



National Association of Surety Bond Producers

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BY ELECTRONIC TRANSMISSION (cmura@largo.com)

January 7, 2015

Chuck Mura, Project Engineer
City of Largo Community Development Department
201 Highland Avenue
Largo, FL 33770

Re: Resident Agent Signature Requirement Relating to Performance and Payment Bonds in the Specifications for City Contract No. 15-B-501 WWRF Disinfection & Effluent Pumping Improvement Project

Dear Mr. Mura:

On behalf of the National Association of Surety Bond Producers (NASBP), a national trade association of surety bond producers, including licensed resident and nonresident producers placing bonds in the State of Florida and in other jurisdictions, I am contacting you regarding the performance and payment bond requirement in the bid specifications for City Contract No. 15-C-501 WWRF Disinfection & Effluent Pumping Improvements Project (Project). It has come to our attention that Section 17, Contract Security and Insurance, contains a stipulation that performance and payment bonds required by the City of Largo (City) must be signed by "a resident agent licensed and having an officer [sic] in Pinellas, Hillsborough, or Pasco County, Florida"

You may not be aware that resident agent signature and countersignature requirements have been held as unconstitutional by federal courts throughout the United States, because such requirements impermissibly favor licensed resident agents over licensed non-resident agents. Indeed, one of the most well-known cases on this matter is *Council of Insurance Agents and Brokers v. Tom Gallagher*, 287 F. Supp. 2d 1302 (N.D. Fla. 2003), by which a U.S. District Court in Florida struck down a Florida statute that impermissibly favored resident agents. The district court determined that there was no rational basis for a distinction between Florida licensed resident agents and Florida licensed non-resident agents and declared unconstitutional the Florida statute at issue that discriminated against Florida-licensed non-resident agents.

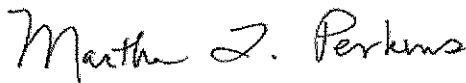
I also call your attention to Information Bulletin DFS-03-004, issued by the Florida Director of Insurance on November 12, 2003. Discussing the above opinion, the bulletin provided that "[p]olicies must be signed by the insurer and by a properly licensed resident or nonresident agent."

NASBP respectfully recommends that the City revise the bid specifications for the Project to exclude any reference to a resident agent. It would be simple and it would comply with the law to change Section 17 to provide as follows: "Such bond shall be executed and issued by a licensed resident or non-resident agent, representing such corporate surety."

NASBP appreciates your prompt action for the elimination of the resident agent requirement in this and any other City of Largo bond requirements, as it is both discriminatory and at odds with the current state of the law.

I appreciate your consideration of NASBP's concerns, and I would be happy to answer any questions you may have.

Yours sincerely,

A handwritten signature in cursive script that reads "Martha L. Perkins".

Martha L. Perkins
General Counsel

cc: Mark H. McCallum, CEO