at 5575 7th Street, Kelseyville, California, and more particularly described in this paragraph 1 (the "premises"), for the purpose of temporarily housing persons subject to quarantine and/or isolation orders.

The County shall have exclusive access to and use of the occupied premises set forth in this agreement twenty-four (24) hours per day, seven (7) days per week with no exceptions.

A. Rooms for Residential Occupancy: The County shall reserve a block of five (5) rooms, and pay for said block of rooms, whether occupied or not, at the Rate set forth hereinbelow.

B. Parking: Use of the premises permits use of parking spaces contiguous to the building. Parking spaces, upon commencement of the occupancy agreement, shall be unobstructed and completely accessible for County's use.

Term

2. The term of this occupancy agreement shall commence on July 18, 2020, and shall continue month to month for a term not to exceed the period of exigent or emergency circumstances as may be established by local, state or federal proclamation, with such rights of termination as may be hereinafter expressly set forth. Should the term extend beyond eight weeks both parties understand that the Agreement will require approval by the County of Lake Board of Supervisors.

Termination For Cause and Convenience

3. The County may terminate this occupancy agreement at any time by giving written notice to the Owner at least seven (7) days prior to the date when such termination shall become effective. If the County fails to complete its move out within the notice period and remains in the premises, additional rent shall be paid and prorated on a thirty (30) day month, based on the actual number of days the County occupies the premises following the effective date of

EMERGENCY OCCUPANCY AGREEMENT FOR USE OF KELSEYVILLE MOTEL

termination. Any such payments for additional rent shall be limited to the actual number of rooms occupied by the state following the effective date of termination.

Either party may terminate this Agreement or any Services under this Agreement immediately, upon prior written notice if the other party:

- A. has breached any material provision of this Agreement, and has failed to cure such breach within seven (7) days of receiving written notification of such breach; or
- B. has violated applicable Law.

Rent

4. Rental payments shall be paid by the County, from legally available funds and subject to the California Constitution, in arrears no later than the tenth day of the month following receipt of invoice during said term as follows:

- A. Rate. The Rate shall be eighty three and 00/100 dollars (\$83.00) per room per night, plus tax, during the term of this occupancy agreement. In no case shall the total cost exceed \$25,000 without written amendment to this agreement.

Owner shall provide a monthly invoice to the County at the address below. Rental Payment shall be paid to Owner at the address specified in Paragraph 5, or to such other address as the Owner may designate by a notice in writing, or via ACH deposit directly into the designated account of Owner, as mutually agreed upon.

Invoices to County and ACH information as applicable shall be sent to:

Auditor Controller County Clerk – Cathy Saderlund
255 North Forbes Street Lakeport, CA 95453

Notices

5. All notices and correspondence herein provided to be given, or which may be given by either party to the other, shall be deemed to have been fully given when made in writing and either: 1) deposited in the United States Mail, certified and postage prepaid; or 2) sent via an alternate commercial overnight delivery service (i.e. FedEx or similar) with receiver's signature required; and addressed as follows:

To the Owner:
Kelseyville Motel
5575 7th St.
Kelseyville, CA 95451
Jay Patel
(707) 386-8475

To County:
Auditor-Controller/ County Clerk
255 North Forbes St
Lakeport, CA 95453
Cathy Saderlund
(707) 263-2312

ALL NOTICES AND CORRESPONDENCE MUST REFERENCE COUNTY AND PREMISES ADDRESS

Nothing herein contained shall preclude the giving of any such written notice by personal service. The address to which notices and correspondence shall be mailed to either party may be changed by giving written notice to the other party.

**Owner
Supplied
Services &
Supplies**

6. Owner, at Owner's sole cost and expense, shall furnish the following services, utilities, and supplies to the areas occupied by the County, and also to the "common" building areas (if any) such as lobbies, elevators, stairways, corridors, etc., if any:

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- A. Sewer and water service, including both hot and cold water to the lavatories, excepting an interruption in the provision of sewer or water service from the municipal provider beyond Owner's control.
- B. Electricity and/or gas as necessary to provide power for heating, ventilating, and air conditioning, and electrical or gas service as needed for County's operations, excepting an interruption in the provision of electricity from PG&E to the Owner beyond Owner's control.
- C. Each new County authorized occupant will be supplied with usual and customary hotel linens and towels. As set forth below County shall be responsible for laundering said items and returning them to the owner.
- D. Non-Medical waste disposal services.
- E. Other than the provision of clean linens as set forth in "C" above, usual and customary housekeeping services are explicitly excluded from this Occupancy Agreement.

In the event of failure by the Owner to furnish any of the above services or utilities in a satisfactory manner, the County may furnish the same at its own cost; and, in addition to any other remedy the County may have, may deduct the amount thereof, including County's administrative costs, from the rent that may then be, or thereafter become due hereunder.

**County
Supplied
Services &
Supplies**

7. County, at County's sole cost and expense, shall provide the following services to support the County's occupancy:

- A. Medical waste collection and disposal (if necessary).
- B. Daily linen and towel laundry services, which will be provided off the premises.
- C. Room cleaning and disinfecting upon vacancy. This will include routine room cleaning services such as dusting, vacuuming, and touch surface wipe-down sanitization, as well as application of an ultra-low volume (ULV) disinfectant fog on all surfaces.

**Repair and
Maintenance**

8. During the term of this occupancy agreement, the Owner shall maintain the occupied premises in good repair and tenantable condition.

Permits

9. Owner acknowledges that it has either obtained all permits and approvals necessary for the electrical and other improvements to the facility that have occurred prior to the effective date of this Agreement, or will have obtained all necessary permits and approvals prior to its performance under the Agreement.

Safety

10. During the Term of this Occupancy Agreement, both parties hereto shall be individually responsible for ensuring that their respective employees, volunteers, agents and subcontractors are using reasonable precautions to minimize exposure to COVID-19, including but not limited to the use of Personal Protective Equipment and compliance with all other applicable CDC protocols.

**Quiet
Possession**

11. The Owner agrees that the County, while keeping and performing the covenants herein contained, shall at all times during the existence of this occupancy agreement, peaceably and quietly have, hold, and enjoy the occupied premises without suit, trouble, or hindrance from the Owner or any person claiming under Owner.

Destruction

12. If the occupied premises are rendered uninhabitable, whether in whole or in part, this occupancy agreement shall terminate.

**Subrogation
Waived**

13. Notwithstanding any other provision of this Occupancy Agreement to the contrary, neither party hereto or its officers, directors, partners, members, managers, employees, agents, concessionaires, licensees and invitees shall be liable to the other for loss or damage caused by any risk covered by insurance required to be carried under this lease, and each party to this Occupancy Agreement hereby waives any rights of recovery against the other and its officers,

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directors, partners, members, managers, employees, agents, concessionaires, licensees and invitees for injury or loss on account of such covered risks.

**Equal
Opportunity**

14. During the performance of this occupancy agreement, the Owner shall not deny benefits to any person on the basis of religion, color, ethnic group identification, sex, age, physical or mental disability, nor shall they discriminate unlawfully against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, mental disability, medical condition, marital status, age, or sex. Owner shall ensure that the evaluation and treatment of employees and applicants for employment are free of such discrimination and in full compliance with the requirements of 41 C.F.R. § 60- 1.4(a), which is incorporated by reference into this Occupancy Agreement.

Owner shall comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12900 et seq.), the regulations promulgated thereunder (California Code of Regulations, Title 2, Section 11000 et seq.), the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (Government Code, Sections 11135-11139.8), and the regulations or standards adopted by the County to implement such article.

Holding Over

15. In the event the County remains in possession of the premises after the expiration of the occupancy agreement term, or any extension or renewal thereof, this occupancy agreement shall be automatically extended on a month to month basis, subject to a thirty day (30) days termination by the County and otherwise on the terms and conditions herein specified, so far as applicable. If the County fails to vacate the premises within the notice period and remains for an extended period, additional rent shall be paid and prorated on a thirty (30) day month, based on the actual number of days the County occupies the premises following the effective date of termination. Any such payments for additional rent shall be limited to the actual number of rooms occupied by the state following the effective date of termination.

**Surrender of
Possession**

16. Upon termination or expiration of this occupancy agreement, the County will peacefully surrender to the Owner the occupied premises in as good order and condition as when received, except for reasonable use and wear thereof and damage by earthquake, fire, public calamity, the elements, acts of God, or circumstances over which County has no control or for which Owner is responsible pursuant to this occupancy agreement.

**Time of
Essence,
Binding upon
Successors**

17. Time is of the essence of this occupancy agreement, and the terms and provisions of this occupancy agreement shall extend to and be binding upon and inure to the benefit of the heirs, executors, administrators, successors, and assigns to the respective parties hereto. All of the parties hereto shall be jointly and severally liable hereunder.

**No Oral
Agreements**

18. It is mutually understood and agreed that no alterations or variations of the terms of this occupancy agreement shall be valid unless made in writing and signed by the parties hereto, and that no oral understanding or agreement not incorporated herein, shall be binding on any of the parties hereto.

Insurance

19. During the Lease term, County shall, at its own expense, maintain in full force a policy or policies of comprehensive public liability and property damage insurance, written by one or more responsible insurance companies licensed to do business in California, that will insure County and Owner (and such other person, firms or corporations as are designed by Owner) against liability for injury to persons and property and for death of any person or persons arising out of the use or occupancy of the premises by County, the operations thereof. Each such policy shall be subject to approval by Owner as to form and as to insurance company. The liability under such insurance shall not be less than THREE MILLION DOLLARS (\$3,000,000.00) combined single limit for each occurrence, for bodily injury and property damage. County shall also carry and maintain at its own cost and expense Worker's Compensation and Employer's Liability insurance covering employees for California Workers' Compensation benefits, including Employers' Liability with limits of at least ONE MILLION DOLLARS (\$1,000,000.00) for each

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accident. If, in the considered opinion of Owner's insurance advisor, the amount of such coverage is not adequate, County shall increase the coverage to such amount as Owner's advisor shall deem adequate. County shall provide Owner with copies or certificates of all policies, including in each instance an endorsement providing that such insurance shall not be cancelled or amended except after thirty (30) days prior written notice to Owner. All such public liability, property damage, and other casualty policies shall be written as primary policies with respect to the interests of Owner and all other additional insureds and shall provide that any insurance carried by Owner or such other additional insureds is excess and not contributing insurance with respect to the insurance required hereunder. The public liability, property damage, or other casualty policies shall contain "cross liability" or "severability of interest" provisions.

Hazardous
Substance

20. County agrees that it will comply with all applicable laws existing during the term of this occupancy agreement pertaining to the use, storage, transportation, and disposal of any hazardous substance as that term is defined in such applicable law. In the event a government order is issued naming the County or the County incurs any liability during or after the term of the occupancy agreement in connection with contamination which pre-existed the County's obligations and occupancy under this occupancy agreement or which were not caused by the County, Owner shall hold harmless, indemnify, and defend the County in connection therewith and shall be solely responsible as between County and Owner for all efforts and expenses thereto.

Restoration of
Premises

21. Upon termination of this Occupancy agreement, Owner agrees that the equipment installed by the County shall be and remain the property of the County, and County shall remove such property when vacating the premises. County shall restore all surfaces, including floors and walls, to the condition existing prior to its installation, including repair of damaged floor tile and patching and repainting damaged wall surfaces to match adjacent existing surfaces. County shall clean, **sanitize** and **disinfect** each occupied room per the current health and safety protocols established by public health officials, immediately prior to vacating the premises.

Access

22. Owner shall allow County or its agents to enter the premises as of 7:00 A.M. on April 18, 2020, to stage and prepare the property for occupants, or other parties, or for any other purpose County deems necessary. *J.P. Miller*

Indemnification

23. The County agrees to indemnify and hold harmless the Owner to the extent authorized by Government Code Section 14662.5 and agrees to repair or pay for any damage proximately caused by reason of the County's use of said premises during the term of this agreement, except to the extent that any such damages suffered by Owner are the result of Owner's negligent or wrongful acts or the acts of any persons acting under or on behalf of the Owner and/or where the County is found to have no liability by reason of any immunity arising by statute or common law in connection with the fulfillment of the County's constitutional and statutory public responsibilities.

Owner agrees to indemnify and hold harmless the County in the event of any claim, demand, cause of action, judgments, obligations, or liabilities, and all reasonable expenses which County may suffer as direct and proximate result of the negligence or other wrongful act or violation of law by the Owner, its employees, or any person or persons acting under the direct control and authority of the Owner or its employees, in connection with the County's occupancy of said premises under and during the term of this agreement except to the extent that any such damages or expenses suffered by County are the result of County's sole negligence.

24. Owner is solely responsible for all tax liabilities, including property taxes.

Re-use

25. Owner shall not rent or allow occupancy of any vacant rooms or facilities in the buildings set forth in Paragraph 1A hereinabove during the term of the County's occupancy of the premises.

Occupancy of
Premises

26. Owner and County understand that they shall not receive rent, fees, or any other form of payments or consideration, or gifts from occupants of hotel rooms in exchange for access to or use of the Premises. Owner and County also understand that they have not entered into any

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agreements with the occupants of the hotel rooms related to the use of the Premises. The occupants of the hotel rooms are not persons who hire any dwelling unit from Owner or County within the meaning of California Civil Code section 1940.

Remedies

27. In the event of a breach by either party hereto of any term or provision of this Agreement, each party shall have the right to pursue all available remedies at law or equity, including recovery of damages and specific performance of this Agreement.

Prevailing Wages

28. For those projects defined as "public works" pursuant to Labor Code §1720.2, the following shall apply:

- A. Owner/contractor shall comply with prevailing wage requirements and be subject to restrictions and penalties in accordance with §1770 et seq. of the Labor Code which requires prevailing wages be paid to appropriate work classifications in all bid specifications and subcontracts.
- B. The Owner/contractor shall furnish all subcontractors/employees a copy of the Department of Industrial Relations prevailing wage rates which Owner will post at the job site. All prevailing wage rates shall be obtained by the Owner/contractor from:

Department of Industrial Relations
Division of Labor Statistics and Research
455 Golden Gate Avenue, 8th Floor
San Francisco, California 94102
Phone: (415) 703-4774
Fax: (415) 703-4771

For further information on prevailing wage: http://www.dir.ca.gov/dlsr/statistics_research.html

- C. Owner/contractor shall comply with the payroll record keeping and availability requirement of §1776 of the Labor Code.
- D. Owner/contractor shall make travel and subsistence payments to workers needed for performance of work in accordance with the Labor Code.
- E. Prior to commencement of work, Owner/contractor shall contact the Division of Apprenticeship Standards and comply with §1777.5, §1777.6, and §1777.7 of the Labor Code and Applicable Regulations

FEDERAL PROVISIONS

Clean Air Act

29. During the Term of this Occupancy Agreement:

- A. The Owner agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. Section 7401 et seq.
- B. The Owner agrees to report each violation to the County and understands and agrees that the County will, in turn, report each violation as required to assure notification to the California Governor's Office of Emergency Services, Federal Emergency Management Agency (FEMA), and the appropriate Environmental Protection Agency Regional Office.
- C. The Owner agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

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**Federal Water
Pollution
Control Act**

30. During the Term of this Occupancy Agreement:

- A. The Owner agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. Sections 1251 et seq.
- B. The Owner agrees to report each violation to the County and understands and agrees that the County will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency (FEMA), and the appropriate Environmental Protection Agency Regional Office.
- C. The Owner agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

**Debarment
and
Suspension
Clause**

31. During the Term of this Occupancy Agreement:

- A. This Occupancy Agreement is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the Owner is required to verify that none of the Owner, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- B. The Owner must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- C. This certification is a material representation of fact relied upon by the County. If it is later determined that the Owner did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the County, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- D. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

**Byrd Anti-
Lobbying
Amendment,
31 U.S.C. §
1352 (as
amended)**

32. Owners who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the County.

APPENDIX A, 44 C.F.R. PART 18- CERTIFICATION REGARDING LOBBYING

The undersigned [Owner] certifies, to the best of his or her knowledge, that:

A. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal

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grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

B. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

C. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Owner certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Owner understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.

OWNER

By _____
Date _____

**Procurement
of Recovered
Materials**

33. During the Term of this Occupancy Agreement:

- A. In the performance of this Occupancy Agreement, the Owner shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired—
 - I. Competitively within a timeframe providing for compliance with the contract performance schedule;
 - II. Meeting contract performance requirements; or
 - III. At a reasonable price.
- B. Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>
- C. The Owner also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

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Access to
Records

34. The following access to records requirements apply to this Occupancy Agreement:

- A. The Owner agrees to provide the County, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Owner which are directly pertinent to this Occupancy Agreement for the purposes of making audits, examinations, excerpts, and transcriptions.
- B. The Owner agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- C. The Owner agrees to provide the FEMA Administrator or his or her authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.
- D. In compliance with the Disaster Recovery Act of 2018, the County and the Owner acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

Department of
Homeland
Security Seal,
Logo, Flags

35. The Owner shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

Compliance
with Federal
Law,
Regulations,
and Executive
Orders

36. This is an acknowledgement that FEMA financial assistance will be used to fund all or a portion of the contract. The Owner will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives.

No Obligation
by Federal
Government

37. The Federal Government is not a party to this Occupancy Agreement and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.

Program Fraud
and False or
Fraudulent
Statements or
Related Acts

38. The Owner acknowledges that 31 U.S.C. Chapter 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this Occupancy Agreement.

Authorization

39. Each party represents and warrants that it has full power and authority to enter into this Agreement and to perform its obligations set forth herein. The representative(s) signing this Agreement on behalf of each party represents that he/she has the authority to execute this Agreement on behalf of the applicable party and to bind it to its contractual obligations hereunder.

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JITENDRA P PATEL 

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IN WITNESS WHEREOF, this occupancy agreement has been executed by the parties hereto as of the date first written above (the "Execution Date").

KELSEYVILLE MOTEL

By: _____
Jay Patel, Owner

Federal Tax I.D. No.

APPROVED AS TO FORM:
ANITA L. GRANT
County Counsel

By:  _____
2DEBF728C904419

DENISE POMEROY

By:  _____
Health Services Director

EMERGENCY OCCUPANCY AGREEMENT FOR USE OF KELSEYVILLE MOTEL

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KELSEYVILLE MOTEL

By: 

Jay Patel, Owner

730-03-8893

Federal Tax I.D. No.

DENISE POMEROY

By: 

Health Services Director

APPROVED AS TO FORM:

ANITA L. GRANT

County Counsel

By: 

DocuSigned by:
ANITA L. GRANT
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