



National Association of Surety Bond Producers
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December 22, 2015

Mr. David Schoenky, Project Coordinator
Community Development—Engineering
City of Reno, Nevada

Re: Resident Agent Countersignature Requirement for Performance and Payment Bonds for City of Reno Corp Yard Modular Building, Contract Number H100105

Dear Mr. Schoenky:

On behalf of the National Association of Surety Bond Producers (NASBP), a national trade association of agencies employing surety bond producers, including licensed resident and nonresident producers placing bonds in the State of Nevada and in all other jurisdictions, I am writing you, at the request of an NASBP member, regarding the resident agent countersignature requirements in the performance and payment bonds required by the City of Reno for Corp Yard Modular Building, Contract Number H100105. Both bonds include a signature line with the caption "Countersigned by Resident Agent."

This resident agent countersignature requirement is wholly outdated with respect to modern business practices and, even more importantly, is at odds with the law in every state in and jurisdiction of the United States (with the exception of Guam, where it has not been challenged). You may not be aware that resident agent signature and countersignature requirements have been held as unconstitutional by federal courts throughout the United States and/or have been eliminated through acts of state legislatures, because such requirements impermissibly favor licensed resident agents over licensed non-resident agents.

On April 10, 2008, the Ninth Circuit Court of Appeals struck down Nevada's resident agent countersignature laws as unconstitutional barriers to competition in *Council of Insurance Agents & Brokers and Rebecca Restrepo v. Alice Molasky-Arman*, Case No. 04-17271. In that decision the Ninth Circuit invalidated Nevada's resident agent countersignature law, finding it unconstitutional under the Privileges and Immunities Clause of the U.S. Constitution because it "discriminates against citizens of other states where there is no substantial reason for the discrimination beyond the mere fact that they are citizens of other States."

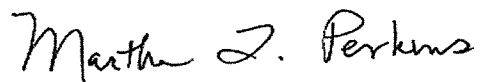
Please note that, while the resident agent countersignature requirement is unconstitutional, it is certainly permissible for there to be a licensed agent countersignature requirement. And this leads me to a recommendation for a very easy "fix" for the City of Reno performance and payment bonds.

The City of Reno can simply delete the word "Resident" and insert the word "Licensed" so that the caption for the signature reads "Countersigned by Licensed Agent". This would mean that the bond could be countersigned by either a licensed RESIDENT agent or a licensed NON-

RESIDENT agent. It would be simple, and it would allow the City of Reno to comply with the law to change the word "resident" to "licensed."

I appreciate your prompt attention to the resident agent countersignature requirement, and I would be happy to answer any questions you may have.

Yours sincerely,

A handwritten signature in black ink that reads "Martha L. Perkins". The script is cursive and fluid, with the first name "Martha" being more prominent than the last name "Perkins".

Martha L. Perkins
General Counsel

CC: Mark H. McCallum, CEO