

OFFICE OF THE CITY ATTORNEY  
ROBERT E. SHANNON, City Attorney  
333 West Ocean Boulevard, 11th Floor  
Long Beach, CA 90802-4664

CONTRACT

**31432**

THIS CONTRACT is made and entered, in duplicate, as of November 23, 2009 for reference purposes only, pursuant to a minute order adopted by the City Council of the City of Long Beach at its meeting held on December 15, 2009, by and between ARB, INC., a California corporation ("Contractor"), whose address is 26000 Commercentre Drive, Lake Forest, California 92630, and the CITY OF LONG BEACH, a municipal corporation ("City").

WHEREAS, pursuant to a "Notice Inviting Bids for the Improvement of Colorado Lagoon Phase I in the City of Long Beach, California," bids were received, publicly opened on October 21, 2009 and declared on the date specified in said Notice; and

WHEREAS, the City Manager accepted the bid of Contractor; and

WHEREAS, the City Council authorized the City Manager to enter a contract with Contractor for the work described in Plans & Specifications No. R-6806;

NOW, THEREFORE, in consideration of the mutual terms and conditions herein, the parties agree as follows:

1. SCOPE OF WORK. Contractor shall furnish all necessary labor, supervision, tools, materials, supplies, appliances, equipment and transportation for the work described in "Plans & Specifications No. R-6806 for the Improvement of Colorado Lagoon Phase I in the City of Long Beach, California," said work to be performed according to the Contract Documents identified below. However, this Contract is intended to provide to City complete and finished work and, to that end, Contractor shall do everything necessary to complete the work, whether or not specifically described in the Contract Documents.

2. PRICE AND PAYMENT.

A. City shall pay to Contractor the amount(s) for materials and work identified in Contractor's "Bid for the Improvement of Colorado Lagoon Phase

1 I in the City of Long Beach, California," attached hereto as Exhibit "A".

2 B. Contractor shall submit requests for progress payments and  
3 City will make payments in due course of payments in accordance with Section 9  
4 of the Standard Specifications for Public Works Construction (latest edition).

5 3. CONTRACT DOCUMENTS.

6 A. The Contract Documents include: The Notice Inviting Bids,  
7 Plans & Specifications No. R-6806 (which may include by reference the Standard  
8 Specifications for Public Works Construction, latest edition, and any supplements  
9 thereto, collectively the "Standard Specifications"); the City of Long Beach  
10 Standard Plans; Plans and Drawings No. B-4476 for this work; the California Code  
11 of Regulations; the various Uniform Codes applicable to trades; the prevailing  
12 wage rates; Instructions to Bidders; the Bid; the bid security; the City of Long  
13 Beach Disadvantaged, Minority and Women-Owned Business Enterprise Program;  
14 this Contract and all documents attached hereto or referenced herein including but  
15 not limited to insurance; Bond for Faithful Performance; Payment Bond; Notice to  
16 Proceed; Notice of Completion; any addenda or change orders issued in  
17 accordance with the Standard Specifications; any permits required and issued for  
18 the work; approved final design drawings and documents; and the Information  
19 Sheet. These Contract Documents are incorporated herein by the above  
20 reference and form a part of this Contract.

21 B. Notwithstanding Section 2-5.2 of the Standard Specifications,  
22 if any conflict or inconsistency exists or develops among or between Contract  
23 Documents, the following priority shall govern: 1) Change Orders; 2) this Contract;  
24 3) Permit(s) from other public agencies; 4) Plans & Specifications No. R-6806; 5)  
25 Addenda; 6) Plans and Drawings No. B-4476; 7) the City of Long Beach Standard  
26 Plans; 8) Standard Specifications; 9) other reference specifications; 10) other  
27 reference plans; 11) the bid; and 12) the Notice Inviting Bids.

28 4. TIME FOR CONTRACT. Contractor shall commence work on a date

1 to be specified in a written "Notice to Proceed" from City and shall complete all work  
2 within One Hundred Twenty (120) working days thereafter, subject to strikes, lockouts  
3 and events beyond the control of Contractor. Time is of the essence hereunder. City will  
4 suffer damage if the work is not completed within the time stated, but those damages  
5 would be difficult or impractical to determine. So, Contractor shall pay to City, as  
6 liquidated damages, the amount stated in the Contract Documents.

7 5. ACCEPTANCE OF WORK NOT TO CONSTITUTE A WAIVER. The  
8 acceptance of any work or the payment of any money by City shall not operate as a  
9 waiver of any provision of any Contract Document, of any power reserved to City, or of  
10 any right to damages or indemnity hereunder. The waiver of any breach or any default  
11 hereunder shall not be deemed a waiver of any other or subsequent breach or default.

12 6. WORKERS' COMPENSATION CERTIFICATION. Concurrently  
13 herewith, Contractor shall submit certification of Workers' Compensation coverage in  
14 accordance with California Labor Code Sections 1860 and 3700, a copy of which is  
15 attached hereto as Exhibit "B".

16 7. CLAIMS FOR EXTRA WORK. No claim shall be made at any time  
17 upon City by Contractor for and on account of any extra or additional work performed or  
18 materials furnished, unless such extra or additional work or materials shall have been  
19 expressly required by the City Manager and the quantities and price thereof shall have  
20 been first agreed upon, in writing, by the parties hereto.

21 8. CLAIMS. Contractor shall, upon completion of the work, deliver  
22 possession thereof to City ready for use and free and discharged from all claims for labor  
23 and materials in doing the work and shall assume and be responsible for, and shall  
24 protect, defend, indemnify and hold harmless City from and against any and all claims,  
25 demands, causes of action, liability, loss, costs or expenses for injuries to or death of  
26 persons, or damages to property, including property of City, which arises from or is  
27 connected with the performance of the work.

28 9. INSURANCE. Prior to commencement of work, and as a condition

1 precedent to the effectiveness of this Contract, Contractor shall provide to City evidence  
2 of all insurance required in the Contract Documents.

3 In addition, Contractor shall complete and deliver to City the form  
4 ("Information Sheet") attached as Exhibit "C" and incorporated by reference, to comply  
5 with Labor Code Section 2810.

6 10. WORK DAY. Contractor shall comply with Sections 1810 through  
7 1815 of the California Labor Code regarding hours of work. Contractor shall forfeit, as a  
8 penalty to City, the sum of Twenty-five Dollars (\$25) for each worker employed by  
9 Contractor or any subcontractor for each calendar day such worker is required or  
10 permitted to work more than eight (8) hours unless that worker receives compensation in  
11 accordance with Section 1815.

12 11. PREVAILING WAGE RATES. Contractor is directed to the  
13 prevailing wage rates. Contractor shall forfeit, as a penalty to the City, Fifty Dollars (\$50)  
14 for each laborer, worker or mechanic employed for each calendar day, or portion thereof,  
15 that such laborer, worker or mechanic is paid less than the prevailing wage rates for any  
16 work done by Contractor, or any subcontractor, under this Contract.

17 12. COORDINATION WITH GOVERNMENTAL REGULATIONS.

18 A. If the work is terminated pursuant to an order of any Federal  
19 or State authority, Contractor shall accept as full and complete compensation  
20 under this Contract such amount of money as will equal the product of multiplying  
21 the Contract price stated herein by the percentage of work completed by  
22 Contractor as of the date of such termination, and for which Contractor has not  
23 been paid. If the work is so terminated, the City Engineer, after consultation with  
24 Contractor, shall determine the percentage of work completed and the  
25 determination of the City Engineer shall be final.

26 B. If Contractor is prevented, in any manner, from strict  
27 compliance with the Plans and Specifications due to any Federal or State law, rule  
28 or regulation, in addition to all other rights and remedies reserved to the parties

1 City may by resolution of the City Council suspend performance hereunder until  
2 the cause of disability is removed, extend the time for performance, make changes  
3 in the character of the work or materials, or terminate this Contract without liability  
4 to either party.

5 13. NOTICES.

6 A. Any notice required hereunder shall be in writing and  
7 personally delivered or deposited in the U.S. Postal Service, first class, postage  
8 prepaid, to Contractor at the address first stated herein, and to the City at 333  
9 West Ocean Boulevard, Long Beach, California 90802, Attn: City Manager. Notice  
10 of change of address shall be given in the same manner as stated herein for other  
11 notices. Notice shall be deemed given on the date deposited in the mail or on the  
12 date personal delivery is made, whichever first occurs.

13 B. Except for stop notices and claims made under the Labor  
14 Code, City will notify Contractor when City receives any third party claims relating  
15 to this Contract in accordance with Section 9201 of the Public Contract Code.

16 14. BONDS. Contractor shall, simultaneously with the execution of this  
17 Contract, execute and deliver to City a good and sufficient corporate surety bond, in the  
18 form attached hereto and in the amount specified therein, conditioned upon the faithful  
19 performance of this Contract by Contractor, and a good and sufficient corporate surety  
20 bond, in the form attached hereto and in the amount specified therein, conditioned upon  
21 the payment of all labor and material claims incurred in connection with this Contract.

22 15. COVENANT AGAINST ASSIGNMENT. Neither this Contract nor  
23 any of the moneys that may become due Contractor hereunder may be assigned by  
24 Contractor without the written consent of City first had and obtained, nor will City  
25 recognize any subcontractor as such, and all persons engaged in the work of  
26 construction will be considered as independent contractors or agents of Contractor and  
27 will be held directly responsible to Contractor.

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1                   16.    CERTIFIED PAYROLL RECORDS.

2                   A.     Contractor shall keep and shall cause each subcontractor  
3 performing any portion of the work under this Contract to keep an accurate payroll  
4 record, showing the name, address, social security number, work classification,  
5 straight time and overtime hours worked each day and week, and the actual per  
6 diem wages paid to each journeyman, apprentice, worker, or other employee  
7 employed by Contractor or subcontractor in connection with the work, all in  
8 accordance with Division 2, Part 7, Article 2 of the California Labor Code. Such  
9 payroll records for Contractor and all subcontractors shall be certified and shall be  
10 available for inspection at all reasonable hours at the principal office of Contractor  
11 pursuant to the provisions of Section 1776 of the Labor Code. Contractor's failure  
12 to furnish such records to City in the manner provided herein for notices shall  
13 entitle City to withhold the penalty prescribed by law from progress payments due  
14 to Contractor.

15                  B.     Upon completion of the work, Contractor shall submit to the  
16 City certified payroll records for Contractor and all subcontractors performing any  
17 portion of the work under this Contract. Certified payroll records for Contractor  
18 and all subcontractors shall be maintained during the course of the work and shall  
19 be kept by Contractor for up to three (3) years after completion of the work.

20                  C.     The foregoing is in addition to, and not in lieu of, any other  
21 requirements or obligations established and imposed by any department of the  
22 City with regard to submission and retention of certified payroll records for  
23 Contractor and subcontractors.

24                   17.    RESPONSIBILITY OF CONTRACTOR. Notwithstanding anything to  
25 the contrary in the Standard Specifications, Contractor shall have the responsibility, care  
26 and custody of the work. If any loss or damage occurs to the work that is not covered by  
27 collectible commercial insurance, excluding loss or damage caused by earthquake or  
28 flood or the negligence or willful misconduct of City, then Contractor shall immediately

1 make the City whole for any such loss or pay for any damage. If Contractor fails or  
2 refuses to make the City whole or pay, then City may do so and the cost and expense of  
3 doing so shall be deducted from the amount due Contractor from City hereunder.

4 18. CONTINUATION. Termination or expiration of this Contract shall not  
5 terminate the rights or liabilities of either party which rights or liabilities accrued or existed  
6 prior to termination or expiration of this Contract.

7 19. TAXES AND TAX REPORTING.

8 A. As required by federal and state law, City is obligated to report  
9 the payment of compensation to Contractor on Form 1099-Misc. and Contractor  
10 acknowledges that Contractor is not entitled to payment under this Contract until it  
11 has provided its Employer Identification Number to City. Contractor shall be solely  
12 responsible for payment of all federal and state taxes resulting from payments  
13 under this Contract.

14 B. Contractor shall cooperate with City in all matters relating to  
15 taxation and the collection of taxes, particularly with respect to the self-accrual of  
16 use tax. Contractor shall cooperate as follows: (i) for all leases and purchases of  
17 materials, equipment, supplies, or other tangible personal property totaling over  
18 \$100,000 shipped from outside California, a qualified Contractor shall complete  
19 and submit to the appropriate governmental entity the form in Appendix "A"  
20 attached hereto; and (ii) for construction contracts and subcontracts totaling  
21 \$5,000,000 or more, Contractor shall obtain a sub-permit from the California Board  
22 of Equalization for the Work site. "Qualified" means that the Contractor purchased  
23 at least \$500,000 in tangible personal property that was subject to sales or use tax  
24 in the previous calendar year.

25 C. Contractor shall create and operate a buying company, as  
26 defined in State of California Board of Equalization Regulation 1699, subpart (h),  
27 in City if Contractor will purchase over \$10,000 in tangible personal property  
28 subject to California sales and use tax.

1 D. In completing the form and obtaining the permit(s), Contractor  
2 shall use the address of the Work site as its business address and may use any  
3 address for its mailing address. Copies of the form and permit(s) shall also be  
4 delivered to the City Engineer. The form must be submitted and the permit(s)  
5 obtained as soon as Contractor receives a Notice to Proceed. Contractor shall not  
6 order any materials or equipment over \$100,000 from vendors outside California  
7 until the form is submitted and the permit(s) obtained and, if Contractor does so, it  
8 shall be a material breach of this Contract. In addition, Contractor shall make all  
9 purchases from the Long Beach sales office of its vendors if those vendors have a  
10 Long Beach office and all purchases made by Contractor under this Contract  
11 which are subject to use tax of \$500,000 or more shall be allocated to the City of  
12 Long Beach. Contractor shall require the same cooperation with City, with regards  
13 to subsections B, C and D under this section (including forms and permits), from  
14 its subcontractors and any other subcontractors who work directly or indirectly  
15 under the overall authority of this Contract.

16 E. Contractor shall not be entitled to and by signing this Contract  
17 waives any claim or damages for delay against City if Contractor does not timely  
18 submit these forms to the appropriate governmental entity. Contractor may  
19 contact the City Controller at (562) 570-6450 for assistance with the form.

20 20. ADVERTISING. Contractor shall not use the name of City, its  
21 officials or employees in any advertising or solicitation for business, nor as a reference,  
22 without the prior approval of the City Manager, City Engineer or designee.

23 21. AUDIT. If payment of any part of the consideration for this Contract  
24 is made with federal, state or county funds and a condition to the use of those funds by  
25 City is a requirement that City render an accounting or otherwise account for said funds,  
26 then City shall have the right at all reasonable times to examine, audit, inspect, review,  
27 extract information from, and copy all books, records, accounts and other information  
28 relating to this Contract.

1           22.    NO PECULIAR RISK. Contractor acknowledges and agrees that the  
2 work to be performed hereunder does not constitute a peculiar risk of bodily harm and  
3 that no special precautions are required to perform said work.

4           23.    THIRD PARTY BENEFICIARY. This Contract is intended by the  
5 parties to benefit themselves only and is not in any way intended or designed to or  
6 entered for the purpose of creating any benefit or right of any kind for any person or entity  
7 that is not a party to this Contract.

8           24.    SUBCONTRACTORS. Contractor agrees to and shall bind every  
9 subcontractor to the terms of this Contract; provided, however, that nothing herein shall  
10 create any obligation on the part of City to pay any subcontractor except in accordance  
11 with a court order in an action to foreclose a stop notice. Failure of Contractor to comply  
12 with this Section shall be deemed a material breach of this Contract. A list of  
13 subcontractor(s) submitted by Contractor in compliance with Public Contract Code  
14 Sections 4100 et seq. is attached hereto as Exhibit "D" and incorporated herein by this  
15 reference.

16           25.    NO DUTY TO INSPECT. No language in this Contract shall create  
17 and City shall not have any duty to inspect, correct, warn of or investigate any condition  
18 arising from Contractor's work hereunder, or to insure compliance with laws, rules or  
19 regulations relating to said work. If City does inspect or investigate, the results thereof  
20 shall not be deemed compliance with or a waiver of any requirements of the Contract  
21 Documents.

22           26.    GOVERNING LAW. This Contract shall be governed by and  
23 construed pursuant to the laws of the State of California (except those provisions of  
24 California law pertaining to conflicts of laws).

25           27.    INTEGRATION. This Contract, including the Contract Documents  
26 identified in Section 3 hereof, constitutes the entire understanding between the parties  
27 and supersedes all other agreements, oral or written, with respect to the subject matter  
28 herein.

1           28. COSTS. If there is any legal proceeding between the parties to  
2 enforce or interpret this Contract or to protect or establish any rights or remedies  
3 hereunder, the prevailing party shall be entitled to its costs, including reasonable  
4 attorney's fees.

5           29. NONDISCRIMINATION. In connection with performance of this  
6 Contract and subject to federal laws, rules and regulations, Contractor shall not  
7 discriminate in employment or in the performance of this Contract on the basis of race,  
8 religion, national origin, color, age, sex, sexual orientation, gender identity, AIDS, HIV  
9 status, handicap or disability. It is the policy of the City to encourage the participation of  
10 Disadvantaged, Minority and Women-Owned Business Enterprises, and the City  
11 encourages Contractor to use its best efforts to carry out this policy in the award of all  
12 subcontracts.

13           30. DEFAULT. Default shall include but not be limited to Contractor's  
14 failure to perform in accordance with the Plans and Specifications, failure to comply with  
15 any Contract Document, failure to pay any penalties, fines or charges assessed against  
16 Contractor by any public agency, failure to pay any charges or fees for services  
17 performed by the City, and if Contractor has substituted any security in lieu of retention,  
18 then default shall also include City's receipt of a stop notice. If default occurs and  
19 Contractor has substituted any security in lieu of retention, then in addition to City's other  
20 legal remedies, City shall have the right to draw on the security in accordance with Public  
21 Contract Code Section 22300 and without further notice to Contractor. If default occurs  
22 and Contractor has not substituted any security in lieu of retention, then City shall have  
23 all legal remedies available to it.

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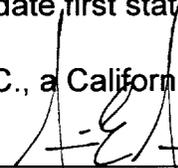
OFFICE OF THE CITY ATTORNEY  
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Long Beach, CA 90802-4664

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IN WITNESS WHEREOF, the parties have caused this document to be duly executed with all formalities required by law as of the date first stated above.

December 16, 20 09

ARB, INC., a California corporation

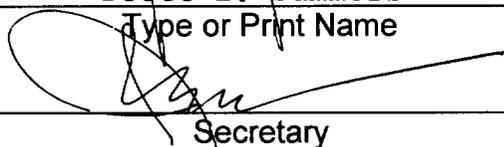
By 

President

Scott E. Summers

Type or Print Name

December 16, 20 09

By 

Secretary

John M. Perisich

Type or Print Name

"Contractor"

CITY OF LONG BEACH, a municipal corporation

12.23, 20 09

By  Assistant City Manager

City Manager

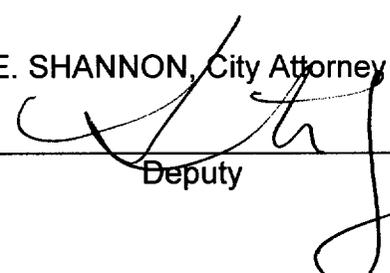
"City"

EXECUTED PURSUANT TO SECTION 301 OF THE CITY CHARTER.

This Contract is approved as to form on 12/22

20 09

ROBERT E. SHANNON, City Attorney

By 

Deputy

# EXHIBIT “A”

## Scope of Work

BIDDER'S NAME: ARB, Inc.

BID FOR THE  
IMPROVEMENT OF COLORADO LAGOON PHASE I  
IN THE CITY OF LONG BEACH, CALIFORNIA

In accordance with the Notice Inviting Bids for the above titled Work in the City of Long Beach, California, a copy of which is attached hereto and is made a part hereof, to be opened on October 21, 2009, at 10:00 a.m., we propose to furnish all necessary labor, tools, materials, appliances and equipment for and perform all Work mentioned in said Notice Inviting Bids, in full compliance with Plans & Specifications No. R-6806 at the prices shown below. Please note that where a specific manufacturer is noted on the Plans or listed in the Specifications, unless otherwise noted, an "approved equal" item may be substituted. The basis for selection of the low bidder will be announced at the time of the bid opening.

ITEM NO.	ITEM DESCRIPTION	ESTIMATED QUANTITY	UNIT	UNIT PRICE (IN FIGURES)	ITEM TOTAL (IN FIGURES)
1.	MOBILIZATION / DEMOBILIZATION	1	LS	160,000	160,000
2.	SITE CLEARING	1	LS	15,000	15,000
3.	PROJECT SIGN	1	LS	4,200	4,200
4.	<del>TEMPORARY TRAFFIC CONTROL</del>	<del>1</del>	<del>LS</del>	<del>68,000</del>	<del>68,000</del>
5.	EROSION CONTROL	1	LS	12,000	12,000
6.	SAWCUT	4,300	LF	1	4,300
7.	TRENCHING, EXCAVATION AND BACKFILL	2,600	LF	105	273,000
8.	BEDDING PER COLB STANDARDS	1	LS	48,000	48,000

ITEM NO.	ITEM DESCRIPTION	ESTIMATED QUANTITY	UNIT	UNIT PRICE (IN FIGURES)	ITEM TOTAL (IN FIGURES)
9.	TEMPORARY SHORING DESIGN STAMPED AND SIGNED BY A REGISTERED CIVIL ENGINEER FOR CITY APPROVAL	1	LS		
				11,000	11,000
10.	MANHOLE PER SPPWC 321-1	7	Ea		
				9,500	66,500
11.	MODIFIED MANHOLE PER SPPWC 321-1	1	Ea		
				9,100	9,100
12.	MODIFIED MANHOLE PER SPPWC 320-1	1	Ea		
				11,000	11,000
13.	MODIFIED CATCH BASIN PER APWA 301-2	1	Ea		
				12,700	12,700
14.	STAINLESS STEEL TRASH RACK	3	Ea		
				3,500	10,500
<del>15.</del>	<del>JUNCTION STRUCTURE PER APWA 331-2</del>	<del>1</del>	<del>Ea</del>		
				<del>7,200</del>	<del>7,200</del>
16.	HEADWALL	1	Ea		
				12,300	12,300
17.	REFINISH HEADWALL	2	Ea		
				4,400	8,800
18.	FLAP GATE	3	Ea		
				17,000	51,000
19.	TRASH TRAP VAULT STRUCTURE WITH TRAFFIC RATED LID	2	Ea		
				132,000	264,000

ITEM NO.	ITEM DESCRIPTION	ESTIMATED QUANTITY	UNIT	UNIT PRICE (IN FIGURES)	ITEM TOTAL (IN FIGURES)
20.	TRASH TRAP, FRESH CREEK TECHNOLOGIES, INC. OR EQUAL	2	Ea	265,000	530,000
21.	LIFT STATION #1, GORMAN-RUPP PACKAGE OR EQUAL	1	Ea	62,000	62,000
22.	LIFT STATION #2, GORMAN-RUPP PACKAGE OR EQUAL	1	Ea	94,500	94,500
23.	LIFT STATIONS #1 AND #2 INSTRUMENTATION & APPURTENANCES	1	LS	68,000	68,000
24.	ELECTRIC SERVICE PEDESTAL AND CONDUITS	2	Ea	62,000	124,000
25.	TELEMETRY & CONTROL / SCADA SYSTEM, PACIFIC RIM AUTOMATION	1	LS	68,000	68,000
26.	LIFT STATION #1 MANHOLE WELL, 8' DIAMETER	1	Ea	52,600	52,600
27.	LIFT STATION #2 WATER STORAGE WELL, 17,000 CF CAPACITY	1	Ea	839,000	839,000
28.	MANHOLE SHAFT REMOVAL AND DISPOSAL	1	Ea	2,800	2,800

Addendum No. 2  
October 15, 2009

B-3

R-6806

ITEM NO.	ITEM DESCRIPTION	ESTIMATED QUANTITY	UNIT	UNIT PRICE (IN FIGURES)	ITEM TOTAL (IN FIGURES)
29.	REMOVE EXISTING 24" RCP PIPE	45	LF	91	4,095
30.	SLURRY FILL PIPE, USE MIX 480-C-2000.	45	CY	235	10,575
31.	24" HDPE PIPE WITH WATER-TIGHT JOINTS	1,124	LF	47	52,828
32.	18" HDPE PIPE WITH WATER-TIGHT JOINTS	98	LF	49	4,802
33.	12" HDPE PIPE WITH WATER-TIGHT JOINTS	24	LF	65	1,560
34.	6" PVC PIPE, C-900 CLASS 150	1,160	LF	25	29,000
35.	22.5 DEGREE 6" PVC BEND	2	Ea	190	380
36.	90 DEGREE 6" PVC BEND	1	Ea	190	190
37.	SEWER MAIN SADDLE CONNECTION PER LACSD STANDARD	1	Ea	2,900	2,900
38.	6" LATERAL @ 2% PER LACSD STANDARD	1	Ea	14,000	14,000

ITEM NO.	ITEM DESCRIPTION	ESTIMATED QUANTITY	UNIT	UNIT PRICE (IN FIGURES)	ITEM TOTAL (IN FIGURES)
39.	8" DI POTABLE WATER LINE PER LBWD STD. WD-1-97	55	LF	195	10,725
40.	45 DEGREE 8" DIP FLANGED BENDS	4	Ea	265	1060
41.	8" (12" LONG DI TO AC) TRANSITION COUPLING	2	Ea	350	700
42.	THRUST BLOCK WDS-107	6	Ea	335	2,010
43.	CHLORINATION TEST	1	LS	750	750
44.	6" DIAMETER GUARD POST AND CHAIN LINK PER CITY OF LONG BEACH DPW STANDARD PLANS 123	2	Ea	600	1,200
45.	DRIVEWAY PER APWA 110-1, USE PCC 520-C-2500 PER SPPWC	3	Ea	3,900	11,700
46.	PERVIOUS PAVING PAD GREEN IN COLOR	1,600	SF	19	30,400
47.	2"X6" REDWOOD HEADERS	275	LF	4	1,100
48.	16.3' WIDE X 6.0' TALL SINGLE LEAF CHAIN LINK MAINTENANCE GATE PER SSPWC DWG NO. 600-1	2	Ea	1,800	3,600

ITEM NO.	ITEM DESCRIPTION	ESTIMATED QUANTITY	UNIT	UNIT PRICE (IN FIGURES)	ITEM TOTAL (IN FIGURES)
49.	CURB REMOVAL AND REPLACEMENT	24	LF	60	1,440
50.	PCC SIDEWALK PER CITY OF LONG BEACH STANDARDS	88	LF	70	6,160
51.	6" AC BERM	160	LF	15	2,400
52.	REPLACE VEGETATION & IRRIGATION	1	LS	14,500	14,500
53.	CULVERT CLEANING	1	LS	425,000	425,000
54.	REMOVE AND RELOCATE ROCK	1	LS	8,700	8,700
55.	SCADA ANTENNA	1	LS	4,800	4,800
56.	SOUTHERN CALIFORNIA EDISON SERVICE CONNECTION	1	LS	14,000	14,000

TOTAL AMOUNT BASE BID

3,550.075

ITEM NO.	ITEM DESCRIPTION	ESTIMATED QUANTITY	UNIT	UNIT PRICE (IN FIGURES)	ITEM TOTAL (IN FIGURES)
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ALTERNATE BID ITEMS

57.	CULVERT CLEANING - REPAIR CONCRETE WALLS	400	SF	21	8,400
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58.	CULVERT CLEANING - REPLACE PRECAST CONCRETE COVERS	8	EA	1,825	14,600
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59.	CULVERT CLEANING - REMOVE AND DISPOSE STRUCTURAL SILL	1	LS	12,072	12,072
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TOTAL AMOUNT ALTERNATE BID ITEMS 57 -59

35,072

ITEM NO.	ITEM DESCRIPTION	ESTIMATED QUANTITY	UNIT	UNIT PRICE (IN FIGURES)	ITEM TOTAL (IN FIGURES)
<b>ALTERNATE BID ITEMS</b>					
60.	TRASH TRAP VAULT STRUCTURE WITH TRAFFIC RATED LID	1	Ea	65,500	65,500
61.	TRASH TRAP, FRESH CREEK TECHNOLOGIES, INC. OR EQUAL	1	Ea	111,000	111,000
62.	SAWCUT	100	LF	1 <sup>90</sup>	190
63.	REMOVE EXISTING WATER LINE	30	LF	55	1,650
64.	48" HDPE WITH WATER TIGHT JOINTS	44	LF	243	10,692
65.	6" DI POTABLE WATER LINE PER LBWD STD. WD-1-97	62	LF	167	10,354
66.	45 DEGREE 6" DIP FLANGED BENDS	2	Ea	100	200
67.	90 DEGREE 6" DIP FLANGED BEND	1	Ea	100	100
68.	6" (12" LONG DI TO AC) TRANSITION COUPLING	2	Ea	325	650
69.	THRUST	3	Ea	335	1,005

Addendum No. 2  
October 15, 2009

B-8

R-6806

ITEM NO.	ITEM DESCRIPTION	ESTIMATED QUANTITY	UNIT	UNIT PRICE (IN FIGURES)	ITEM TOTAL (IN FIGURES)
	BLOCK WDS-107				
70.	CHLORINATION TEST	1	LS	750	750

TOTAL AMOUNT ALTERNATE BID ITEMS 60-70

202,091

TOTAL AMOUNT OF BASE BID AND ALL ALTERNATE BID ITEMS

3,787,238

Where did your company first hear about this City of Long Beach Public Works' project?

Internet / Email notification

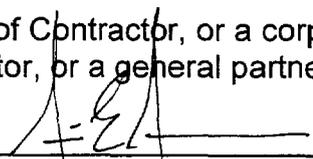
**WORKERS' COMPENSATION CERTIFICATION**

In accordance with California Labor Code Sections 1860 and 3700, I certify that I am aware of the provisions of Section 3700 which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with said provisions before commencing the performance of the Work of this contract.

Contractor's Name:

ARB, Inc.

Signature of Contractor, or a corporate officer  
of Contractor, or a general partner of Contractor

  
\_\_\_\_\_

Title: President

Date: December 16, 2009

**EXHIBIT "B"**

INFORMATION TO COMPLY WITH LABOR CODE SEC. 2810

To comply with Labor Code Sec. 2810, Contractor shall complete and submit this Information Sheet which shall be incorporated into and be a part of the Contract:

- 1) Workers' Compensation Insurance:
  - A. Policy Number: GLO948664
  - B. Name of Insurer (**NOT** Broker): National Union Fire Insurance Co. of Pittsburgh, PA
  - C. Address of Insurer: 70 Pine Street, New York, NY 10270
  - D. Telephone Number of Insurer: 212-770-7000
  
- 2) For vehicles owned by Contractor and used in performing work under this Contract:
  - A. VIN (Vehicle Identification Number): Various company vehicles to be used during construction
  - B. Automobile Liability Insurance Policy Number: CA0948457
  - C. Name of Insurer (**NOT** Broker): National Union Fire Insurance Co. of Pittsburgh, PA
  - D. Address of Insurer: 70 Pine Street, New York, NY 10270
  - E. Telephone Number of Insurer: 212-770-7000
  
- 3) Address of Property used to house workers on this Contract, if any: N/A
  
- 4) Estimated total number of workers to be employed on this Contract: 15
  
- 5) Estimated total wages to be paid those workers: \$600,000.00
  
- 6) Dates (or schedule) when those wages will be paid: \_\_\_\_\_  
weekly  
(Describe schedule: For example, weekly or every other week or monthly)
  
- 7) Estimated total number of independent contractors to be used on this Contract: \_\_\_\_\_  
5
  
- 8) Taxpayer's Identification Number: [REDACTED]

EXHIBIT "C"

# EXHIBIT “D”

List of Subcontractors:

LIST OF SUBCONTRACTORS

The Bidder shall set forth hereon, the name, location of the place of business, and telephone number of each subcontractor, including minority subcontractors, who will perform work or labor or render service to the Prime Contractor in or about the construction of the Work or improvement, or a subcontractor licensed by the state of California who, under subcontract to the Prime Contractor, specially fabricates and installs a portion of the Work or improvement according to detailed drawings contained in the Plans and Specifications, in an amount in excess of 1/2 of 1 percent of the Prime Contractor's total bid or \$10,000 (whichever is greater).

Name And Address Of Subcontractor	Classification Or Type Of Work
Name <u>Lopez Construction</u>	<u>Structural Concrete</u>
Address <u>1890 Duncan Way</u>	Dollar amount of contract \$ <u>137,000</u>
City <u>Corona, CA 92881</u>	DBE / MBE / WBE / Racial Origin _____ (Circle one)
Phone no. <u>(951) 272-0636</u>	License No. <u>890389</u>
Name <u>All American Asphalt</u>	<u>Asphalt Paving</u>
Address <u>P.O. Box 2229</u>	Dollar amount of contract \$ <u>39,000</u>
City <u>Corona, CA 92878</u>	DBE / MBE / WBE / Racial Origin _____ (Circle one)
Phone no. <u>(951) 736-7600</u>	License No. <u>267073-A</u>
Name <u><del>Groundwater Treatment Sys</del> Pure Effect</u>	<u>Groundwater Treatment</u>
Address <u>611 Palm Ave</u>	Dollar amount of contract \$ <u>40,000</u>
City <u>Orange, CA 92868</u>	DBE / MBE / WBE / Racial Origin _____ (Circle one)
Phone no. <u>(714) 639-7873</u>	License No. <u>825682</u>
Name <u>Foothill Engineering</u>	<u>Pressure Relief / Deaerating Wells</u>
Address <u>905 E. 3<sup>rd</sup> Street</u>	Dollar amount of contract \$ <u>115,000</u>
City <u>Corona, CA 92879</u>	DBE / MBE / WBE / Racial Origin _____ (Circle one)
Phone no. <u>(951) 737-5391</u>	License No. <u>443557</u>

REPRODUCE AND ATTACH ADDITIONAL SHEETS AS NEEDED

RMS  
26500 W. Agoura Rd.  
Calabasas, CA 91302  
(310) ...

Electrical  
150,000  
102-537

BOE-400-DP (FRONT) REV 2. (8-05)  
**APPLICATION FOR  
 USE TAX DIRECT PAYMENT PERMIT**

STATE OF CALIFORNIA  
 BOARD OF EQUALIZATION

*Please type or print clearly. Read instructions on reverse before completing this form.*

**SECTION I – BUSINESS INFORMATION**

NAME OF BUSINESS OR GOVERNMENTAL ENTITY	SALES/USE TAX PERMIT NUMBER
BUSINESS ADDRESS (street)	CONSUMER USE TAX ACCOUNT NUMBER
CITY, STATE, & ZIP CODE	If applicant is applying for either a sales/use tax permit or a consumer use tax account in addition to a use tax direct payment permit check here <input type="checkbox"/>
MAILING ADDRESS (street address or po box if different from business address)	
CITY, STATE, & ZIP CODE	NAME UNDER WHICH BUSINESS IS TO BE TRANSACTED IF DIFFERENT THAN ABOVE

**SECTION II – MULTIPLE BUSINESS LOCATIONS**

*LIST BELOW THE BUSINESS AND MAILING ADDRESSES OF ALL LOCATIONS WHERE PROPERTY PURCHASED UNDER A USE TAX DIRECT PAYMENT CERTIFICATE WILL BE USED. IF ADDITIONAL SPACE IS NEEDED, ATTACH A SEPARATE SHEET*

1. BUSINESS ADDRESS	4. BUSINESS ADDRESS
MAILING ADDRESS	MAILING ADDRESS
2. BUSINESS ADDRESS	5. BUSINESS ADDRESS
MAILING ADDRESS	MAILING ADDRESS
3. BUSINESS ADDRESS	6. BUSINESS ADDRESS
MAILING ADDRESS	MAILING ADDRESS

**SECTION III – CERTIFICATION STATEMENT**

I hereby certify that I qualify for a *Use Tax Direct Payment Permit* for the following reason: *(Please check one of the following)*

I have purchased or leased for my own use tangible personal property subject to use tax at a cost of five hundred thousand dollars (\$500,000) or more in the aggregate, during the calendar year immediately preceding this application for the permit. I have attached a "Statement of Cash Flows" or other comparable financial statements acceptable to the Board for the calendar year immediately preceding the date of application and a separate statement attesting that the qualifying purchases were purchases that were subject to use tax.

I am a county, city, city and county, or redevelopment agency.

I also agree to self-assess and pay directly to the Board of Equalization any use tax liability incurred pursuant to my use of a *Use Tax Direct Payment Permit*.

*The above statements are hereby certified to be correct to the knowledge and belief of the undersigned, who is duly authorized to sign this application.*

SIGNATURE	TITLE
NAME (typed or printed)	DATE

*(See reverse side for general information and filing instructions)*

## USE TAX DIRECT PAYMENT PERMIT (General Information and Filing Instructions)

Revenue and Taxation Code section 7051.3 authorizes the State Board of Equalization to issue a *Use Tax Direct Payment Permit* to qualified applicants. This permit allows purchasers and lessees of tangible personal property (other than lessees of motor vehicles the lease of which is subject to the terms of section 7205.1 of the Sales and Use Tax Law) to self-assess and pay use taxes directly to the Board instead of to the vendor or lessor from whom the property is purchased or leased.

Permit holders will be provided with a *Use Tax Direct Payment Exemption Certificate* which they can issue to retailers and lessors when they purchase tangible personal property subject to **use tax** or make qualified leases of tangible personal property. Vendors who timely take the certificate in good faith from a permit holder are relieved of the duty to collect use taxes on the sales for which the certificate was issued. Permit holders who acquire property under a certificate must self-assess and report the use taxes directly to the Board on their tax returns, and allocate the local taxes to the county, city, city and county, or redevelopment agency in which the property is first used. Permit holders who fail to properly pay any use taxes that are due on property for which a certificate was given are subject to interest and penalties assessments in addition to their tax liability.

To qualify for a *Use Tax Direct Payment Permit*, an applicant must meet the following conditions:

- (1) The applicant must agree to self-assess and pay directly to the Board any use tax which is due on property for which a use tax direct payment exemption certificate was given; and
- (2) The applicant must certify to the Board either of the following:
  - (A) The applicant has purchased or leased for its own use tangible personal property subject to **use tax** which cost five hundred thousand dollars (\$500,000) or more in the aggregate, during the calendar year immediately preceding the application for the permit; or
  - (B) The applicant is a county, city, city and county, or redevelopment agency.

Persons wishing to obtain a use tax direct payment permit must be pre-qualified and either hold a California seller's permit or a consumer use tax account.

Persons other than governmental entities who currently hold either a California seller's permit or a consumer use tax account must complete the application for a *Use Tax Direct Payment Permit*, sign the certification statement attesting that they qualify for a permit under conditions of Part (2)(A) above, and submit a "Statement of Cash Flows" or other comparable financial statements acceptable to the board for the calendar year immediately preceding the date of application which discloses total purchases of property and equipment for own use and a separate statement under company letterhead certifying that five hundred thousand dollars (\$500,000) or more of such purchases were subject to use tax.

Persons other than governmental entities who are not required to hold a seller's permit and who do not currently hold a consumer use tax account must obtain a consumer use tax account and then complete the application for a *Use Tax Direct Payment Permit*, sign the certification statement attesting that they qualify for a permit under the conditions of Part (2)(A) above and submit a "Statement of Cash Flows" or other comparable financial statements acceptable to the board for the calendar year immediately preceding the date of application which discloses total purchases of property and equipment for own use and a separate statement under company letterhead certifying that five hundred thousand dollars (\$500,000) or more of such purchases were subject to use tax.

Governmental entities who currently hold either a California seller's permit or a consumer use tax account must complete the application for a *Use Tax Direct Payment Permit*, sign the certification statement attesting that they qualify for a permit under the conditions of Part (2)(B) above, and submit an additional statement to that effect under official letterhead and signed by an authorized governmental representative.

Governmental entities who do not hold a California seller's permit or a consumer use tax account must obtain a consumer use tax account and then complete the application for a *Use Tax Direct Payment Permit*, sign the certification statement attesting that they qualify for a permit under the conditions of Part (2)(B) above, and submit an additional statement to that effect under official letterhead and signed by an authorized governmental representative.

The completed *Application for Use Tax Direct Payment Permit*, certification statement, and qualifying documentation should be returned to the address shown below. Upon determination that the applicant qualifies, a *Use Tax Direct Payment Permit* and a *Use Tax Direct Payment Exemption Certificate* will be mailed to the applicant.

If you would like additional information regarding the *Use Tax Direct Payment Permit* or need assistance in completing this application, you can call 916-445-5167, or write to the Board of Equalization, Compliance Policy Unit, P.O. Box 942879, Sacramento, CA 94279-0040.

State of California  
BOARD OF EQUALIZATION

**SALES AND USE TAX REGULATIONS**

**Regulation 1699.6 USE TAX DIRECT PAYMENT PERMITS**

*Reference:* Sections 6007, 6070, and 7051.3, Revenue and Taxation Code

(a) **FOREWORD.** "Use tax direct payment permit" means a permit issued by the board that allows a use tax direct payment permit holder to self-assess and pay state, local, and district use taxes under Part 1 (commencing with Section 6001, Part 1.5 (commencing with Section 7200), and, if applicable, Part 1.6 (commencing with Section 7251) directly to the board. The provisions of this regulation apply only to transactions subject to use tax.

(b) (1) **APPLICATION FOR PERMIT.** Persons seeking to pay use taxes directly to the board shall file an application for a use tax direct payment permit. An application for a use tax direct payment permit shall be made on Board of Equalization Form BOE-400-DP (no revision date). The application shall be signed by the owner, if a natural person; in the case of an association or partnership, by a member or partner; and in the case of a corporation, by an executive officer or some person specifically authorized by the corporation to sign the application.

(2) Within 30 days of receipt of an application for a direct payment permit the board shall inform the applicant in writing either that the application is complete and has been accepted or that the application is deficient and what additional specific information is required to make the application complete. Within 60 days of acceptance of a complete application the board shall approve or deny the issuance of a direct payment permit and notify the applicant in writing of its decision.

(c) **REQUIREMENTS FOR PERMIT.** Pursuant to an application, a use tax direct payment permit shall be issued to any person who meets all of the following conditions:

(1) The applicant agrees to self-assess and pay directly to the board any use tax liability incurred under this regulation.

(2) The applicant certifies to the board either of the following:

(A) The applicant is the purchaser for its own use or is the lessee of tangible personal property subject to the use tax at a cost of five hundred thousand dollars (\$500,000) or more in the aggregate, during the calendar year immediately preceding the application for the permit. Tangible personal property purchased for own use includes both property subject to use tax and property exempt from use tax except that it does not include property purchased for resale; or

(B) The applicant is a county, city, city and county, or redevelopment agency.

(d) **REPORTING OF LOCAL USE TAX.** Any person who holds a valid use tax direct payment permit shall self-assess and pay directly to the board with each return the use taxes due under Division 2, Part 1 (commencing with Section 6001), Part 1.5 (commencing with Section 7200), and, if applicable, Part 1.6 (commencing with Section 7251), for all purchases subject to use tax for which a use tax direct payment exemption certificate was issued, and shall report the local use tax component to the jurisdiction in which the property is located at the time the state imposed use tax must be reported. Temporary storage for the purpose of reporting local tax shall be disregarded. Any tax so reported may be redistributed in accordance with law.

(e) **RETURNS.** On or before the last day of the month following each quarterly period, a holder of a direct payment permit shall file a return with the board. The person required to file the return shall deliver it together with a remittance for the amount of tax due to the board. The return shall show the aggregate sales price of tangible personal property purchased during the reporting period with respect to which the person filing the return has issued a use tax direct payment exemption certificate relieving the retailer of liability for reporting and paying use tax, and such other information as the board may require.

(f) **EXEMPTION CERTIFICATES.** The board shall allow any holder of a use tax direct payment permit to issue a use tax direct payment certificate to any registered retailer or seller subject to all of the following:

**Regulation 1699.6 (Continued)**

(1) The use tax direct payment exemption certificate shall be in a form prescribed by the board, and shall be signed by, and bear the name, address, and permit number of, the holder of the use tax direct payment permit.

(2) Once a use tax direct payment exemption certificate has been issued by a holder of a use tax direct payment permit, it shall remain effective until revised or withdrawn by the holder of the permit or until the retailer or seller has received written notice that the permit has been revoked by the board.

(3) A use tax direct payment certificate relieves a person selling property from the duty of collecting use tax only if taken timely and in good faith from a person who holds a use tax direct payment permit. A certificate will be considered timely if it is taken at any time before the seller bills the purchaser for the property, or any time within the seller's normal billing and payment cycle, or any time at or prior to delivery of the property to the purchaser.

(4) A purchaser who issues a use tax direct payment certificate that is accepted in good faith by a seller or retailer of tangible personal property shall be the sole person liable for any sales tax and related interest and penalties with respect to any transaction that is subsequently determined by the board to be subject to sales tax and not use tax. The local sales tax portion so determined shall be allocated to the city, county, city and county, or redevelopment agency to which the tax would have been allocated if it had been reported and paid by the retailer in accordance with Part 1.5 (commencing with Section 7200). Such allocation shall be based on the place of sale as provided in Regulation 1802 and Regulation 1822.

(5) Any person who holds a use tax direct payment permit and gives a use tax direct payment certificate to a seller or retailer shall, in addition to any applicable use tax liabilities, be subject to the same penalty provisions that apply to a seller or retailer.

**(g) RESALE TRANSACTIONS.** A use tax direct payment exemption certificate shall not be substituted for a resale certificate, because the tax consequences are different. Resale certificates shall only be issued with respect to property which the purchaser intends to resell, and use tax direct payment exemption certificates shall be issued only for property purchased for use or other consumption. If a retailer makes sales under both a use tax direct payment exemption certificate and a resale certificate to the same customer, an audit trail must be maintained to identify which property is sold pursuant to each certificate.

**(h) REVOCATION OF PERMIT.** The board may revoke the use tax direct payment permit of any person who fails to purchase tangible personal property for own use of at least \$500,000 per year. The permit shall remain valid for all transactions taking place prior to the date the permit is revoked.

**(i) SUCCESSOR ENTITIES.** A successor entity to a use tax direct payment permit holder shall qualify to obtain a use tax direct payment permit if the predecessor entity so qualified in the calendar year in which the succession occurred but must obtain its own permit.

**(j) OPERATIVE DATE.** The provisions of this regulation apply only to purchases that occur on or after January 1, 1998.

*History: Adopted September 23, 1998, effective July 9, 1999.*

*Regulations are issued by the State Board of Equalization to implement, interpret or make specific provisions of the California Sales and Use Tax Law and to aid in the administration and enforcement of that law. If you are in doubt about how the Sales and Use Tax Law applies to your specific activity or transaction, you should write the nearest State Board of Equalization office. Requests for advice regarding a specific activity or transaction should be in writing and should fully describe the facts and circumstances of the activity or transaction.*



# Notice

## STATE BOARD OF EQUALIZATION

450 N Street  
Sacramento  
California 95814

### BOARD MEMBERS

JONAN KLEMS  
First District  
Hayward

DEAN F. ANDAL  
Second District  
Stockton

ERNEST J.  
DRONENBURG, JR.  
Third District  
San Diego

BRAD SHERMAN  
Fourth District  
Los Angeles

Kathleen Connell  
State Controller  
Sacramento

Executive Director  
BURTON W. OLIVER

## Sales Tax Jobsite Sub-Permits for Construction Contractors

Some construction contractors are liable for sales or use tax on materials and fixtures consumed or sold on construction contracts. A portion of that tax, the local tax, is distributed to the county government, and city governments within the county, of the jobsite location. The allocation of the local tax is performed by listing the amount of local tax due to each county on Schedule B of the sales and use tax return.

Effective January 1, 1995, construction contractors may elect to allocate the local sales and use tax derived from construction contracts of \$5,000,000 (five million dollars) or more directly to the local jurisdiction where the jobsite is located. This is accomplished by obtaining a sub-permit of their seller's permit for a specific jobsite and allocating the local tax to that jobsite on Schedule C of their sales and use tax return. This qualifying contract price applies to each contract or sub-contract for work performed at the jobsite. Contractors who are already fulfilling a construction contract on January 1, 1995, must have work remaining with a value of \$5,000,000 or more. The sub-permit will be automatically closed-out six months after the estimated completion date of the contract. If delays extend the completion date, contractors should contact the Board of Equalization to extend the active period of the sub-permit.

Permits will not to be issued to contractors who are not normally sellers of materials. Contractors may not purchase tangible personal property for resale, including materials, which they will install or consume at the jobsite.

Contractors may not purchase machinery and equipment, to be used on the construction job, without payment of sales tax in order to allocate the use tax to the specific jobsite.

Local tax on sales of machinery and equipment by the contractor as part of the contract, should continue to be allocated to the contractor's permanent place of business where the principal negotiations of the contract take place in accordance with Regulation 1802.

In accordance with Regulation 1806, where the contractor has not elected to obtain a sub-permit, local tax must still be allocated countywide using Schedule B for jobsites which have contracts of \$5,000,000 or more along with smaller contracts of less than \$5,000,000.

If you have any questions regarding a sub-permit for construction jobsites, please contact the nearest Board of Equalization office.

January 1995

State of California  
BOARD OF EQUALIZATION

SALES AND USE TAX REGULATIONS

**Regulation 1699. PERMITS**

*Reference:* Sections 6066-6075, Revenue and Taxation Code.

**(a) IN GENERAL – NUMBER OF PERMITS REQUIRED.** Every person engaged in the business of selling (or leasing under a lease defined as a sale in Revenue and Taxation Code section 6006(g)) tangible personal property of a kind the gross receipts from the retail sale of which are required to be included in the measure of the sales tax, and only a person actively so engaged, is required to hold a permit for each place of business in this state at which transactions relating to sales are customarily negotiated with his or her customers. For example:

A permit is required for a branch sales office at which orders are customarily taken or contracts negotiated, whether or not merchandise is stocked there.

No additional permits are required for warehouses or other places at which merchandise is merely stored and which customers do not customarily visit for the purpose of making purchases and which are maintained in conjunction with a place of business for which a permit is held; but at least one permit must be held by every person maintaining stocks of merchandise in this state for sale. However, permits are required for warehouses or other places at which merchandise is stored and from which retail sales of such merchandise negotiated out of state are delivered or fulfilled.

If two or more activities are conducted by the same person on the same premises, even though in different buildings, only one permit is required. For example:

A service station operator having a restaurant in addition to the station on the same premises requires only one permit for both activities.

**(b) PERSONS SELLING IN INTERSTATE COMMERCE OR TO UNITED STATES GOVERNMENT.** A permit is not required to be held by persons all of whose sales are made exclusively in interstate or foreign commerce but a permit is required of persons notwithstanding all their sales (or leases under a lease defined as a sale in Revenue and Taxation Code section 6006(g)) are made to the United States or instrumentalities thereof.

**(c) PERSONS SELLING FEED.** Effective April 1, 1996, a permit is not required to be held by persons whose sales consist entirely of sales of feed for any form of animal life of a kind the products of which ordinarily constitute food for human consumption (food animals), or for any form of animal life not of such a kind (nonfood animals) which are being held for sale in the regular course of business, provided no other retail sales of tangible personal property are made.

If a seller of hay is also the grower of the hay, this exemption shall apply only if either:

1. The hay is produced for sale only to beef cattle feedlots or dairies, or
2. The hay is sold exclusively through a farmer-owned cooperative.

**(d) CONCESSIONAIRES.** For the purposes of this regulation, the term concessionaire is defined as an independent retailer who is authorized, through contract with, or permission of, another retail business enterprise (the prime retailer), to operate within the perimeter of the prime retailer's own retail business premises, which to all intents and purposes appear to be wholly under the control of that prime retailer, and to make retail sales that to the general public might reasonably be believed to be the transactions of the prime retailer. Some indicators that a retailer is *not* operating as a concessionaire are that he or she:

- Appears to the public to be a business separate and autonomous from the prime retailer. Examples of businesses that may appear to be separate and autonomous, while operating within the prime retailer's premises, are those with signs posted on the premises naming each of such businesses, those with separate cash registers, and those with their own receipts or invoices printed with their business name.
- Maintains separate business records, particularly with respect to sales.

## Regulation 1699. (Cont.)

- Establishes his or her own selling prices.
- Makes business decisions independently, such as hiring employees or purchasing inventory and supplies.
- Registers as a separate business with other regulatory agencies, such as an agency issuing business licenses, the Employment Development Department, and/or the Secretary of State.
- Deposits funds into a separate account.

In cases where a retailer is not operating as a concessionaire, the prime retailer is *not* liable for any tax liabilities of the retailer operating on his or her premises. However, if a retailer is deemed to be operating as a concessionaire, the prime retailer may be held jointly and severally liable for any sales and use taxes imposed on unreported retail sales made by the concessionaire while operating as a concessionaire. Such a prime retailer will be relieved of his or her obligation for sales and use tax liabilities incurred by such a concessionaire for the period in which the concessionaire holds a permit for the location of the prime retailer or in cases where the prime retailer obtains and retains a written statement that is taken in good faith in which the concessionaire affirms that he or she holds a seller's permit for that location with the Board. The following essential elements must be included in the statement in order to relieve the prime retailer of his or her liability for any unreported tax liabilities incurred by the concessionaire:

- The permit number of the concessionaire
- The location for which the permit is issued (must show the concessionaire's location within the perimeter of the prime retailer's location)
- Signature of the concessionaire
- Date

While any statement, taken timely, in good faith and containing all of these essential elements will relieve a prime retailer of his or her liability for the unreported sales or use taxes of a concessionaire, a suggested format of an acceptable statement is provided as Appendix A to this regulation. While not required, it is suggested that the statement from the concessionaire contain language to clarify which party will be responsible for reporting and remitting the sales and/or use tax due on his or her retail sales.

In instances where the lessor, or grantor of permission to occupy space, is not a retailer himself or herself, he or she is not liable for any sales or use taxes owed by his or her lessee or grantee. In instances where an independent retailer leases space from another retailer, or occupies space by virtue of the granting of permission by another retailer, but does not operate his or her business within the perimeter of the lessor's or grantor's own retail business, such an independent retailer is not a concessionaire within the meaning of this regulation. In this case, the lessor or grantor is not liable for any sales or use taxes owed by the lessee or grantee.

**(e) AGENTS.** If agents make sales on behalf of a principal and do not have a fixed place of business, but travel from house to house or from town to town, it is unnecessary that a permit be obtained for each agent if the principal obtains a permit for each place of business located in California. If, however, the principal does not obtain a permit for each place of business located in California, it is necessary for each agent to obtain a permit.

**(f) INACTIVE PERMITS.** A seller's permit may only be held by a person actively engaged in business as a seller of tangible personal property. The Board may revoke a seller's permit where it finds that the person holding the permit is not actively engaged in business as a seller of tangible personal property.

(1) Any person who holds a seller's permit but is not actively engaged in business as a seller of tangible personal property shall promptly surrender the permit by notifying the Board to cancel it.

(2) Except as explained in paragraph (3) of this subdivision, a person holding a seller's permit will be held liable for any taxes, interest, and penalties incurred, through the date on which the Board is notified to cancel the permit, by any other person who, with the permit holder's actual or constructive knowledge, uses the permit in any way. For example, a permit holder may be held liable for tax, interest, and penalty actually incurred by his or her transferee where the transferee displays the permit in his or her place of business, or uses the permit number on a resale certificate, or files sales and use tax returns under the permit number. The permit holder has the burden of establishing that the Board received notice to cancel the permit.

**(A)** The permit holder may notify the Board by delivering the actual seller's permit to the Board with the clear request that the permit be canceled. Where the reason for cancellation is that the permit holder transferred the business, the permit holder should identify the name and address of the transferee at the time the permit is surrendered to the Board. The permit holder may also notify the Board by delivering a written statement or email to

## Regulation 1699. (Cont.)

the Board that the permit holder has transferred or otherwise ceased the business, or will do so at a specified time, and requesting that the permit be canceled. The statement should identify the name and address of the transferee, if any. The permit holder may also provide this notice to the Board orally, but it will be presumed that such notice was *not* provided unless the Board's records reflect that the permit holder clearly notified the Board of the cessation or transfer of the business for which the permit was held.

(B) The Board will also be regarded as having received notice of cancellation of the permit, and the permit holder will be excused from liability for the tax, interest, and penalty incurred by another person using the permit, as of the date the Board receives actual notice of transfer of the business for which the permit was issued. It will be presumed such notice was *not* received by the Board unless the Board's records reflect that the Board received a clear notice of the cessation or transfer of the business for which the permit was held. For example, the Board's receipt of an application for a seller's permit from the transferee constitutes sufficient notice if it contains adequate information to show that the application pertains to the same business for which the permit was held. Notice to another state agency of a transfer or cessation of a business does *not* constitute notice to the Board. Rather, the Board must itself receive actual notice of the transfer or cessation of business.

(3) Where the permit holder does not establish that the Board received actual notice of the transfer of the business for which the permit was held and is thus liable for the taxes, interest, and penalties incurred by another person using that permit, that liability is limited to the quarter in which the business was transferred and the three subsequent quarters, and shall not include any penalties imposed on the other person for fraud or intent to evade the tax. However, these limitations (liability only for the quarter in which the business was transferred and the three subsequent quarters and no fraud or intent to evade penalty) do *not* apply where, after the transfer of the business, 80 percent or more of the real or ultimate ownership of that business is held by the permit holder. For these purposes, stockholders, bondholders, partners, or other persons holding an ownership interest in an entity are regarded as having the "real or ultimate ownership" of that entity.

(g) **DUE DATE OF RETURNS - CLOSEOUT OF ACCOUNT ON YEARLY REPORTING BASIS.** Where a person authorized to file tax returns on a yearly basis transfers the business to another person or discontinues it before the end of the yearly period, a closing return shall be filed with the Board on or before the last day of the month following the close of the calendar quarter in which the business was transferred or discontinued.

### (h) **BUYING COMPANIES - GENERAL.**

(1) **DEFINITION.** For the purpose of this regulation, a buying company is a legal entity that is separate from another legal entity that owns, controls, or is otherwise related to, the buying company and which has been created for the purpose of performing administrative functions, including acquiring goods and services, for the other entity. It is presumed that the buying company is formed for the operational reasons of the entity which owns or controls it or to which it is otherwise related. A buying company formed, however, for the sole purpose of purchasing tangible personal property ex-tax for resale to the entity which owns or controls it or to which it is otherwise related in order to re-direct local sales tax from the location(s) of the vendor(s) to the location of the buying company shall not be recognized as a separate legal entity from the related company on whose behalf it acts for purposes of issuing it a seller's permit. Such a buying company shall not be issued a seller's permit. Sales of tangible personal property to third parties will be regarded as having been made by the entity owning, controlling, or otherwise related to the buying company. A buying company that is not formed for the sole purpose of so re-directing local sales tax shall be recognized as a separate legal entity from the related company on whose behalf it acts for purposes of issuing it a seller's permit. Such a buying company shall be issued a seller's permit and shall be regarded as the seller of tangible personal property it sells or leases.

(2) **ELEMENTS.** A buying company is not formed for the sole purpose of re-directing local sales tax if it has one or more of the following elements:

(A) Adds a markup to its cost of goods sold in an amount sufficient to cover its operating and overhead expenses.

(B) Issues an invoice or otherwise accounts for the transaction.

The absence of any of these elements is not indicative of a sole purpose to redirect local sales tax.

(i) **WEB SITES.** The location of a computer server on which a web site resides may not be issued a seller's permit for sales tax purposes except when the retailer has a proprietary interest in the server and the activities at that location otherwise qualify for a seller's permit under this regulation.

## Regulation 1699. (Cont.)

*History:* Effective July 1, 1939.

Adopted as of January 1, 1945, as a restatement of previous rulings.

Amended August 2, 1965, applicable on and after August 1, 1965.

Amended and renumbered November 3, 1969, effective December 5, 1969.

Amended May 25, 1977, effective June 24, 1977.

Amended May 1, 1985, effective May 31, 1985. Subdivision (e)(2) has been changed to provide that penalties for intent to evade the tax are excluded from the type of penalty the permit holder would be liable for if the permit holder fails to notify the Board of the transfer of a business.

Amended June 22, 1995, effective July 22, 1995. Amended subdivision (a) as provided in Statutes of 1993, Chapter 1109.

Amended April 25, 1996, effective May 25, 1996. Added new (c) to incorporate provisions of Chapter 696, Statutes of 1995 and renumbered the following subdivisions.

Amended May 30, 2001, effective September 7, 2001. Subdivision (d)—Existing language deleted—Four new unnumbered paragraphs added to define "concessionaire" and clarify the relationship between concessionaire and prime retailer. New Appendix A was added to provide a suggested form for the Certification of Permit—Concessionaire.

Amended February 6, 2002, effective June 14, 2002. Subdivisions (h) and (i) added.

Amended November 15, 2005, effective December 13, 2006. Added sentence to subdivision (a) to explain that permits are required for locations at which merchandise is stored when the retailer negotiates sales out of state but fulfills such sales from stocks of goods located in this state.

Amended November 15, 2007, effective February 23, 2008. Amended subdivision (f) to clarify the methods for notifying the Board when a seller's permit becomes inactive. The amendments also explain the limitation on predecessor's liability set forth in Revenue and Taxation Code section 6071.1 and make it clear that the fraud penalty can be imposed on a predecessor when the ownership of the successor who committed fraud is substantially the same as the predecessor ownership.

*Regulations are issued by the State Board of Equalization to implement, interpret or make specific provisions of the California Sales and Use Tax Law and to aid in the administration and enforcement of that law. If you are in doubt about how the Sales and Use Tax Law applies to your specific activity or transaction, you should write the nearest State Board of Equalization office. Requests for advice regarding a specific activity or transaction should be in writing and should fully describe the facts and circumstances of the activity or transaction.*

State of California  
BOARD OF EQUALIZATION

**SALES AND USE TAX REGULATIONS**

**Regulation 1802. PLACE OF SALE AND USE FOR PURPOSES OF BRADLEY-BURNS UNIFORM LOCAL SALES AND USE TAXES.**

*Reference:* Sections 6012.6, 6015, 6359, 6359.45, 7202, 7203, 7203.1, 7204.03 and 7205, Revenue and Taxation Code.

**(a) IN GENERAL.**

(1) **RETAILERS HAVING ONE PLACE OF BUSINESS.** For the purposes of the Bradley-Burns Uniform Local Sales and Use Tax Law, if a retailer has only one place of business in this state, all California retail sales of that retailer in which that place of business participates occur at that place of business unless the tangible personal property sold is delivered by the retailer or his or her agent to an out-of-state destination, or to a common carrier for delivery to an out-of-state destination.

(2) **RETAILERS HAVING MORE THAN ONE PLACE OF BUSINESS.**

(A) If a retailer has more than one place of business in this state but only one place of business participates in the sale, the sale occurs at that place of business.

(B) If a retailer has more than one place of business in this state which participate in the sale, the sale occurs at the place of business where the principal negotiations are carried on. If this place is the place where the order is taken, it is immaterial that the order must be forwarded elsewhere for acceptance, approval of credit, shipment, or billing. For the purposes of this regulation, an employee's activities will be attributed to the place of business out of which he or she works.

(3) **PLACE OF PASSAGE OF TITLE IMMATERIAL.** If title to the tangible personal property sold passes to the purchaser in California, it is immaterial that title passes to the purchaser at a place outside of the local taxing jurisdiction in which the retailer's place of business is located, or that the property sold is never within the local taxing jurisdiction in which the retailer's place of business is located.

**(b) PLACE OF SALE IN SPECIFIC INSTANCES.**

(1) **VENDING MACHINE OPERATORS.** The place of sale is the place at which the vending machine is located. If an operator purchases property under a resale certificate or from an out-of-state seller without payment of tax and the operator is the consumer of the property, for purposes of the use tax, the use occurs at the place where the vending machine is located.

(2) **ITINERANT MERCHANTS.** The place of sale with respect to sales made by sellers who have no permanent place of business and who sell from door to door for their own account shall be deemed to be in the county in which is located the seller's permanent address as shown on the seller's permit issued to him or her. If this address is in a county imposing sales and use taxes, sales tax applies with respect to all sales unless otherwise exempt. If this address is not in a county imposing sales and use taxes, he or she must collect the use tax with respect to property sold and delivered or shipped to customers located in a county imposing sales and use taxes.

(3) **RETAILERS UNDER SECTION 6015.** Persons regarded by the Board as retailers under Section 6015(b) of the Revenue and Taxation Code are regarded as selling tangible personal property through salespersons, representatives, peddlers, canvassers or agents who operate under or obtain the property from them. The place of sale shall be deemed to be:

(A) the business location of the retailer if the retailer has only one place of business in this state, exclusive of any door-to-door solicitations of orders, or

(B) the business location of the retailer where the principal negotiations are carried on, exclusive of any door-to-door solicitations of orders, if more than one in-state place of business of the retailer participates in the sale.

The amendments to paragraph (b)(3) apply only to transactions entered into on or after July 1, 1990.

## Regulation 1802. (Contd.)

(4) **AUCTIONEERS.** The place of sale by an auctioneer is the place at which the auction is held. Operative July 1, 1996, auctioneers shall report local sales tax revenue to the participating jurisdiction (as defined in subdivision (d) below) in which the sales take place, with respect to auction events which result in taxable sales in an aggregate amount of \$500,000 or more.

(5) **FACTORY-BUILT SCHOOL BUILDINGS.** The place of sale or purchase of a factory-built school building (relocatable classroom) as defined in paragraph (c)(4)(B) of Regulation 1521 (18 CCR 1521), Construction Contractors, is the place of business of the retailer of the factory-built school building regardless of whether sale of the building includes installation or whether the building is placed upon a permanent foundation.

### (6) JET FUEL.

(A) For sales of jet fuel prior to January 1, 2008, the place of sale or purchase of jet fuel is the city, county, or city and county which is the point of the delivery of the jet fuel to the aircraft, if both of the following conditions are met:

1. The principal negotiations for the sale are conducted at the retailer's place of business in this state;
- and
2. The retailer has more than one place of business in the state.

(B) For sales of jet fuel on or after January 1, 2008, the place of sale or purchase of jet fuel is the city, county, or city and county which is the point of the delivery of the jet fuel to the aircraft.

(C) The local sales or use tax revenue derived from the sale or purchase of jet fuel under the conditions set forth in this subdivision shall be transmitted by the Board, to the city, county, or city and county where the airport is located at which such delivery occurs.

(D) **Multi-Jurisdictional Airports.** For the purposes of this regulation, the term "multi-jurisdictional airport" means and includes an airport that is owned or operated by a city, county, or city and county, that has enacted a state-administered local sales and use tax ordinance and as to which the owning or operating city, county, or city and county is different from the city, county, or city and county in which the airport is located. Through June 30, 2004, the local tax rate is imposed at 1.25% by Revenue and Taxation Code section 7202 (a). Operative July 1, 2004, the local tax rate is imposed at 1% by Revenue and Taxation Code section 7203.1. The local tax revenue derived from sales of jet fuel at a "multi-jurisdictional airport" shall, notwithstanding subdivision (B), be transmitted by the Board as follows:

1. In the case of the 0.25% local sales tax imposed by counties under Government Code section 29530 and Revenue and Taxation Code section 7202(a), or operative July 1, 2004, imposed by counties under Revenue and Taxation Code section 7203.1(a)(1), half of the revenue to the county which owns or operates the airport (or in which the city which owns or operates the airport is located) and half to the county in which the airport is located.

2. In the case of the remaining 1% of the local sales tax imposed by counties under Revenue and Taxation Code section 7202(a), or operative July 1, 2004, the remaining 0.75%, imposed by counties under Revenue and Taxation Code section 7203.1(a)(2), and in the case of the local sales tax imposed by cities at a rate of up to 1%, or operative July 1, 2004, at a rate of up to 0.75% under Revenue and Taxation Code section 7203.1(a)(2), and offset against the local sales tax of the county in which the city is located under Revenue and Taxation Code section 7202(h), half of the revenue to the city which owns or operates the airport and half to the city in which the airport is located. If the airport is either owned or operated by a county or is located in the unincorporated area of a county, or is owned or operated by a county and is located in the unincorporated area of a different county, the local sales tax revenue which would have been transmitted to a city under this subdivision shall be transmitted to the corresponding county.

3. Notwithstanding the rules specified in subdivisions 1. and 2., the following special rules apply:

- a. In the case of retail sales of jet fuel in which the point of the delivery of the jet fuel to the aircraft and place of sale or purchase, as described in subdivision (A) or (B), is San Francisco International Airport, the Board shall transmit one-half of the local sales tax revenues derived from such sales to the City and County of San Francisco, and the other half to the County of San Mateo.

## Regulation 1802. (Contd.)

b. In the case of retail sales of jet fuel in which the point of the delivery of the jet fuel to the aircraft and place of sale or purchase, as described in subdivision (A) or (B), is Ontario International Airport, the Board shall transmit local sales taxes with respect to those sales in accordance with both of the following:

c. All of the revenues that are derived from a local sales tax imposed by the City of Ontario shall be transmitted to that city.

d. All of the revenues that are derived from a local sales tax imposed by the County of San Bernardino shall be allocated to that county.

(E) Otherwise, as provided elsewhere in this regulation.

### (c) TRANSACTIONS NEGOTIATED OUT OF STATE AND DELIVERED FROM THE RETAILER'S STOCK OF TANGIBLE PERSONAL PROPERTY IN CALIFORNIA

(1) If an out-of-state retailer does not have a permanent place of business in this state other than a stock of tangible personal property, the place of sale is the city, county, or city and county from which delivery or shipment is made. Local tax collected by the Board for such sales will be distributed to that city, county, or city and county.

(2) If a retailer has a permanent place of business in this state in addition to its stocks of tangible personal property, the place of sale, in cases where the sale is negotiated out of state and there is no participation by the retailer's permanent place of business in this state, is the city, county, or city and county from which delivery or shipment is made. Local tax collected by the Board for such sales will be distributed to the city, county, or city and county from which delivery or shipment is made.

### (d) ALLOCATION OF SALES TAX AND APPLICATION OF USE TAX.

Local sales tax is allocated to the place where the sale is deemed to take place under the above rules. The local use tax ordinance of the jurisdiction where the property at issue is put to its first functional use applies to such use. As used in this subdivision, the term "participating jurisdiction" means any city, city and county, or county which has entered into a contract with the Board for administration of that entity's local sales and use tax.

(1) DIRECT REPORTING BY RETAILERS. Operative July 1, 1996, for transactions of \$500,000 or more, except with respect to persons who register with the Board to collect use tax under Regulation 1684(c) (18 CCR 1684), the seller shall report the local use tax revenues derived therefrom directly to the participating jurisdiction where the first functional use is made.

Persons who voluntarily collect use tax under Regulation 1684(c) may, solely at their own discretion, report the local use tax revenues on transactions of \$500,000 or more directly to the participating jurisdiction where first functional use is made.

(2) DIRECT REPORTING BY PURCHASERS. Operative July 1, 1996, if a person who is required to report and pay use tax directly to the Board makes a purchase in the amount of \$500,000 or more, that person shall report the local use tax revenues derived therefrom to the participating jurisdiction in which the first functional use of the property is made.

The amendments to paragraph (b)(4) and paragraph (d) shall apply prospectively only to transactions entered into on or after July 1, 1996. Paragraph (d) shall not apply to lease transactions.

*History:* Adopted March 27, 1956, effective April 1, 1956.

Amended and renumbered January 6, 1970, effective February 25, 1970.

Amended May 9, 1984, effective September 12, 1984. Subdivision (b)(1) completely revised.

Amended November 29, 1989, effective February 4, 1990. Minor corrections made to (a)(1), (a)(2) and (b)(2) for clarification purposes, completely revised (b)(3) and added subparagraphs (A) and (B) to (b)(3).

Amended June 5, 1991, effective August 18, 1991. Amended paragraph (b) to reference Regulation 1521(c)(4)(B) and to explain place of sale.

Amended August 1, 1991, effective August 30, 1991. Amended pursuant to Chapter 85, Statutes of 1991, and Chapter 88, Statutes of 1991, to provide that a newspaper carrier is not a retailer. The retailer is the publisher or distributor for whom the carrier delivers the newspaper. Chapter 85, Stats. of 1991, was effective July 1, 1991; Chapter 88, Stats. of 1991, changed the effective date to July 15, 1991.

## Regulation 1802. (Contd.)

Amended May 26, 1993, effective October 1, 1993. Amended paragraph (b)(5) to be operative October 1, 1993, to provide that if an out-of-state retailer does not have a permanent place of business in this state other than a stock of merchandise, the place of sale is the city, county, or city and county from which delivery or shipment is made. Local tax collected for such sales will be distributed to that city, county, or city and county.

Amended May 15, 1996, effective August 11, 1996. Words "and Use" added to title to reflect inclusion of use tax rules. Subdivision (b)(4) is amended to provide for reporting of local sales tax revenues to specific jurisdictions by auctioneers under specified conditions. New subdivision (c) is added to promulgate rules regarding application of use tax in regulatory form.

Amended April 6, 2000, effective May 26, 2000. Added subdivision (b)(7). Added section "7204.03" to the References section.

Amended August 6, 2003, effective November 28, 2003. Subdivision (a)(1): phrase "in which that place of business participates" added.

Subdivision (a)(2): current language re-designated (a)(2)(B); new subdivision (a)(2)(A) added.

Amended November 15, 2005, effective December 13, 2006. Deleted subdivision (b)(5); subdivisions (b)(6) and (7) re-designated (5) and (6) accordingly. Added new subdivision (c); former subdivision (c) re-designated (d) accordingly. Added language of former subdivision (b)(5) as new subdivision (c)(1), but deleted the operative date of October 1, 1993, as no longer necessary. Added new subdivision (c)(2) to provide for direct distribution of local sales tax revenues, specifically for sales negotiated out of state, to the location of the stock of goods that fulfills the order when the retailer has sales offices in the state and where there is no participation by the retailer's in-state sales office.

Amended March 20, 2007, effective May 17, 2007. Amended subdivision (b)(6) to incorporate a statutory change regarding the place of sale or purchase of jet fuel, operative January 1, 2008.

Amended October 24, 2007, effective February 1, 2008. Added headings to paragraphs (d)(1) and (d)(2), and amended paragraph (d)(1) to clarify the jurisdiction to which use tax on a transaction of \$500,000 or more should be reported.

*Regulations are issued by the State Board of Equalization to implement, interpret or make specific provisions of the California Sales and Use Tax Law and to aid in the administration and enforcement of that law. If you are in doubt about how the Sales and Use Tax Law applies to your specific activity or transaction, you should write the nearest State Board of Equalization office. Requests for advice regarding a specific activity or transaction should be in writing and should fully describe the facts and circumstances of the activity or transaction.*

**Regulation 1699. (Cont.)**

***Appendix A***

**Certification of Permit – Concessionaires**

I certify that I operate an independent business at the premises of the following retailer and that I hold a valid seller's permit to operate at this location, as noted below. I further understand that I will be solely responsible for reporting all sales that I make on those premises and remitting all applicable sales and use taxes due to the Board of Equalization:

Name of retailer on whose premises I operate my business: \_\_\_\_\_

Location of premises: \_\_\_\_\_

I hereby certify that the foregoing information is accurate and true to the best of my knowledge:

Certifier's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Certifier's Printed Name: \_\_\_\_\_

Certifier's Seller's Permit Number: \_\_\_\_\_

Certifier's Business Name and Address:\* \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Certifier's Telephone Number: \_\_\_\_\_

**\* Please Note:** The certifier *must* be registered to do business at the location of the retailer upon whose premises he or she is making retail sales.

(\*) 333 City Boulevard West, Suite 300  
Orange, CA 92868

Bond #024022480  
Premium: \$27,177.00

BOND FOR FAITHFUL PERFORMANCE

Liberty Mutual Insurance Company

KNOW ALL MEN BY THESE PRESENTS: That we, ARB, INC., as PRINCIPAL, and Liberty Mutual Insurance Company located at (\*) a corporation, incorporated under the laws of the State of Massachusetts, admitted as a surety in the State of California, and authorized to transact business in the State of California, as SURETY, are held and firmly bound unto the CITY OF LONG BEACH, CALIFORNIA, a municipal corporation, in the sum of THREE MILLION SEVEN HUNDRED EIGHTY SEVEN THOUSAND TWO HUNDRED THIRTY EIGHT DOLLARS (\$3,787,238.00), lawful money of the United States of America, for the payment of which sum, well and truly to be made, we bind ourselves, our respective heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT:

WHEREAS, said Principal has been awarded and is about to enter the annexed contract (incorporated herein by this reference) with said City of Long Beach for The Improvement of Colorado Lagoon Phase I in the City of Long Beach, California and is required by said City to give this bond in connection with the execution of said contract;

NOW, THEREFORE, if said Principal shall well and truly keep and faithfully perform all of the covenants, conditions, agreements and obligations of said contract on said Principal's part to be kept, done and performed, at the times and in the manner specified therein, then this obligation shall be null and void, otherwise it shall be and remain in full force and effect;

PROVIDED, that any modifications, alterations or changes which may be made in said contract, or in the work to be done, or in the services to be rendered, or in any materials or articles to be furnished pursuant to said contract, or the giving by the City of any extension of time for the performance of said contract, or the giving of any other forbearance upon the part of either the City or the Principal to the other, shall not in any way release the Principal or the Surety, or either of them, or their respective heirs, administrators, executors, successors or assigns, from any liability arising hereunder, and notice to the Surety of any such modifications, alterations, changes, extensions or forbearances is hereby waived. No premature payment by said City to said Principal shall release or exonerate the Surety, unless the officer of said City ordering the payment shall have actual notice at the time the order is made that such payment is in fact premature, and then only to the extent that such payment shall result in actual loss to the Surety, but in no event in an amount more than the amount of such premature payment.

IN WITNESS WHEREOF, the above-named Principal and Surety have executed, or caused to be executed, this instrument with all of the formalities required by law on this 10th day of December, 2009.

ARB, Inc.  
Contractor  
By: [Signature]  
Name: Scott E. Summers  
Title: President  
By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Liberty Mutual Insurance Company  
SURETY, admitted in California  
By: [Signature]  
Name: Debbie L. Welsh  
Title: Attorney-in-Fact  
Telephone: 415-892-1080

Approved as to form this 16 day of December, 2009.  
ROBERT E. SHANNON, City Attorney  
By: [Signature]  
Deputy City Attorney

Approved as to sufficiency this 16 day of December, 2009.  
By: [Signature]  
City Manager/City Engineer

- NOTE: 1. Execution of the bond must be acknowledged by both PRINCIPAL and SURETY before a Notary Public and a Notary's certificate of acknowledgment must be attached.  
2. A corporation must execute the bond by 2 authorized officers or, if executed by a person not listed in Sec. 313, Calif. Corp. Code, then a certified copy of a resolution of its Board of Directors authorizing execution must be attached.

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

State of California

County of MARIN

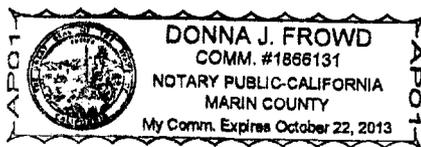
On December 10, 2009 before me, Donna J. Frowd, Notary Public, personally appeared Debbie L. Welsh who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

(seal)

Signature Donna J. Frowd



## CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

State of California

County of Orange

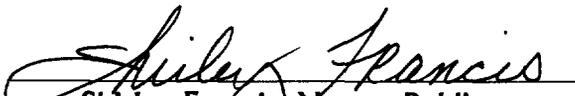
On December 16, 2009

before me, Shirley Francis,

personally appeared **Scott E. Summers**, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify, under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal,

  
Shirley Francis, Notary Public



(\*) 333 City Boulevard West, Suite 300  
Orange, CA 92868

LABOR AND MATERIAL BOND

Bond #024022480  
Premium: Included

Liberty Mutual Insurance Company

KNOW ALL MEN BY THESE PRESENTS: That we, ARB, INC., as PRINCIPAL, and located at Massachusetts, a corporation, incorporated under the laws of the State of Massachusetts, admitted as a surety in the State of California, and authorized to transact business in the State of California, as SURETY, are held and firmly bound unto the CITY OF LONG BEACH, a municipal corporation, in the sum of THREE MILLION SEVEN HUNDRED EIGHTY SEVEN THOUSAND TWO HUNDRED THIRTY EIGHT DOLLARS (\$3,787,238.00), lawful money of the United States of America, for the payment of which sum, well and truly to be made, we bind ourselves, our respective heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT:

WHEREAS, said Principal has been awarded and is about to enter the annexed contract (incorporated herein by this reference) with said City of Long Beach for the The Improvement of Colorado Lagoon Phase I in the City of Long Beach, California and is required by law and by said City to give this bond in connection with the execution of said contract;

NOW, THEREFORE, if said Principal, as Contractor of said contract, or any subcontractor of said Principal, fails to pay for any materials, provisions, equipment, or other supplies, used in, upon, for or about the performance of the work contracted to be done, or for any work or labor done thereon, of any kind, or for amounts due under the Unemployment Insurance Act, during the original term of said contract and any extensions thereof, and during the life of any guaranty required under the contract, or shall fail to pay for any materials, provisions, equipment, or other supplies, used in, upon, for or about the performance of the work to be done under any authorized modifications of said contract that may hereafter be made, or for any work or labor done of any kind, or for amounts due under the Unemployment Insurance Act, under said modification, said Surety will pay the same in an amount not exceeding the sum of money hereinabove specified and, in case suit is brought upon this bond, a reasonable attorney's fee, to be fixed by the court; otherwise this obligation shall be void;

PROVIDED, that any modifications, alterations or changes which may be made in said contract, or in any of the work or labor required to be done thereunder, or in any of the materials, provisions, equipment, or other supplies required to be furnished pursuant to said contract, or the giving by the City of any extension of time for the performance of said contract, or the giving of any other forbearance upon the part of either the City or the Principal to the other, shall not in any way release the Principal or Surety, or either of them, or their respective heirs, administrators, executors, successors or assigns, from any liability arising hereunder, and notice to the Surety of any such modifications, alterations, changes, extensions or forbearances is hereby waived. No premature payment by said City to said Principal shall release or exonerate the Surety, unless the officer of the City ordering the payment shall have actual notice at the time the order is made that the payment is in fact premature, and then only to the extent that such payment shall result in actual loss to the Surety, but in no event in an amount more than the amount of such premature payment.

This Bond shall inure to the benefit of any and all persons, companies and corporations entitled by law to file claims so as to give a right of action to them or their assigns in any suit brought upon this bond.

IN WITNESS WHEREOF, the above-named Principal and Surety have executed, or caused to be executed, this instrument with all of the formalities required by law on this 10th day of December, 2009.

ARB, Inc.  
Contractor  
By: [Signature]  
Name: Scott E. Summers  
Title: President  
By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Liberty Mutual Insurance Company  
SURETY, admitted in California  
By: [Signature]  
Name: Debbie L. Welsh  
Title: Attorney-in-Fact  
Telephone: 415-892-1080

Approved as to form this 16 day of December, 2009.

ROBERT E. SHANNON, City Attorney  
By: [Signature]  
Deputy City Attorney

Approved as to sufficiency this 16 day of December, 2009.

By: [Signature]  
City Manager/City Engineer

- NOTE: 1. Execution of the bond must be acknowledged by both PRINCIPAL and SURETY before a Notary Public and a Notary's certificate of acknowledgment must be attached.
- 2. A corporation must execute the bond by 2 authorized officers or, if executed by a person not listed in Sec. 313, Calif. Corp. Code, than a certified copy of a resolution of its Board of Directors authorizing execution must be attached.

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

State of California

County of MARIN

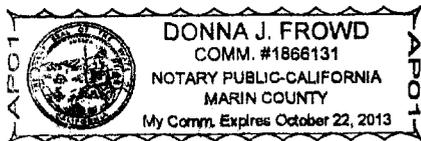
On December 10, 2009 before me, Donna J. Frowd, **Notary Public**, personally appeared Debbie L. Welsh who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

(seal)

Signature Donna J. Frowd



## CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

State of California

County of Orange

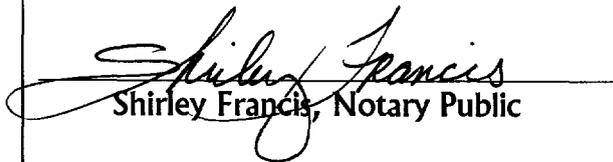
On December 16, 2009

before me, Shirley Francis,

personally appeared **Scott E. Summers**, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify, under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal,

  
Shirley Francis, Notary Public



THIS POWER OF ATTORNEY IS NOT VALID UNLESS IT IS PRINTED ON RED BACKGROUND.

This Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated.

LIBERTY MUTUAL INSURANCE COMPANY
BOSTON, MASSACHUSETTS
POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS: That Liberty Mutual Insurance Company (the "Company"), a Massachusetts stock insurance company, pursuant to and by authority of the By-law and Authorization hereinafter set forth, does hereby name, constitute and appoint MICHAEL B. MCGOWAN, SUSAN J. MCGOWAN, DONNA L. WELSH, DONNA J. FROWD, DEBBIE L. WELSH, MICHELLE L. SWEENEY, JESSICA L. NOWLIN, ALL OF THE CITY OF NOVATO, STATE OF CALIFORNIA.....

, each individually if there be more than one named, its true and lawful attorney-in-fact to make, execute, seal, acknowledge and deliver, for and on its behalf as surety and as its act and deed, any and all undertakings, bonds, recognizances and other surety obligations in the penal sum not exceeding SEVENTY FIVE MILLION AND 00/100 \*\*\*\*\* DOLLARS (\$ 75,000,000.00 \*\*\*\*\* ) each, and the execution of such undertakings, bonds, recognizances and other surety obligations, in pursuance of these presents, shall be as binding upon the Company as if they had been duly signed by the president and attested by the secretary of the Company in their own proper persons.

That this power is made and executed pursuant to and by authority of the following By-law and Authorization:

ARTICLE XIII - Execution of Contracts: Section 5. Surety Bonds and Undertakings.

Any officer of the Company authorized for that purpose in writing by the chairman or the president, and subject to such limitations as the chairman or the president may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact, subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Company by their signature and execution of any such instruments and to attach thereto the seal of the Company. When so executed such instruments shall be as binding as if signed by the president and attested by the secretary.

By the following instrument the chairman or the president has authorized the officer or other official named therein to appoint attorneys-in-fact:

Pursuant to Article XIII, Section 5 of the By-Laws, Garnet W. Elliott, Assistant Secretary of Liberty Mutual Insurance Company, is hereby authorized to appoint such attorneys-in-fact as may be necessary to act in behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations.

That the By-law and the Authorization set forth above are true copies thereof and are now in full force and effect.

IN WITNESS WHEREOF, this Power of Attorney has been subscribed by an authorized officer or official of the Company and the corporate seal of Liberty Mutual Insurance Company has been affixed thereto in Plymouth Meeting, Pennsylvania this 6th day of August, 2009.

LIBERTY MUTUAL INSURANCE COMPANY

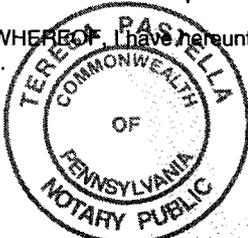
By Garnet W. Elliott, Assistant Secretary



COMMONWEALTH OF PENNSYLVANIA ss
COUNTY OF MONTGOMERY

On this 6th day of August, 2009, before me, a Notary Public, personally came Garnet W. Elliott, to me known, and acknowledged that he is an Assistant Secretary of Liberty Mutual Insurance Company; that he knows the seal of said corporation; and that he executed the above Power of Attorney and affixed the corporate seal of Liberty Mutual Insurance Company thereto with the authority and at the direction of said corporation.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my notarial seal at Plymouth Meeting, Pennsylvania, on the day and year first above written.



COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Teresa Pastella, Notary Public
Plymouth Twp., Montgomery County
My Commission Expires March 28, 2013
Member, Pennsylvania Association of Notaries

By Teresa Pastella, Notary Public

CERTIFICATE

I, the undersigned, Assistant Secretary of Liberty Mutual Insurance Company, do hereby certify that the original power of attorney of which the foregoing is a full, true and correct copy, is in full force and effect on the date of this certificate; and I do further certify that the officer or official who executed the said power of attorney is an Assistant Secretary specially authorized by the chairman or the president to appoint attorneys-in-fact as provided in Article XIII, Section 5 of the By-laws of Liberty Mutual Insurance Company.

This certificate and the above power of attorney may be signed by facsimile or mechanically reproduced signatures under and by authority of the following vote of the board of directors of Liberty Mutual Insurance Company at a meeting duly called and held on the 12th day of March, 1980.

VOTED that the facsimile or mechanically reproduced signature of any assistant secretary of the company, wherever appearing upon a certified copy of any power of attorney issued by the company in connection with surety bonds, shall be valid and binding upon the company with the same force and effect as though manually affixed.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed the corporate seal of the said company, this 10th day of December, 2009.



By David M. Carey, Assistant Secretary

Not valid for mortgage, note, loan, letter of credit, bank deposit, currency rate, interest rate or residual value guarantees.

To confirm the validity of this Power of Attorney call 1-610-832-8240 between 9:00 am and 4:30 pm EST on any business day.