

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

CONTRACT

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THIS CONTRACT is made and entered, in duplicate, as of December 16, 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 HUMPHREY CONSTRUCTORS, a California corporation ("Contractor"), whose address is 21314 Hideout Drive, Diamond Bar, California 91765, and the CITY OF LONG BEACH, a municipal corporation ("City").

WHEREAS, pursuant to a "Notice Inviting Bids for the Construction of Storm Drain Pollution Trap Nets at Pump Station SD13 in the City of Long Beach, California," bids were received, publicly opened on November 12, 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-6809;

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-6809 for the Construction of Storm Drain Pollution Trap Nets at Pump Station SD13 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 Construction of Storm Drain Pollution

1 Trap Nets at Pump Station SD13 in the City of Long Beach, California," attached
2 hereto as Exhibit "A".

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

6 3. CONTRACT DOCUMENTS.

7 A. The Contract Documents include: The Notice Inviting Bids,
8 Plans & Specifications No. R-6809 (which may include by reference the Standard
9 Specifications for Public Works Construction, latest edition, and any supplements
10 thereto, collectively the "Standard Specifications"); the City of Long Beach
11 Standard Plans; Plans and Drawings No. B-4481 for this work; the California Code
12 of Regulations; the various Uniform Codes applicable to trades; the prevailing
13 wage rates; Instructions to Bidders; the Bid; the bid security; the City of Long
14 Beach Disadvantaged, Minority and Women-Owned Business Enterprise Program;
15 this Contract and all documents attached hereto or referenced herein including but
16 not limited to insurance; Bond for Faithful Performance; Payment Bond; Notice to
17 Proceed; Notice of Completion; any addenda or change orders issued in
18 accordance with the Standard Specifications; any permits required and issued for
19 the work; approved final design drawings and documents; and the Information
20 Sheet. These Contract Documents are incorporated herein by the above
21 reference and form a part of this Contract.

22 B. Notwithstanding Section 2-5.2 of the Standard Specifications,
23 if any conflict or inconsistency exists or develops among or between Contract
24 Documents, the following priority shall govern: 1) Change Orders; 2) this Contract;

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1 4. TIME FOR CONTRACT. Contractor shall commence work on a date
2 to be specified in a written "Notice to Proceed" from City and shall complete all work
3 within Thirty (30) working days thereafter, subject to strikes, lockouts and events beyond
4 the control of Contractor. Time is of the essence hereunder. City will suffer damage if
5 the work is not completed within the time stated, but those damages would be difficult or
6 impractical to determine. So, Contractor shall pay to City, as liquidated damages, the
7 amount stated in the Contract Documents.

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

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

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

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

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in Boulevard, 11th Floor
Ft. CA 90802-4664

1 9. INSURANCE. Prior to commencement of work, and as a condition
2 precedent to the effectiveness of this Contract, Contractor shall provide to City evidence
3 of all insurance required in the Contract Documents.

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

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

13 11. PREVAILING WAGE RATES. Contractor is directed to the
14 prevailing wage rates. Contractor shall forfeit, as a penalty to the City, Fifty Dollars (\$50)
15 for each laborer, worker, or mechanic employed for each calendar day, or portion thereof

1 or regulation, in addition to all other rights and remedies reserved to the parties
2 City may by resolution of the City Council suspend performance hereunder until
3 the cause of disability is removed, extend the time for performance, make changes
4 in the character of the work or materials, or terminate this Contract without liability
5 to either party.

6 13. NOTICES.

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

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

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

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

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16. CERTIFIED PAYROLL RECORDS.

A. Contractor shall keep and shall cause each subcontractor performing any portion of the work under this Contract to keep an accurate payroll record, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by Contractor or subcontractor in connection with the work, all in

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.

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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

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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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.

HUMPHREY CONSTRUCTORS, a California corporation

By [Signature]
President

Richard Humphrey
Type or Print Name

By [Signature]
Secretary

[Signature]
Type or Print Name

"Contractor"

CITY OF LONG BEACH, a municipal corporation

By [Signature]
City Manager

"City"

This Contract is approved as to form on December 21,

2009

ROBERT E. SHANNON, City Attorney

By [Signature]
Deputy

OFFICE OF THE CITY ATTORNEY
ROBERT E. SHANNON, City Attorney
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EXHIBIT “A”

Scope of Work

REVISIONS 11 at 5 ' 5

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

ITEM NO.	ITEM DESCRIPTION	ESTIMATED QUANTITY	UNIT	UNIT PRICE (IN FIGURES)	ITEM TOTAL (IN FIGURES)
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ALTERNATIVE BID ITEM 7

7.	Storm Drain Pollution Trap Nets	1	LS	146,000	146,000
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TOTAL ALTERNATIVE BID ITEM 7					146,000
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BID SUMMARY				XXXXXXXXXX	
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ITEM DESCRIPTION	ITEM TOTAL (IN FIGURES)
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TOTAL BASE BID ITEMS 1 THROUGH 6	367,900 367,900
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TOTAL ALTERNATIVE BID ITEM 7	146,000
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TOTAL AMOUNT BID	513,900 513,900
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Where did your company first hear about this City of Long Beach Public Works' project?

email from the city

EXHIBIT "B"

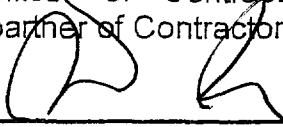
WORKERS' COMPENSATION CERTIFICATION

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:

Humphrey Constructors

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



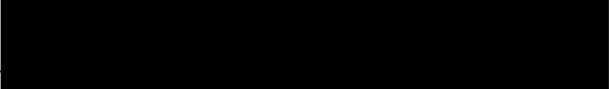
Title: President

Date: 11-18-05

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: 02 DKRM1-2002-777
- A. Policy Number: 52012002777109
- B. Name of Insurer (NOT Broker): Delos Insurance Company
- C. Address of Insurer: 129 West 45th St New York NY 10036
- D. Telephone Number of Insurer: 559-277-4200
- 2) For vehicles owned by Contractor and used in performing work under this Contract:
- A. VIN (Vehicle Identification Number): 
- B. Automobile Liability Insurance Policy Number: AC 11000113

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

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 ½ 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 Paramount Metals Supply Co.

metal fabrication

Address 9140 East Rosecrans Ave.

Dollar amount of contract \$ 102,530

City Paramount CA 90723

DBE / (MBE) / WBE / Racial Origin Asian-Pacific Islander
(Circle one)

Phone no. 562-634-8180

License No. 261180

Name _____

Address _____

Dollar amount of contract \$ _____

City _____

DBE / MBE / WBE / Racial Origin _____
(Circle one)

Phone no. _____

License No. _____

Name _____

Address _____

Dollar amount of contract \$ _____

City _____

DBE / MBE / WBE / Racial Origin _____
(Circle one)

Phone no. _____

License No. _____

Name _____

Address _____

Dollar amount of contract \$ _____

City _____

DBE / MBE / WBE / Racial Origin _____
(Circle one)

Phone no. _____

License No. _____

REPRODUCE AND ATTACH ADDITIONAL SHEETS AS NEEDED

APPENDIX "A"

**APPLICATION FOR
USE TAX DIRECT PAYMENT PERMIT**

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

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

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.

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~~



Notice

**STATE BOARD
OF EQUALIZATION**

450 N Street
Sacramento
California 95814

BOARD MEMBERS

JOHAN KLEHS
First District
Hayward

DEAN F. ANDAL
Second District
Stockton

**ERNEST J.
ORONENBURG, JR.**
Third District
San Diego

BRAD SHERMAN

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.

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

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

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 (e) 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.

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

(4) If an out of state retailer does not have a permanent place of business in this state other than a stock of

**CONSTRUCTION OF STORM DRAIN POLLUTION TRAP NETS
AT
PUMP STATION SD13
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 November 12, 2009, at 11:00 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-6809 at the prices shown below.

The City will announce the basis for the selection of the apparent low bidder at the time of bid opening.

ITEM NO.	ITEM DESCRIPTION	ESTIMATED QUANTITY	UNIT	UNIT PRICE (IN FIGURES)	ITEM TOTAL (IN FIGURES)
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BASE BID ITEMS 1 THROUGH 6

1.	Trash Pit Modifications	38	CY	2800	106,400 RH 100,000
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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.

LABOR AND MATERIAL BOND

KNOW ALL MEN BY THESE PRESENTS: That we, HUMPHREY CONSTRUCTORS, as PRINCIPAL, and First National Insurance Company of America, located at 333 Blvd. West, Suite 300, Orange, CA 92868, a corporation, incorporated under the laws of the State of Washington, 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 HUNDRED SIXTY-SEVEN THOUSAND NINE HUNDRED DOLLARS (\$367,900), 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 Bid for the Construction of Storm Drain Pollution Trap Nets at Pump Station SD13 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 15th day of December, 2009.

Humphrey Constructors, Inc.
Contractor
By: [Signature]
Name: Richard Humphrey
Title: President

By: _____
Name: Trista Humphrey
Title: Secretary

Approved as to form this 15th day of December, 2009

ROBERT E. SHANNON, City Attorney

By: [Signature]
Deputy City Attorney

First National Insurance Company of America
SURETY, admitted in California
By: [Signature]
Name: Jeffrey R. Gryde
Title: Attorney-in-Fact
Telephone: 714-937-1400

Approved as to sufficiency this 17 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



POWER OF ATTORNEY

First National Insurance Company of America
1001 4th Avenue
Suite 1700
Seattle, WA 98154

KNOW ALL BY THESE PRESENTS:

No. 9392

That FIRST NATIONAL INSURANCE COMPANY OF AMERICA, a Washington corporation, does hereby appoint

*****JEFFREY R. GRYPDE; Laguna Niguel, California*****

its true and lawful attorney(s)-in-fact, with full authority to execute on behalf of the company fidelity and surety bonds or undertakings and other documents of a similar character issued by the company in the course of its business, and to bind FIRST NATIONAL INSURANCE COMPANY OF AMERICA thereby as fully as if such instruments had been duly executed by its regularly elected officers at its home office.

IN WITNESS WHEREOF, FIRST NATIONAL INSURANCE COMPANY OF AMERICA has executed and attested these presents

this 21st day of March, 2009

Dexter R. Legg

Dexter R. Legg, Secretary

TAMIKOLAJEWSKI

Timothy A. Mikolajewski, Vice President

CERTIFICATE

Extract from the By-Laws of FIRST NATIONAL INSURANCE COMPANY OF AMERICA:

"Article V, Section 13. - FIDELITY AND SURETY BONDS ... the President, any Vice President, the Secretary, and any Assistant Vice President appointed for that purpose by the officer in charge of surety operations, shall each have authority to appoint individuals as attorneys-in-fact or under other appropriate titles with authority to execute on behalf of the company fidelity and surety bonds and other documents of similar character issued by the company in the course of its business... On any instrument making or evidencing such appointment, the signatures may be affixed by facsimile. On any instrument conferring such authority or on any bond or undertaking of the company, the seal, or a facsimile thereof, may be impressed or affixed or in any other manner reproduced; provided, however, that the seal shall not be necessary to the validity of any such instrument or undertaking."

Extract from a Resolution of the Board of Directors of FIRST NATIONAL INSURANCE COMPANY OF AMERICA adopted July 28, 1970.

"On any certificate executed by the Secretary or an assistant secretary of the Company setting out,

- (i) The provisions of Article V, Section 13 of the By-Laws, and
(ii) A copy of the power-of-attorney appointment, executed pursuant thereto, and
(iii) Certifying that said power-of-attorney appointment is in full force and effect,

the signature of the certifying officer may be by facsimile, and the seal of the Company may be a facsimile thereof."

I, Dexter R. Legg, Secretary of FIRST NATIONAL INSURANCE COMPANY OF AMERICA, do hereby certify that the foregoing extracts of the By-Laws and of a Resolution of the Board of Directors of this corporation, and of a Power of Attorney issued pursuant thereto, are true and correct, and that both the By-Laws, the Resolution and the Power of Attorney are still in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the facsimile seal of said corporation

this 15th day of December, 2009



Dexter R. Legg

Dexter R. Legg, Secretary

CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

State of California

County of Orange

On December 15, 2009 before me, Kathy L. Burnum, Notary Public
(Here insert name and title of the officer)

personally appeared Jeffrey R. Gryde

who proved to me on the basis of satisfactory evidence to be the person(x) whose name(x) is/~~is~~ subscribed to the within instrument and acknowledged to me that he/~~she~~ executed the same in his/~~her~~ authorized capacity(~~ies~~), and that by his/~~her~~ signature(x) on the instrument the person(x), or the entity upon behalf of which the person(x) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph

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)
County of Los Angeles)

**CALIFORNIA ALL-PURPOSE
CERTIFICATE OF ACKNOWLEDGMENT**

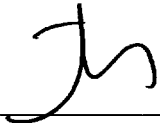
On Dec - 16, 2009 before me, Tyler Humphrey, Notary,
(here insert name and title of the officer)

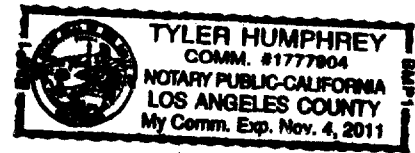
personally appeared Richard Humphrey

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.

Signature 



(Seal)

OPTIONAL INFORMATION

Although the information in this section is not required by law, it could prevent fraudulent removal and reattachment of this acknowledgment to an unauthorized document and may prove useful to persons relying on the attached document.

Description of Attached Document

The preceding Certificate of Acknowledgment is attached to a document

Additional Information

Method of Signer Identification

Proved true on the basis of satisfactory evidence

BOND FOR FAITHFUL PERFORMANCE

KNOW ALL MEN BY THESE PRESENTS: That we, HUMPHREY CONSTRUCTORS, as PRINCIPAL, and First National Insurance Company of America, located at 333 Blvd. West, Suite 300, Orange, CA 92868, a corporation, incorporated under the laws of the State of Washington, 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 HUNDRED SIXTY-SEVEN THOUSAND NINE HUNDRED DOLLARS (\$367,900), 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 Bid for the Construction of Storm Drain Pollution Trap Nets at Pump Station SD13 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 15th day of December, 2009.

Humphrey Constructors, Inc.
Contractor
By: [Signature]
Name: Richard Humphrey
Title: President
By: T
Name: Trista Humphrey
Title: Secretary

First National Insurance Company of America
SURETY, admitted in California
By: [Signature]
Name: Jeffrey R. Gryde
Title: Attorney-in-Fact
Telephone: 714-937-1400

Approved as to form this 21st day of December, 2009

Approved as to sufficiency this 17 day of December, 2009

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

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.



POWER OF ATTORNEY

First National Insurance Company of America
1001 4th Avenue
Suite 1700
Seattle, WA 98154

KNOW ALL BY THESE PRESENTS:

No. 9392

That FIRST NATIONAL INSURANCE COMPANY OF AMERICA, a Washington corporation, does hereby appoint

***** JEFFREY R. GRYDE; Laguna Niguel, California *****

its true and lawful attorney(s)-in-fact, with full authority to execute on behalf of the company fidelity and surety bonds or undertakings and other documents of a similar character issued by the company in the course of its business, and to bind FIRST NATIONAL INSURANCE COMPANY OF AMERICA thereby as fully as if such instruments had been duly executed by its regularly elected officers at its home office.

IN WITNESS WHEREOF, FIRST NATIONAL INSURANCE COMPANY OF AMERICA has executed and attested these presents

this 21st day of March, 2009

Dexter R. Legg

Dexter R. Legg, Secretary

TAMIKOLAJEWSKI

Timothy A. Mikolajewski, Vice President

CERTIFICATE

Extract from the By-Laws of FIRST NATIONAL INSURANCE COMPANY OF AMERICA:

"Article V, Section 13. - FIDELITY AND SURETY BONDS ... the President, any Vice President, the Secretary, and any Assistant Vice President appointed for that purpose by the officer in charge of surety operations, shall each have authority to appoint individuals as attorneys-in-fact or under other appropriate titles with authority to execute on behalf of the company fidelity and surety bonds and other documents of similar character issued by the company in the course of its business... On any instrument making or evidencing such appointment, the signatures may be affixed by facsimile. On any instrument conferring such authority or on any bond or undertaking of the company, the seal, or a facsimile thereof, may be impressed or affixed or in any other manner reproduced; provided, however, that the seal shall not be necessary to the validity of any such instrument or undertaking."

Extract from a Resolution of the Board of Directors of FIRST NATIONAL INSURANCE COMPANY OF AMERICA adopted July 28, 1970.

"On any certificate executed by the Secretary or an assistant secretary of the Company setting out,

- (i) The provisions of Article V, Section 13 of the By-Laws, and
(ii) A copy of the power-of-attorney appointment, executed pursuant thereto, and
(iii) Certifying that said power-of-attorney appointment is in full force and effect,

the signature of the certifying officer may be by facsimile, and the seal of the Company may be a facsimile thereof."

I, Dexter R. Legg, Secretary of FIRST NATIONAL INSURANCE COMPANY OF AMERICA, do hereby certify that the foregoing extracts of the By-Laws and of a Resolution of the Board of Directors of this corporation, and of a Power of Attorney issued pursuant thereto, are true and correct, and that both the By-Laws, the Resolution and the Power of Attorney are still in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the facsimile seal of said corporation

this 15th day of December, 2009



Dexter R. Legg

Dexter R. Legg, Secretary

CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

State of California

County of Orange

On December 15, 2009 before me, Kathy L. Burnum, Notary Public
(Here insert name and title of the officer)

personally appeared Jeffrey R. Gryde

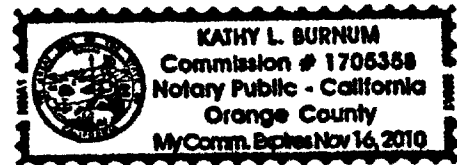
who proved to me on the basis of satisfactory evidence to be the person(x) whose name(x) is/~~is~~ subscribed to the within instrument and acknowledged to me that he/~~she~~ executed the same in his/~~her~~ authorized capacity(~~ies~~), and that by his/~~her~~ signature(x) on the instrument the person(x), or the entity upon behalf of which the person(x) 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.

Kathy L. Burnum
Signature of Notary Public

(Notary Seal)



ADDITIONAL OPTIONAL INFORMATION

INSTRUCTIONS FOR COMPLETING THIS FORM

Any acknowledgment completed in California must contain verbiage exactly as appears above in the notary section or a separate acknowledgment form must be

DESCRIPTION OF THE ATTACHED DOCUMENT

State of California)
County of Los Angeles)

CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

On Dec. 16, 2009 before me, Tyler Humphrey, Notary,
(here insert name and title of the officer)

personally appeared Richard Humphrey

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.



Signature [Handwritten Signature]

(Seal)

OPTIONAL INFORMATION

Although the information in this section is not required by law, it could prevent fraudulent removal and reattachment of this acknowledgment to an unauthorized document and may prove useful to persons relying on the attached document.

Description of Attached Document

The preceding Certificate of Acknowledgment is attached to a document titled/for the purpose of _____ containing _____ pages, and dated _____.

The signer(s) capacity or authority is/are as:

- Individual(s)
- Attorney-in-Fact
- Corporate Officer(s) _____ Title(s) _____

- Guardian/Conservator
- Partner - Limited/General
- Trustee(s)
- Other: _____

representing: _____
Name(s) of Person(s) or Entity(ies) Signer is Representing

Additional Information	
Method of Signer Identification	
Proved to me on the basis of satisfactory evidence: <input type="checkbox"/> form(s) of identification <input type="checkbox"/> credible witness(es)	
Notarial event is detailed in notary journal on: Page # _____ Entry # _____	
Notary contact: _____	
Other	
<input type="checkbox"/> Additional Signer(s)	<input type="checkbox"/> Signer(s) Thumbprint(s)
<input type="checkbox"/> _____	