

1 CONTRACT

2 **30279**

3 THIS CONTRACT is made and entered, in duplicate, as of September 6,  
4 2007 for reference purposes only, pursuant to a minute order adopted by the City Council  
5 of the City of Long Beach at its meeting held on September 4, 2007, by and between  
6 MIKE BUBALO CONSTRUCTION CO., INC., a California corporation, whose address is  
7 5102 Gayhurst Avenue, Baldwin Park, California 91706 ("Contractor"), and the CITY OF  
8 LONG BEACH, a municipal corporation ("City").

9 WHEREAS, pursuant to a "Notice Inviting Bids for the Bluff Erosion Control  
10 Improvements at 12th Place in the City of Long Beach, California," dated August 1, 2007,  
11 and published by City, bids were received, publicly opened and declared on the date  
12 specified in said Notice; and

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

14 WHEREAS, the City Council authorized the City Manager to enter a  
15 contract with Contractor for the work described in Plans & Specifications No. R-6497;

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

18 1. SCOPE OF WORK. Contractor shall furnish all necessary labor,  
19 supervision, tools, materials, supplies, appliances, equipment and transportation for the  
20 work described in "Plans & Specifications No. R-6497 for the Bluff Erosion Control  
21 Improvements at 12th Place in the City of Long Beach, California," said work to be  
22 performed according to the Contract Documents identified below. However, this Contract  
23 is intended to provide to City complete and finished work and, to that end, Contractor  
24 shall do everything necessary to complete the work, whether or not specifically described  
25 in the Contract Documents.

26 2. PRICE AND PAYMENT.

27 A. City shall pay to Contractor the amount(s) for materials and  
28 work identified in Contractor's "Bid for the Bluff Erosion Control Improvements at

OFFICE OF THE CITY ATTORNEY  
ROBERT E. SHANNON, City Attorney  
333 West Ocean Boulevard, 11th Floor  
Long Beach, CA 90802-4684

1 12th Place 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-6497 (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-4247 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-6497; 5)  
25 Addenda; 6) Plans and Drawings No. B-4247; 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 eighty (180) working days thereafter, subject to strikes, lockouts and  
3 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.

28 16. CERTIFIED PAYROLL RECORDS. Contractor shall keep and

1 cause each subcontractor to keep an accurate payroll record in accordance with Division  
2 2, Part 7, Article 2 of the California Labor Code. Contractor's failure to furnish such  
3 record to City in the manner provided herein for notices shall entitle City to withhold the  
4 penalty prescribed by law from progress payments due to Contractor.

5 17. RESPONSIBILITY OF CONTRACTOR. Notwithstanding anything to  
6 the contrary in the Standard Specifications, Contractor shall have the responsibility, care  
7 and custody of the work. If any loss or damage occurs to the work that is not covered by  
8 collectible commercial insurance, excluding loss or damage caused by earthquake or  
9 flood or the negligence or willful misconduct of City, then Contractor shall immediately  
10 make the City whole for any such loss or pay for any damage. If Contractor fails or  
11 refuses to make the City whole or pay, then City may do so and the cost and expense of  
12 doing so shall be deducted from the amount due Contractor from City hereunder.

13 18. CONTINUATION. Termination or expiration of this Contract shall not  
14 terminate the rights or liabilities of either party which rights or liabilities accrued or existed  
15 prior to termination or expiration of this Contract.

16 19. TAXES AND TAX REPORTING.

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

23 B. Contractor shall cooperate with City in all matters relating to  
24 taxation and the collection of taxes, particularly with respect to the self-accrual of  
25 use tax. Contractor shall cooperate as follows: (i) for all leases and purchases of  
26 materials, equipment, supplies, or other tangible personal property totaling over  
27 \$100,000 shipped from outside California, a qualified Contractor shall complete  
28 and submit to the appropriate governmental entity the form in Appendix "A"

1 attached hereto; and (ii) for construction contracts and subcontracts totaling  
2 \$5,000,000 or more, Contractor shall obtain a sub-permit from the California Board  
3 of Equalization for the Work site. "Qualified" means that the Contractor purchased  
4 at least \$500,000 in tangible personal property that was subject to sales or use tax  
5 in the previous calendar year.

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

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

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

26 21. AUDIT. If payment of any part of the consideration for this Contract  
27 is made with federal, state or county funds and a condition to the use of those funds by  
28 City is a requirement that City render an accounting or otherwise account for said funds,

1 then City shall have the right at all reasonable times to examine, audit, inspect, review,  
2 extract information from, and copy all books, records, accounts and other information  
3 relating to this Contract.

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

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

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

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

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

28           27.    INTEGRATION. This Contract, including the Contract Documents



1 identified in Section 3 hereof, constitutes the entire understanding between the parties  
2 and supersedes all other agreements, oral or written, with respect to the subject matter  
3 herein.

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

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

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

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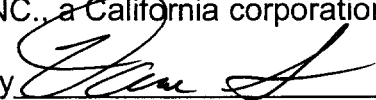
OFFICE OF THE CITY ATTORNEY  
ROBERT E. SHANNON, City Attorney  
333 West Ocean Boulevard, 11th Floor  
Long Beach, CA 90802-4664

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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.

MIKE BUBALO CONSTRUCTION CO.,  
INC., a California corporation

SEPTEMBER 13, 2007

By 

DAVE SOREM  
(Type or Print Name)

\_\_\_\_\_, 2007

By \_\_\_\_\_

\_\_\_\_\_  
(Type or Print Name)

"Contractor"

CITY OF LONG BEACH, a municipal  
corporation

10/6, 2007

By   
City Manager

"City"

This Contract is approved as to form on \_\_\_\_\_ 10/3,  
2007.

ROBERT E. SHANNON, City Attorney

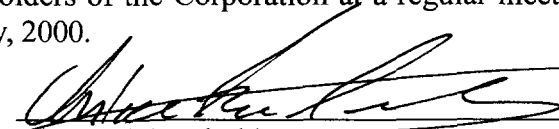
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Deputy

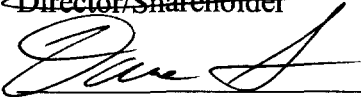
**RESOLUTION  
OF  
Mike Bubalo Construction Co., Inc.**

RESOLVED BY THE SHAREHOLDERS of Mike Bubalo Construction Co., Inc., a California Corporation as follows:

*Resolve that Mike Bubalo and Dave D. Sorem are hereby authorized and directed to execute Contracts on behalf of, and in the name of Mike Bubalo Construction Co., Inc.*

This resolution was adopted by the Shareholders of the Corporation at a regular meeting of the Corporation held on the 20th day of January, 2000.

  
\_\_\_\_\_  
Director/Shareholder


  
\_\_\_\_\_  
Director/Shareholder

\_\_\_\_\_  
Director/Shareholder

**CERTIFICATE OF SECRETARY**

The undersigned hereby certifies that he is the duly elected and qualified Secretary of Mike Bubalo Construction Co., Inc. a California corporation and that the foregoing is a true and correct record of a resolution(s) duly adopted by the Shareholders of the Corporation on 20th day of January, 2000.

IN WITNESS WHEREOF, I have executed my name as Secretary on 20th day of January, 2000.

  
\_\_\_\_\_  
Signature

# **EXHIBIT A**

Mike Bubala Construction Co., Inc.  
5102 Gayhurst Ave.  
Baldwin Park, CA 91706

BIDDER'S NAME: \_\_\_\_\_

BID FOR THE  
BLUFF EROSION CONTROL IMPROVEMENTS AT 12<sup>TH</sup> PLACE  
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 August 1, 2007, 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-6497 at the following prices:

ITEM NO.	ITEM DESCRIPTION	ESTIMATED QUANTITY	UNIT	UNIT PRICE (IN FIGURES)	ITEM TOTAL (IN FIGURES)
1.	Mobilization/Demobilize	1	LS	\$ 90,000	\$ 90,000
2.	Surveying	1	LS	\$ 10,000	\$ 10,000
3.	Excavation for Footings	80	CY	\$ 150	\$ 12,000
4.	Removal/Disposal A.C. Pavement/Concrete Curb	2080	SF	\$ 10	\$ 20,800
5.	Install P.C.C. Sidewalk /Roadway	1450	SF	\$ 16	\$ 23,200
6.	Install A.C. Pavement incl./AB	365	SF	\$ 15	\$ 5,475
7.	Install Curb and Gutter	56	LF	\$ 80	\$ 4,480
8.	12" CMU Retaining Wall * Footing w/Reinforcement	17.5	CY	\$ 1500	\$ 26,250
9.	12" CMU Retaining Wall * w/cap	494	SF	\$ 77	\$ 38,038

ITEM NO.	ITEM DESCRIPTION	ESTIMATED QUANTITY	UNIT	UNIT PRICE (IN FIGURES)	ITEM TOTAL (IN FIGURES)
10.	12" Concrete Retaining * Wall w/Footing	26	CY	\$ 1500	\$ 39,000
11.	4" Split Face CMU Veneer *	264	SF	\$ 55	\$ 14,520
12.	30" Poured Drilled Pier * w/Reinforcement	450	LF	DDS \$ 700 \$ 450	\$ 202,500
13.	Drilled Pier Lagging * w/Connections	520	SF	\$ 70	\$ 36,400
14.	Backfill/Pea Gravel *	500	CY	\$ 75	\$ 37,500
15.	Decomposed Granite * w/Filter Fabric	1440	SF	\$ 9	\$ 12,960
16.	Install French Drains *	138	LF	\$ 75	\$ 10,350
17.	42" Aluminum Guard * Fence	60	LF	\$ 385	\$ 23,100
18.	22" Wide x 6' High Swing* Gate (Access Road)	1	LS	\$ 15,000	\$ 15,000
19.	Footing and Post for * Swing Gate	1	LS	\$ 3000	\$ 3000
20.	Site Signage *	1	LS	\$ 15,000	\$ 15,000
21.	Bollards *	15	Ea	675	\$ 10,125

ITEM NO.	ITEM DESCRIPTION	ESTIMATED QUANTITY	UNIT	UNIT PRICE (IN FIGURES)	ITEM TOTAL (IN FIGURES)
22.	Replace 96 LF of Existing * Water Line	1	LS	\$ 15,000	\$ 15,000
23.	Landscape/Irrigation *	1	LS	\$ 90,000	\$ 90,000
24.	Design and Construct * AC Ramp Road Transition	1	LS	\$ 15,000	\$ 15,000
BASE BID TOTAL					\$ 769,698

OPTION A – Extension Of Service Road And Lower Retaining Wall

25.	Removal/Disposal A.C. * Pavement/Concrete Curb	1220	SF	\$ 14	\$ 17,080
26.	Install P.C.C. Roadway *	1220	SF	\$ 16	\$ 19,520
27.	Install Curb and Gutter *	69	LF	\$ 75	\$ 5,175
28.	12" CMU Retaining Wall * Footing w/Reinforcement	8.5	CY	\$ 1500	\$ 12,750
29.	12" CMU Retaining Wall * w/Cap	276	SF	\$ 75	\$ 20,700
30.	12" Concrete Retaining * Wall w/Footing*	14	CY	\$ 1500	\$ 21,000
31.	4" Split Face CMU Veneer *	136	SF	\$ 50	\$ 6,800

ITEM NO.	ITEM DESCRIPTION	ESTIMATED QUANTITY	UNIT	UNIT PRICE (IN FIGURES)	ITEM TOTAL (IN FIGURES)
32.	Install French Drains *	62	LF	\$ 75	\$ 4650
OPTION A TOTAL					\$ 107,675
TOTAL					\$ 877,373

\* Modified or New Bid Item

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

Web site



# **EXHIBIT B**

**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 worker's compensation or to undertake self-insurance in accordance with said provisions before commencing the performance of the Work of this contract.

Contractor's Name:

MIKE BUBALO CONST. CO., INC.

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



Title: VP/GM

Date: 9/13/07

# EXHIBIT C

**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: 7693031-2007
- B. Name of Insurer (NOT Broker): STATE COMP INS FUND
- C. Address of Insurer: P.O. Box 420807 San Francisco, CA 94142-0807
- D. Telephone Number of Insurer: \_\_\_\_\_

2) For vehicles owned by Contractor and used in performing work under this Contract:

- A. VIN (Vehicle Identification Number): Various
- B. Automobile Liability Insurance Policy Number: BA 808 4073
- C. Name of Insurer (NOT Broker): Netherlands Ins Co
- D. Address of Insurer: \_\_\_\_\_
- E. Telephone Number of Insurer: \_\_\_\_\_

3) Address of property used to house workers on this Contract, if any:

\_\_\_\_\_

4) Estimated total number of workers to be employed on this Contract: \_\_\_\_\_

5) Estimated total wages to be paid those workers: \_\_\_\_\_ \$

6) Dates (or schedule) when those wages will be paid: \_\_\_\_\_

(Describe schedule: For example, weekly or every other week or monthly)

7) Estimated total number of independent contractors to be used on this Contract: 3  
(Attach a list of contractor's license numbers with the names, if known)

8) Taxpayer's Identification Number: 95-4748450

## **EXHIBIT D**

LIST OF SUBCONTRACTORS

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 Marina Landscape Inc.  
 Address 1900 S. Lewis St.  
 City Anaheim, CA 92805  
 Phone No. (714) 704-0411

Landscaping  
 Dollar Amount of Contract \$ 58,000  
 DBE / MBE / WBE / Racial Origin \_\_\_\_\_  
(circle one)  
 License No. A/C # 492862

Name Elkins Surveying  
 Address 16381 Valle Vista Way  
 City Riverside, CA 92506  
 Phone No. (951) 784-4952

Surveying  
 Dollar Amount of Contract \$ 10,000  
 DBE / MBE / WBE / Racial Origin \_\_\_\_\_  
(circle one)  
 License No. Land Surveying Lic # 5428

Name A & G Trucking  
 Address 5940 S. Main St.  
 City Los Angeles, CA 90003  
 Phone No. (323) 855-5062

Trucking  
 Dollar Amount of Contract \$ 15,000  
 DBE / MBE / WBE / Racial Origin \_\_\_\_\_  
(circle one)  
 License No. \_\_\_\_\_

Name \_\_\_\_\_  
 Address \_\_\_\_\_  
 City \_\_\_\_\_  
 Phone No. \_\_\_\_\_

Dollar Amount of Contract \$ \_\_\_\_\_  
 DBE / MBE / WBE / Racial Origin \_\_\_\_\_  
(circle one)  
 License No. \_\_\_\_\_

Name \_\_\_\_\_  
 Address \_\_\_\_\_  
 City \_\_\_\_\_  
 Phone No. \_\_\_\_\_

Dollar Amount of Contract \$ \_\_\_\_\_  
 DBE / MBE / WBE / Racial Origin \_\_\_\_\_  
(circle one)  
 License No. \_\_\_\_\_

Name \_\_\_\_\_  
 Address \_\_\_\_\_  
 City \_\_\_\_\_  
 Phone No. \_\_\_\_\_

Dollar Amount of Contract \$ \_\_\_\_\_  
 DBE / MBE / WBE / Racial Origin \_\_\_\_\_  
(circle one)  
 License No. \_\_\_\_\_

Bond No. 7594685  
Premium included in  
Performance Bond  
Executed in Duplicate

LABOR AND MATERIAL BOND

KNOW ALL PERSONS BY THESE PRESENT: That we, Mike Bubalo Construction Co., Inc.  
as PRINCIPAL, and Fidelity and Deposit Company of Maryland, located at 801 N. Brand Blvd, Penthouse  
Glendale, CA 91203, a corporation, incorporated under the laws of the State of  
Maryland, 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 Eight  
Hundred Seventy Seven Thousand Three Hundred Seventy Three - - -  
- - - 007700 DOLLARS (\$77,373) 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 present.

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 Bluff Erosion Control Improvement at 12th Place  
R-6497 and is required 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 said  
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 the work or labor required to be done  
thereunder, 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.

This bond shall insure 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 13th day of September, 2007.

Mike Bubalo Construction Co., Inc.  
CONTRACTOR/PRINCIPAL

By: [Signature]  
Name: David Soem  
Title: Vice President

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Approved as to form this 3rd day  
of October, 2007  
ROBERT E. SHANNON, City Attorney

By: [Signature] Deputy

Fidelity and Deposit Co. of Maryland  
SURETY admitted in California

By: [Signature]  
Name: C. Michael Henley  
Title: Attorney-in-fact  
Telephone: 800-347-5679

Approved as to sufficiency this 3rd day  
of October, 2007.

By: [Signature]  
for [Signature] City Engineer

NOTE: 1. Execution of this 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 and, if executed by a person not listed in Sec. 313, CA Corp. Code,  
then a certified copy of a resolution of its Board of Directors authorizing execution must be attached.

**Power of Attorney  
FIDELITY AND DEPOSIT COMPANY OF MARYLAND**

KNOW ALL MEN BY THESE PRESENTS: That the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, a corporation of the State of Maryland, by PAUL C. ROGERS, Vice President, and T. E. SMITH, Assistant Secretary, in pursuance of authority granted by Article VI, Section 2, of the By-Laws of said Company, which are set forth on the reverse side hereof and are hereby certified to be in full force and effect on the date hereof, does hereby nominate, constitute and appoint **C. Michael HENLEY, of Canoga Park, California**, its true and lawful agent and Attorney-in-Fact, to make, execute, seal and deliver, for, and on its behalf as surety, and as its act and deed, **any and all bonds and undertakings**, and the execution of such bonds or undertakings in pursuance of these presents, shall be as binding upon said Company, as fully and amply, to all intents and purposes, as if they had been duly executed and acknowledged by the regularly elected officers of the Company at its office in Baltimore, Md., in their own proper persons. This power of attorney revokes that issued on behalf of C. Michael HENLEY, dated January 14, 2003.

The said Assistant Secretary does hereby certify that the extract set forth on the reverse side hereof is a true copy of Article VI, Section 2, of the By-Laws of said Company, and is now in force.

IN WITNESS WHEREOF, the said Vice-President and Assistant Secretary have hereunto subscribed their names and affixed the Corporate Seal of the said FIDELITY AND DEPOSIT COMPANY OF MARYLAND, this 15th day of April, A.D. 2003.

ATTEST:

**FIDELITY AND DEPOSIT COMPANY OF MARYLAND**



*T. E. Smith*

T. E. Smith Assistant Secretary

By:

*Paul C. Rogers*

Paul C. Rogers Vice President

State of Maryland }  
City of Baltimore } ss:

On this 15th day of April, A.D. 2003, before the subscriber, a Notary Public of the State of Maryland, duly commissioned and qualified, came PAUL C. ROGERS, Vice President, and T. E. SMITH, Assistant Secretary of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, to me personally known to be the individuals and officers described in and who executed the preceding instrument, and they each acknowledged the execution of the same, and being by me duly sworn, severally and each for himself deposed and saith, that they are the said officers of the Company aforesaid, and that the seal affixed to the preceding instrument is the Corporate Seal of said Company, and that the said Corporate Seal and their signatures as such officers were duly affixed and subscribed to the said instrument by the authority and direction of the said Corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my Official Seal the day and year first above written.



*Sandra Lynn Mooney*

Sandra Lynn Mooney Notary Public  
My Commission Expires: January 1, 2004



**EXTRACT FROM BY-LAWS OF FIDELITY AND DEPOSIT COMPANY OF MARYLAND**

“Article VI, Section 2. The Chairman of the Board, or the President, or any Executive Vice-President, or any of the Senior Vice-Presidents or Vice-Presidents specially authorized so to do by the Board of Directors or by the Executive Committee, shall have power, by and with the concurrence of the Secretary or any one of the Assistant Secretaries, to appoint Resident Vice-Presidents, Assistant Vice-Presidents and Attorneys-in-Fact as the business of the Company may require, or to authorize any person or persons to execute on behalf of the Company any bonds, undertakings, recognizances, stipulations, policies, contracts, agreements, deeds, and releases and assignments of judgements, decrees, mortgages and instruments in the nature of mortgages,...and to affix the seal of the Company thereto.”

**CERTIFICATE**

I, the undersigned, Assistant Secretary of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, do hereby certify that the foregoing Power of Attorney is still in full force and effect on the date of this certificate; and I do further certify that the Vice-President who executed the said Power of Attorney was one of the additional Vice-Presidents specially authorized by the Board of Directors to appoint any Attorney-in-Fact as provided in Article VI, Section 2, of the By-Laws of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND.

This Power of Attorney and Certificate may be signed by facsimile under and by authority of the following resolution of the Board of Directors of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND at a meeting duly called and held on the 10th day of May, 1990.

RESOLVED: "That the facsimile or mechanically reproduced seal of the company and facsimile or mechanically reproduced signature of any Vice-President, Secretary, or Assistant Secretary of the Company, whether made heretofore or hereafter, wherever appearing upon a certified copy of any power of attorney issued by the Company, 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,

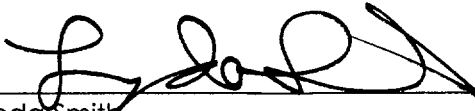
this 13 day of September 2007.

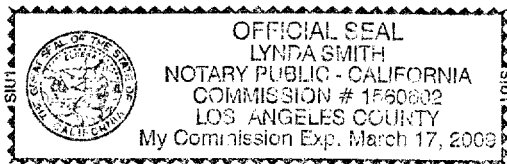
  
Assistant Secretary

**State of California  
County of Los Angeles**

On, \_\_\_\_\_ before me, **Lynda Smith**, Notary Public, personally appeared **C. Michael Henley** proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the 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.

WITNESS my hand and official seal.

  
\_\_\_\_\_  
Lynda Smith  
Notary Public



CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California        }  
County of Los Angeles    } ss.

On September 13, 2007. , before me, **Heidi S. Granic, Notary Public**, personally appeared **Dave Sorem**, personally known to me to be the person whose name is subscribed to the 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.

Witness my hand and official seal.

*Heidi S. Granic*

Heidi S. Granic, Notary Public



Bond No. 7594685  
Premium: \$8,552.00  
Executed in Duplicate

BOND FOR FAITHFUL PERFORMANCE

KNOW ALL MEN BY THESE PRESENTS: That we, Mike Bubalo Construction Co., Inc.

Fidelity and Deposit Company of Maryland, as PRINCIPAL, and  
Brand Blvd, Penthouse Glendale, CA 91201, located at 801 N.

a corporation, incorporated under the laws of the State of Maryland,  
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 Eight Hundred  
Seventy Seven Thousand Three Hundred Seventy Three - - - - -  
- - - - - 007,100 DOLLARS (687,373), 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  
Bluff Erosion Control Improvement at 12th Place No R-6497  
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 13th day of September, 2007

Mike Bubalo Construction Co., Inc.  
CONTRACTOR/PRINCIPAL

By: [Signature]  
Name: David Soren

Title: Vice President

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Approved as to form this 3rd day  
of October, 2007

ROBERT E. SHANKEN, City Attorney

By: [Signature]  
Deputy

Fidelity and Deposit Co of Maryland  
SURETY, admitted in California

By: [Signature]

Name: C. Michael Henley

Title: attorney-in-fact

Telephone: 800-347-5679

Approved as to sufficiency this 3rd day  
of October, 2007.

By: [Signature]  
City Engineer

NOTE: 1. Execution of this 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 and, 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.

**Power of Attorney  
FIDELITY AND DEPOSIT COMPANY OF MARYLAND**

KNOW ALL MEN BY THESE PRESENTS: That the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, a corporation of the State of Maryland, by PAUL C. ROGERS, Vice President, and T. E. SMITH, Assistant Secretary, in pursuance of authority granted by Article VI, Section 2, of the By-Laws of said Company, which are set forth on the reverse side hereof and are hereby certified to be in full force and effect on the date hereof, does hereby nominate, constitute and appoint **C. Michael HENLEY, of Canoga Park, California**, its true and lawful agent and Attorney-in-Fact, to make, execute, seal and deliver, for, and on its behalf as surety, and as its act and deed, **any and all bonds and undertakings**, and the execution of such bonds or undertakings in pursuance of these presents, shall be as binding upon said Company, as fully and amply, to all intents and purposes, as if they had been duly executed and acknowledged by the regularly elected officers of the Company at its office in Baltimore, Md., in their own proper persons. This power of attorney revokes that issued on behalf of C. Michael HENLEY, dated January 14, 2003.

The said Assistant Secretary does hereby certify that the extract set forth on the reverse side hereof is a true copy of Article VI, Section 2, of the By-Laws of said Company, and is now in force.

IN WITNESS WHEREOF, the said Vice-President and Assistant Secretary have hereunto subscribed their names and affixed the Corporate Seal of the said FIDELITY AND DEPOSIT COMPANY OF MARYLAND, this 15th day of April, A.D. 2003.

ATTEST:

**FIDELITY AND DEPOSIT COMPANY OF MARYLAND**



*T. E. Smith*

T. E. Smith Assistant Secretary

By: *Paul C. Rogers*

Paul C. Rogers Vice President

State of Maryland }  
City of Baltimore } ss:

On this 15th day of April, A.D. 2003, before the subscriber, a Notary Public of the State of Maryland, duly commissioned and qualified, came PAUL C. ROGERS, Vice President, and T. E. SMITH, Assistant Secretary of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, to me personally known to be the individuals and officers described in and who executed the preceding instrument, and they each acknowledged the execution of the same, and being by me duly sworn, severally and each for himself depose and saith, that they are the said officers of the Company aforesaid, and that the seal affixed to the preceding instrument is the Corporate Seal of said Company, and that the said Corporate Seal and their signatures as such officers were duly affixed and subscribed to the said instrument by the authority and direction of the said Corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my Official Seal the day and year first above written.



*Sandra Lynn Mooney*

Sandra Lynn Mooney Notary Public  
My Commission Expires: January 1, 2004

**EXTRACT FROM BY-LAWS OF FIDELITY AND DEPOSIT COMPANY OF MARYLAND**

“Article VI, Section 2. The Chairman of the Board, or the President, or any Executive Vice-President, or any of the Senior Vice-Presidents or Vice-Presidents specially authorized so to do by the Board of Directors or by the Executive Committee, shall have power, by and with the concurrence of the Secretary or any one of the Assistant Secretaries, to appoint Resident Vice-Presidents, Assistant Vice-Presidents and Attorneys-in-Fact as the business of the Company may require, or to authorize any person or persons to execute on behalf of the Company any bonds, undertaking, recognizances, stipulations, policies, contracts, agreements, deeds, and releases and assignments of judgements, decrees, mortgages and instruments in the nature of mortgages,...and to affix the seal of the Company thereto.”

**CERTIFICATE**

I, the undersigned, Assistant Secretary of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, do hereby certify that the foregoing Power of Attorney is still in full force and effect on the date of this certificate; and I do further certify that the Vice-President who executed the said Power of Attorney was one of the additional Vice-Presidents specially authorized by the Board of Directors to appoint any Attorney-in-Fact as provided in Article VI, Section 2, of the By-Laws of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND.

This Power of Attorney and Certificate may be signed by facsimile under and by authority of the following resolution of the Board of Directors of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND at a meeting duly called and held on the 10th day of May, 1990.

RESOLVED: "That the facsimile or mechanically reproduced seal of the company and facsimile or mechanically reproduced signature of any Vice-President, Secretary, or Assistant Secretary of the Company, whether made heretofore or hereafter, wherever appearing upon a certified copy of any power of attorney issued by the Company, 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 13 day of September, 2007.

  
Assistant Secretary

**State of California  
County of Los Angeles**

On, *09-13-07* before me, **Lynda Smith**, Notary Public, personally appeared **C. Michael Henley** proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the 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.

WITNESS my hand and official seal.



Lynda Smith  
Notary Public

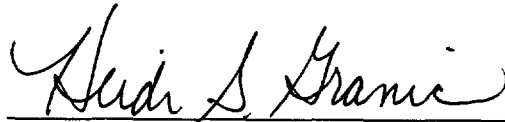


CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California            }  
County of Los Angeles        } ss.

On September 13, 2007. , before me, **Heidi S. Granic, Notary Public**, personally appeared **Dave Sorem**, personally known to me to be the person whose name is subscribed to the 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.

Witness my hand and official seal.



Heidi S. Granic, Notary Public





APPENDIX "A"

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BOE-400-DP (FRONT) REV 1. (10-01)  
**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 use tax direct payment application, 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 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) 324-2883, or write to the Board of Equalization, Public Information and Administration Section, MIC-44, PO Box 842879, Sacramento, CA 94279-0044.

# Use Tax Direct Payment Exemption Certificate

I hereby certify that I hold use tax direct payment permit No. \_\_\_\_\_ issued pursuant to California Sales and Use Tax Law Section 7051.3 and that I am authorized to report and pay directly to the State the applicable use tax with respect to the property described herein which I shall purchase from:

\_\_\_\_\_  
(Name of Vendor)

\_\_\_\_\_  
(Address of Vendor)

In the event that I fail to timely report and pay the applicable tax to the State, I understand and agree that in addition to the tax liability, I will be liable for applicable interest and the amount due may be subject to penalties.

Description of property to be purchased:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Purchaser: \_\_\_\_\_ Date certificate given: \_\_\_\_\_

Signature and Title of Purchaser or Authorized Agent: \_\_\_\_\_

## IMPORTANT NOTICE TO VENDORS

This exemption certificate when timely taken in good faith from a person who holds a use tax direct payment permit relieves a vendor from the requirement to collect and remit USE TAX on sales or leases of tangible personal property (other than leases of motor vehicles subject to the terms of Section 7205.1 of the Sales and Use Tax Law) to the person who issued the certificate. It does NOT relieve a vendor of any SALES TAX obligations. Generally, this certificate should be accepted only by out-of-state vendors or by lessors of tangible personal property other than motor vehicle lessors. Sellers can claim a deduction on their sales and use tax returns for any sales made under this certificate.

Vendors must retain a completed copy of this certificate in their files for a period of not less than four years to substantiate the exempt status of sales made under its authority.

This Exemption Certificate has been approved by the California State Board of Equalization.

Approved By: \_\_\_\_\_  
(Deputy Director, Sales and Use Tax Department)

Date: \_\_\_\_\_

Questions regarding this form should be directed to 800 400-7115, or write to the Board of Equalization, Audit Evaluation and Planning Section, MIC 40, P.O. Box 942879, Sacramento, Ca 94279-0040.

**THIS FORM MAY BE REPRODUCED**

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## NOTICE TO INDIVIDUALS REGARDING INFORMATION FURNISHED TO THE BOARD OF EQUALIZATION

The Information Practices Act of 1977 and the Federal Privacy Act requires this agency to provide the following notice to individuals who are asked by the State Board of Equalization (Board) to supply information, including the disclosure of the individual's social security account number.

Individuals applying for permits, certificates, or licenses, or filing tax returns, statements, or other forms prescribed by this agency, are required to include their social security numbers for proper identification. [See Title 42 United States Code §405(c)(2)(C)(i)]. It is mandatory to furnish all the appropriate information requested by applications for registration, applications for permits or licenses, tax returns and other related data. Failure to provide all of the required information requested by an application for a permit or license could result in your not being issued a permit or license. In addition, the law provides penalties for failure to file a return, failure to furnish specific information required, failure to supply information required by law or regulations, or for furnishing fraudulent information.

Provisions contained in the following laws require persons meeting certain requirements to file applications for registration, applications for permits or licenses, and tax returns or reports in such form as prescribed by the State Board of Equalization: Alcoholic Beverage Tax, Sections<sup>1</sup> 32001-32556; Childhood Lead Poisoning Prevention Fee, Sections 43001-43651, Health & Safety Code, Sections 105275-105310; Cigarette and Tobacco Products Tax, Sections 30001-30481; Diesel Fuel Tax, Sections 60001-60709; Emergency Telephone Users Surcharge, Sections 41001-41176; Energy Resources Surcharge, Sections 40001-40216; Hazardous Substances Tax, Sections 43001-43651; Integrated Waste Management Fee, Sections 45001-45984; International Fuel Tax Agreement, Sections 9401-9433; Motor Vehicle Fuel License Tax, Sections 7301-8405; Occupational Lead Poisoning Prevention Fee, Sections 43001-43651, Health & Safety Code, Sections 105175-105197; Oil Spill Response, Prevention, and Administration Fees, Sections 46001-46751, Government Code, Sections 8670.1-8670.53; Publicly Owned Property, Sections 1840-1841; Sales and Use Tax, Sections 6001-7279.6; State Assessed Property, Sections 721-868, 4876-4880, 5011-5014; Tax on Insurers, Sections 12001-13170; Timber Yield Tax, Sections 38101-38908; Tire Recycling Fee, Sections 55001-55381, Public Resources Code, Sections 42860-42895; Underground Storage Tank Maintenance Fee, Sections 50101-50161, Health & Safety Code, Sections 25280-25299.96; Use Fuel Tax, Sections 8601-9355.

The principal purpose for which the requested information will be used is to administer the laws identified in the preceding paragraph. This includes the determination and collection of the correct amount of tax. Information you furnish to the Board may be used for the purpose of collecting any outstanding tax liability.

As authorized by law, information requested by an application for a permit or license could be disclosed to other agencies, including, but not limited to, the proper officials of the following: 1) United States governmental agencies: U.S. Attorney's Office; Bureau of Alcohol, Tobacco and Firearms; Depts. of Agriculture, Defense, Justice; Federal Bureau of Investigation; General Accounting Office; Internal Revenue Service; the Interstate Commerce Commission; 2) State of California governmental agencies and officials: Air Resources Board; Dept. of Alcoholic Beverage Control; Auctioneer Commission; Employment Development Department; Energy Commission; Exposition and Fairs; Food & Agriculture; Board of Forestry; Forest Products Commission; Franchise Tax Board; Dept. of Health Services; Highway Patrol; Dept. of Housing & Community Development; California Parent Locator Service; 3) State agencies outside of California for tax enforcement purposes; and 4) city attorneys and city prosecutors; county district attorneys, sheriff departments.

As an individual, you have the right to access personal information about you in records maintained by the State Board of Equalization. Please contact your local Board office listed in the white pages of your telephone directory for assistance. If the local Board office is unable to provide the information sought, you may also contact the Disclosure Office in Sacramento by telephone at (916) 445-2918. The Board officials responsible for maintaining this information, who can be contacted by telephone at (916) 445-6464, are: **Sales and Use Tax**, Deputy Director, Sales and Use Tax Department, 450 N Street, MIC:43, Sacramento, CA 95814; **Excise Taxes, Fuel Taxes and Environmental Fees**, Deputy Director, Special Taxes Department, 450 N Street, MIC:31, Sacramento, CA 95814; **Property Taxes**, Deputy Director, Property Taxes Department, 450 N Street, MIC:63, Sacramento, CA 95814.

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<sup>1</sup>All references are to the California Revenue and Taxation Code unless otherwise indicated.

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CALIFORNIA STATE BOARD OF EQUALIZATION  
**USE TAX DIRECT PAYMENT PERMIT**



ACCOUNT NUMBER

**DRAFT**

THIS PERMIT DOES NOT AUTHORIZE THE HOLDER TO ENGAGE IN ANY BUSINESS CONTRARY TO LAWS REGULATING THAT BUSINESS OR TO POSSESS OR OPERATE ANY ILLEGAL DEVICE.

IS HEREBY AUTHORIZED PURSUANT TO SALES AND USE TAX LAW SECTION 7051.3 TO SELF-ASSESS AND PAY USE TAX DIRECTLY TO THE STATE OF CALIFORNIA

THIS PERMIT IS NOT A SELLER'S PERMIT TO ENGAGE IN SALES OF TANGIBLE PERSONAL PROPERTY

THIS PERMIT IS VALID UNTIL REVOKED OR CANCELED BUT IS NOT TRANSFERABLE. IF YOU SELL YOUR BUSINESS, OR DROP OUT OF A PARTNERSHIP, NOTIFY US OR YOU COULD BE RESPONSIBLE FOR SALES AND USE TAXES OWED BY THE NEW OPERATOR OF THE BUSINESS.

BOE-442-DPLZ (1-98)

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