



## **SUBCONTRACT PROCESS**

### **PLEASE READ ENTIRELY: CONTAINS IMPORTANT INFORMATION**

Please ensure that the following information is enclosed in your subcontract package:

- Preliminary Information
- Insurance Requirements Checklist
- Construction Subcontract Agreement
- Exhibit 1: Description of Subcontractor's Work (Scope)
- Exhibit 2A: Application for Payment
- Exhibit 2B: Standard Billing Form
- Exhibit 3: Subcontract Proposed Change Order
- Exhibit 4: Subcontractor Billing Checklist
- Exhibit 5: Prevailing Wage
- Exhibit 6: California Labor Code provisions
- Exhibit 7: Public Contract Code section 9204
- W-9 Request for Taxpayer Identification Number and Certification (required only for subcontractors not previously contracted with Danco Builders Northwest or Danco Builders)

**Subcontract Agreement:** Please sign and return your **Subcontract Agreement**. You may mail the contract to the Danco Builders Office or scan and email it to the sender. This means that you have reviewed and understand the documents that are provided in this package. The subcontract agreement will be reviewed by the Project Manager, signed and returned to your office by mail or via email. An Executed Subcontract Agreement does not permit work on site to begin. All proper Insurance Certificates and bonds (if required) must be received at the Danco Builders Office prior to commencement of work on the jobsite. Danco Builders will notify you when your work is expected to begin in accordance with the Subcontract Agreement.

**Exhibit Two (A&B):** Keep the original of these forms. A copy of each is to be completed and attached to each billing invoice. **All invoices must be received in our office by the 20th of each month approved and signed by the Danco Builders Superintendent in charge of your project.** Invoices meeting this deadline will be submitted for payment to the owner. Please note any invoice received after the 20th will be returned for resubmission the following month. Payments will be made accordingly. Once payment is received from the owner, the General Contractor will make payment to the Subcontractor as provided in the Subcontract Agreement. See the Subcontractor Billing Checklist included in this package.

**Exhibit Three:** Keep the original of this form. A completed copy is to be attached to each proposed change order before the change will be considered.

**Insurance Requirements:** Please read the insurance portion (Article XVIII) of the Subcontract Agreement **thoroughly** and forward the enclosed Insurance Requirements Checklist to your insurance agent for review. Insurance documents must be approved before work on site begins. Upon the receipt of the correct insurance documents, including Workers Compensation, Automobile Liability, and Commercial General Liability, Danco Builders will then allow your company to work onsite as provided in the project schedule.

**W-9 Request for Taxpayer Identification Number and Certification (required only for subcontractors not previously contracted with Danco Builders):** Please complete the enclosed W-9 Form and return to our office for our records.

If for any reason, you are unable to comply with the above requests please contact the project manager immediately.

Please consider this letter an official notice to begin your Submittal process. Be prepared to issue your Submittal Package per the project's specification within (10) days after the execution of this Subcontract.

**Please mail or email the following to Danco Builders within 10 days:**

- Subcontract Agreement
- Insurance Documents
- Submittal Package
- Completed W-9 Form

Feel free to contact our office for copies of plan sheets and/or specification sections to process submittals.

If you have any further questions, please contact our office at (707) 822-9000.

# Preliminary Information

PROJECT                      **Name:**    **Job #:**  
**Address:**

**This is a prevailing wage Project.**

OWNER                         **Name:**  
**Address:**  
**Phone:**

BONDING CO.                **Name:**  
**Address:**

ARCHITECT                    **Name:**  
**Address:**  
**Phone:**

GENERAL  
CONTRACTOR                **Name:**             **Danco Builders**  
**Address:**           **5251 Ericson Way**  
                             **Arcata, CA 95521**  
**Phone:**             **707-822-9000**  
**Fax:**                 **707-822-9596**

Project Manager            **Name:**  
**Address:**           **5251 Ericson Way**  
                             **Arcata, CA 95521**  
**Phone:**             **707-822-9000**  
**Fax:**                 **707-822-9596**

**Danco Builders**  
**SUBCONTRACTOR INSURANCE REQUIREMENTS CHECK LIST**

**\*\*Recommendations\*\***

- Certificate on Standard Accord Form
- "Endeavor To" and "But Failure To" language struck out

**\*\*General Liability Requirements\*\***

**Certificate**

- Occurrence Policy
- Per Project Aggregate
- Policy Period Current
- Limits (\$1M Per Claim, \$2M Aggregate, \$2M Products Completed Operations)
- Name and Address of Certificate Holder Correct
- Project Name / Number identified or All CA ops
- "30" Days Notice except 10-Days for Non-payment

**Endorsements**

- Additional Insured Form Attached
- All Additional Insured(s) Named (Danco Builders & Project Owner) on certificate itself
- Additional Insured Form CG 2010 1185 or Equivalent. (Look for Phrase "Your Work")
- If Additional Insured is a Blanket then GL Description to include endorsement number
- Primary Language
- Waiver of Subrogation

**\*\*Auto Liability Requirements\*\***

- Any Auto, Owned Auto or Scheduled Auto Checked
- Hired & Non-Owned Auto Checked
- Limits \$1M Combined Single Limit
- List Job Name on Certificate

**\*\*Workers Compensation\*\***

**Certificate**

- CA Limits \$1M Each Accident, Each Disease Each EE, Disease Policy limit
- List Job Name on Certificate

**Endorsements**

- Waiver of Subrogation

**\*\*Other Insurance\*\***

**Certificate**

- \$10M Excess Required for Trenching more than 4 feet deep
- Professional Liability Required for Design Build of \$1,000,000
- Pollution Liability of \$3M/\$5M for Hazardous Materials

## CONSTRUCTION SUBCONTRACT AGREEMENT

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**Contractor:** Danco Builders  
5251 Ericson Way  
Arcata, California 95521  
Telephone: (707) 822-9000  
Fax: (707) 822-9596

Project Contact Person:

**Subcontractor:** Name:  
Address:  
Telephone:  
Fax:

Project Contact Person:  
License Number:

**The Project:**

**The Project Owner:**

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**Subcontractor's Price:** \$\_\_\_\_\_

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This Agreement is between the above named the Contractor and the above named Subcontractor and is dated as of MM/DD/YYYY. This Agreement includes all Exhibits referenced herein and attached hereto.

**1. The Prime Contract.** The Contractor has entered into or expects to enter into an agreement with the Project Owner, providing for the construction of the Project, both as generally identified above. However, if this Agreement is signed before Project Owner awards the Prime Contract to Contractor and if the Project Owner and the Contractor fail to enter into a Prime Contract, this Agreement shall be of no effect.

Subcontractor acknowledges that the Contract is at least partially federally-funded and, as such, that Contractor is obligated to include certain federal "flow down" requirements in this Agreement. Subcontractor further acknowledges that it is obligated to require its subcontractors, and their subcontractors, to include those requirements in any lower tier subcontracts. As a result, attached as Exhibit 8 and incorporated herein by reference are Special Conditions for Federal-Aid Construction Contracts.

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**2. Description of Subcontractor's Work.** Construction will be in accordance with drawings and specifications prepared by the Architect/Engineer. The Subcontractor agrees to furnish at its own cost and expense all labor, equipment, scaffolding, power, taxes, fees, materials, supplies, and other things necessary to perform and complete, in accordance with the Prime Contract and its drawings, specifications, general conditions, special conditions, clarifications, addenda, and modifications those portions of the Prime Contract, and all work incident to it, as described on Exhibit 1, which is attached hereto and is a part hereof (the "Subcontractor's Work").

The Subcontractor shall perform all of the Subcontractor's Work in a good and professional manner using the materials of the quality specified in the Prime Contract and the highest quality workmanship, and shall provide competent supervision of its employees and subcontractors. All materials and equipment incorporated into the Project shall be new, unless the Prime Contract allows otherwise.

The Subcontractor shall at all times have a competent Superintendent on the job site who shall be authorized to receive instructions from the Contractor and make such decisions as may be necessary for the prompt and efficient performance of this Agreement.

Subcontractor's employees and subcontractors shall perform the work under this Agreement in a good and workmanlike manner, and shall have sufficient skill and experience to perform that work in accordance with the requirements of the Prime Contract. Subcontractor shall employ on the Project sufficient employees to do the work efficiently and within the time specified herein for the completion of the work, and the **wages received by them shall be no less than prevailing wage for the type of work performed.** Contractor has the right to direct that any employee of Subcontractor not perform work under this Agreement if, at Contractor's sole discretion, the employee is failing to meet the standards of this Agreement or the Prime Contract, or if so directed by Project Owner.

**3. Subcontractor Investigations.** The Subcontractor has thoroughly examined all of the Project's drawings and specifications and has examined the job site and has satisfied itself as to the nature and location of the work; the character, quantity and kind of materials to be encountered; the character, kind and quantity of equipment needed during the prosecution of the work; and the location, apparent and reasonably discoverable site conditions, and other matters which can affect the work under this Agreement. The Subcontractor enters into this Agreement relying on its own information and investigation and not on any statements or representations that may have been made by the Contractor, the Project Owner or the Architect/Engineer or any of their officers, agents or employees, except to the extent expressly stated herein or in the Prime Contract.

**4. Incorporation of the Prime Contract.** To the extent that they apply to the Subcontractor's Work, the provisions of the Prime Contract, which when referenced herein includes all drawings, specifications, addendums, change orders, clarifications, and other documents forming a part of or referenced by the Prime Contract, are incorporated into this Agreement with the same force and effect as though set forth in full. The Subcontractor shall be bound to

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the Contractor to the same extent that the Contractor is bound to the Project Owner by all terms and provisions of the Prime Contract, and by all decisions, rulings, and interpretations of the Project Owner or its authorized representative. Copies of the Prime Contract are available for review at the Contractor's office. If a conflict occurs between the Prime Contract and this Agreement, the Prime Contract shall control. If a conflict occurs between this Agreement and Exhibit 1, then Exhibit 1 shall control.

**5. Termination of the Prime Contract.** Notwithstanding anything to the contrary in this Agreement, even though the Subcontractor is not in default hereunder, if the Project Owner terminates the Prime Contract for any reason, or reduces the scope of work under the Prime Contract, with or without the Contractor's consent, the Contractor may terminate or modify this Agreement for convenience. Upon receipt of a written notice of termination for convenience, and unless otherwise specified in the notice of termination, Subcontractor shall immediately discontinue the work being terminated, except as is necessary to protect and preserve the work already in progress and materials already on site or in transit, and shall place no more orders for materials or supplies. Subcontractor shall make every reasonable effort to cancel any materials or supplies ordered, and to terminate any subcontracts, on terms satisfactory to Contractor or, at the option of Contractor, give Contractor the option to assume such obligations directly. Subcontractor's remedy for termination for convenience shall be (i) payment for work satisfactorily performed and materials supplied at the prices specified in this Agreement and (ii) such other termination costs as Contractor is able to obtain from Owner. Subcontractor shall not be entitled to any other claimed damages or losses, including without limitation any claim for lost profits on work not performed or claimed unrecovered overhead or consequential damages. In the alternative to termination for convenience, Contractor may assign this Agreement to the Project Owner or to an entity selected by the Contractor's surety, and Subcontractor agrees to accept such assignment.

**6. Payment.** The Contractor shall pay the above the Subcontractor's Price to the Subcontractor to perform all work and services as well as furnish all material and appliances, equipment, and tools that constitute the Subcontractor's Work, which price includes all applicable sales, use, franchise, excise and other taxes which may now or hereafter be levied, subject to changes agreed upon for changed work. Subcontractor agrees to accept the price or prices set forth herein as full compensation for doing all work and furnishing all material contemplated by this Agreement, including without limitation all work incidental to or necessary for the proper performance and completion of Subcontractor's work hereunder.

- A. Payment Schedule.** Payments are to be made in monthly installments for work performed the preceding month on or before seven (7) calendar days after payment is received by the Contractor from the Project Owner, in an amount equal to the value of the work performed by the Subcontractor during the preceding calendar month with reference to the attached in Exhibit 1 and the Subcontractor's Price, less any amounts properly withheld under paragraph C below, including without limitation the retention established under the Prime Contract. The value of the work shall not exceed the Project Owner's allowance for the work for which payment has

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been received by the Contractor. The Project Owner's estimate of the amount of work done by the Subcontractor, or the Contractor's estimate if the Project Owner makes no separate estimate of such work, shall be binding on the Subcontractor.

**B. Invoice.** Complete invoices, including all required documents, shall be submitted to Contractor no later than the 20th of each month. Late invoices may not be included in a pay application to the Project Owner until the following month, and Contractor shall not be responsible for any delay in payment arising from a late or incomplete invoice. A complete pay application requires all of the following:

1. Completed Exhibits 2(A) and 2(B), or approved alternative.
2. Required conditional and unconditional lien releases showing that all work, equipment, and materials furnished under the Agreement have been paid in full or that claims for such payments have been properly released in the form required by California Civil Code section 8132 or 8134, or section 8136 for final payment.
3. Submission of all required certified payrolls for work included in the invoice.

An invoice shall not be deemed submitted, and will not be included in a pay application to the Project Owner, until all required conditions are met.

**C. Payment withholds.** Contractor may withhold all or part of any payments otherwise due to Subcontractor or, based on subsequently discovered evidence, may negate any amount previously paid, up to the maximum amount permitted by law, and until a dispute is resolved, to protect Contractor from loss or damage for any of the following reasons:

1. defective work not remedied;
2. unpaid amounts due to Subcontractor's subcontractors or suppliers, or anyone else, for labor, supplies, materials, equipment, rental, or other proper charges against the work;
3. third-party claims filed against Contractor or Project Owner based, in whole or in part, on alleged actions or inactions by Subcontractor;
4. damage to the Project Owner, Contractor, or another subcontractor, including without limitation liquidated damages reasonably anticipated or charged against Contractor for delays caused by Subcontractor;
5. penalties or fines threatened or assessed based on Subcontractor's actions or inactions in performing this Agreement;
6. retention; or
7. claims by a union that Subcontractor has failed to pay required union payment obligations connected with the Project.



Any amounts so withheld shall not be due to Subcontractor until seven (7) days following the date that Subcontractor remedies the reason for withholding or the date that payment would otherwise be due, whichever is later.

- D. Effect of Payments.** No payment made under this Agreement shall operate as an acceptance of any part of the Subcontractor's Work or as admission of the Contractor that this Agreement, or any part of it, has been complied with if the facts are deemed to be otherwise.
- E. Payments in Trust.** All sums received by the Subcontractor from the Contractor under this Agreement will be held in trust by the Subcontractor for the express use and purposes of (i) paying in full for all labor, material, equipment, and appliances furnished to the Subcontractor by others in performing this Agreement and, (ii) if required, making payments to labor union trust funds established under a collective bargaining agreement. No title to any payment or any part of it shall be vested in the Subcontractor or be used for any other purpose until the Subcontractor has first paid in full the obligations described in the preceding sentence. Subcontractor shall promptly make payments to all persons supplying Subcontractor with labor, materials, and supplies to perform Subcontractor's work in accordance with requirements of California Business and Professions Code section 7108.5.
- F. Joint Checks.** Contractor may make any payment due hereunder by check payable jointly to Subcontractor and any of its subcontractors or suppliers. Contractor shall provide Subcontractor with notice of its intent to make payment by joint check. Subcontractor shall have three (3) days following receipt of such notice to object and provide Contractor with evidence and information supporting any contention that the lower tier subcontractor and/or supplier is not entitled to payment.
- G. Final Payment.** All prior partial payments shall be subject to correction in the final payment. The retention, less any deductions permitted by this Agreement, shall be paid seven (7) calendar days after completion and acceptance by the Project Owner of all work under the Prime Contract **and** payment by the Project Owner of all Prime Contract retentions. Retention may not be released by the Project Owner until 60 days after Project completion, or more if stop payment notices have been served. Subcontractor shall submit to Contractor unconditional waivers and releases on final payment for itself and each of its subcontractors and suppliers in the form required by Civil Code section 8138 within ten (10) business days of receipt of final payment from Contractor.

**10. Time for Work; Scheduling; Delay.** Time is of the essence in performing work under this Agreement. Subcontractor shall provide Contractor with scheduling information, including a proposed schedule if requested by Contractor. Contractor shall have the right to decide the time and order in which various portions of the work shall be performed, and the priority of the work of Subcontractor, Contractor, and other subcontractors. Subcontractor shall conform to

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Contractor's project schedule, and all revisions thereto. Contractor shall promptly communicate revisions to the schedule to Subcontractor.

The Subcontractor will keep itself fully informed of the progress of the work under the Prime Contract, and as soon as the Project requires work to be performed under this Agreement, the Subcontractor will promptly begin work. The Subcontractor will prosecute the work diligently to completion and will conform to any progress schedule established by the Contractor. The Subcontractor will coordinate work with the Contractor and other Subcontractors so that there will be no delay to or interference with other work on the Project. If the Subcontractor fails to comply with any requirement of this paragraph and the Contractor incurs loss or damage because of delay or disruption or becomes liable for damages or liquidated damages because of delay in completing the Project, then the Subcontractor shall be responsible for the portion of the loss, damage, or liability as may be attributable to the Subcontractor's delay or lack of coordination in performance. When a critical path (controlling) delay may be attributable to more than one party, the Contractor shall allocate responsibility among those responsible; the Contractor's allocation made in good faith shall be binding on all parties.

If the Subcontractor contends that any act of the Project Owner or of the Contractor or any other job condition or event not within the Subcontractor's responsibility has caused the Subcontractor to experience delay, disruption, or inefficiency in performing the work, then the Subcontractor shall immediately give written notice of such conditions to the Contractor, but no later than the **earlier** of a) ten (10) days after Subcontractor is aware of the events causing or likely to cause a delay, disruption, or inefficiency or b) one (1) business day before the time that Contractor would be required to provide such notice of delay, disruption, or inefficiency to the Project Owner under the Prime Contract. **Failure to timely provide notice of delay, including all information required to support such delay claim, shall be a waiver of Subcontractor's right to claim delay.** No extension of time will be made for delays or suspensions of work caused by Subcontractor. Subcontractor shall not be entitled to any extension of time for changes or delays unless the change or delay affects a controlling portion of the work. Time extensions and compensation for delays arising in whole or in part from conduct of Project Owner shall be limited to Subcontractor's proportional interest in any amounts or extensions Contractor recovers from Project Owner for such delay, less costs of recovering such amounts. Subcontractor shall cooperate fully with Contractor in seeking such compensation and/or time extensions, at Subcontractor's expense.

In no event shall either party be liable to the other for any indirect, consequential, or exemplary damages arising from delay.

**11. Submission of Data.** The Subcontractor, at its own expense, shall prepare and submit for prior approval to the Contractor or as required in the Prime Contract, the Project Owner or the Architect/Engineer all samples, shop drawings, field measurements, certifications, technical data, schedules, and explanations as may be required, and in such form as may be required by the Prime Contract, or as the Contractor may request, to detail and illustrate the Subcontractor's Work. Submissions shall be made sufficiently in advance to obtain review and

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approval without delaying any work under the Prime Contract but in no case later than 30 days after notice of award. All samples, drawings and other data will become the property of the Contractor. The Contractor may charge the Subcontractor a reasonable administrative fee to review re-submittals, including without limitation any amount charged to Contractor for such re-review, in the case of incomplete submittals rejected by the Contractor, the Project Owner or the Architect/Engineer. If all submittals are not complete within the required period, the Contractor may complete the submittals and the Subcontractor shall pay the Contractor for completion for said items at the Contractor's actual cost plus a 25% charge for profit and overhead. This amount shall be immediately due and payable and may, at the Contractor's option be offset against any sums remaining due to the Subcontractor.

If the Prime Contract requires that an independent laboratory perform tests related to the Subcontractor's Work, the Subcontractor shall pay for such tests. The Subcontractor shall be reimbursed for such tests beyond the Subcontractor's price only to the extent that such reimbursement is specifically provided in the Prime Contract. The Subcontractor shall participate in the preparation of coordinated drawings as deemed needed or beneficial by the Contractor.

**12. Protection of Work and Property.** The Subcontractor shall protect its work and be responsible in all circumstances for its good condition until final acceptance of the entire Project. The Subcontractor shall also protect adjacent property from injury arising from its work. The Subcontractor at its own expense, shall do all cutting and patching necessary for the Subcontractor's Work, including repairs of all damage caused by the Subcontractor as required for the installation or completion of other subcontractors' work. If the Contractor or the Architect/Engineer disapproves of the substance or appearance of any patch, the Subcontractor shall promptly re-patch to the satisfaction of the Contractor or the Architect/Engineer. Cutting and patching may be specifically addressed in the Prime Contract and, if so, those requirements shall control.

**13. Extra Work, Changes, and Deletions.** Contractor reserves the right by written order and without notice to Subcontractor's surety, if any, to make any change, addition, reduction or deletion in Subcontractor's Work or materials under this Agreement, and Subcontractor shall immediately proceed with the change, as directed by Contractor. Contractor shall propose an adjustment in compensation and time, if warranted, for any change ordered by Contractor, or shall request that Subcontractor propose any adjustment. If Subcontractor disagrees with any adjustment proposed by Contractor, Subcontractor shall give Contractor written notice of the disagreement, the basis therefor, and Subcontractor's proposed adjustments to compensation and/or time promptly, but in no event later than ten (10) days after receipt of such written order directing the changed work or two (2) business days before the time required by the Prime Contract, whichever is earlier.

Subcontractor shall comply with all instructions given by Contractor, whether or not designated a Subcontract change. The Subcontractor shall make no changes in the Subcontractor's Work required to be performed under this Agreement, nor shall the Subcontractor perform any extra

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work, without the prior written direction signed by the Contractor. If Subcontractor believes that any direction by Contractor, written or oral, would result in a change causing added cost or time to perform the Work, then Subcontractor shall provide Contractor written notice of the claimed delay, interference, or added cost prior to performing any affected Work. Before performing any such work, Subcontractor shall receive confirmation from Contractor in writing that Contractor is directing the Work notwithstanding notice of the claimed change. No adjustment to Subcontractor's time for performance or compensation will be allowed for any claimed delay, added cost, or other interference for which Subcontractor failed to provide timely written notice.

If Subcontractor claims that it is entitled to additional compensation for changed work under this Agreement, then, within the time allowed by the Prime Contract, but no more than 10 days following the first day such claim could be made, it shall prepare a written claim, in such form as may be required by the Prime Contract, for presentation through the Contractor to the Project Owner, if appropriate. For claims passed through to the Project Owner, Subcontractor shall be bound by the Project Owner's decision to the same extent that the Contractor is bound, and the Subcontractor shall have no right to receive payment from the Contractor on any such claim in any sum or for any time extension greater than that allowed and paid to the Contractor by the Project Owner, less any amounts allowed to the Contractor for the Contractor's overhead, profit, bond premium, and work performed by the Contractor or others.

Adjustment in compensation for changed Work shall be determined as follows:

- (i) By written agreement by the parties, or, if agreement cannot be reached,
- (ii) In accordance with the terms of the Prime Contract for pricing changes, or, if the Prime Contract is silent on pricing changes,
- (iii) On a time and materials basis, supported by time and materials invoices and records submitted daily to Contractor, with a maximum mark-up of fifteen percent (15%) for overhead, supervision, general administrative expenses, and profit, or any lower markup amount provided for in the Prime Contract.

If directed to do so in writing by Contractor, Subcontractor shall proceed with the work as changed pending any agreement on adjustment in price and/or time. If the parties have not agreed to pricing by the time the changed work starts, then Subcontractor shall proceed as though the change will be priced on a time and materials basis.

The Contractor's obligation to increase the amount to be paid to the Subcontractor under this Agreement shall be limited to the amount the Contractor receives from the Project Owner for such work, less any amounts allowed to the Contractor for the Contractor's overhead, profit, bond premium, and work performed by the Contractor or others in connection with this Agreement. Any deduction from the Subcontractor's Price shall be limited to the reduction made under the Prime Contract for deleted, eliminated, or reduced work.

**14. Claims and Disputes.** The Prime Contract dispute resolution procedure is incorporated by reference into this Agreement and shall apply to all disputes except those not involving the Project Owner. The claims process provided in Public Contract Code section 9204 is applicable to the Prime Contract; the applicable statute is attached hereto as Exhibit 7. **Subcontractor acknowledges that the Prime Contract may require arbitration and, if so, Subcontractor expressly agrees to be bound by such arbitration clause.** If any controversy arises between Subcontractor and Contractor or Project Owner with respect to any matter related to or connected with the work hereunder, Subcontractor shall submit its claim in writing to Contractor, including any preliminary notices or notices of potential claim required by law or the Prime Contract or this Agreement, with sufficient time to allow Contractor review the notice, claim, or other documentation prior to Contractor's deadline to timely submit the same to Project Owner.

If Subcontractor asserts a claim which involves, in whole or in part, acts or omissions that are the responsibility of Project Owner, then Contractor shall, a) review the claim and notify Subcontractor of any deficiency Contractor perceives in the claim, and b) on behalf of Subcontractor, either submit the same to Project Owner or authorize Subcontractor to prosecute such claim in Contractor's name. Subcontractor shall cooperate fully with Contractor in any claim that Contractor passes through to Project Owner on Subcontractor's behalf. If and only to the extent that Project Owner shall pay additional compensation or damages or allow additional time to Contractor on account of said claim, then Contractor shall award the same to Subcontractor.

If Contractor presents Subcontractor's claim to Project Owner with claims of Contractor or others, then Contractor shall notify Subcontractor in writing as to the share of any award by Project Owner to which Subcontractor is entitled. If Subcontractor does not object in writing to Contractor's allocation of any such award within five (5) days of receipt of such notice, then Contractor's allocation shall be binding and conclusive on Subcontractor.

As to disputes not involving the Project Owner, Contractor and Subcontractor shall promptly meet informally to attempt to resolve such dispute. If no resolution is achieved, the dispute shall be presented to representatives with decision-making authority who shall make a good faith effort to resolve the dispute by negotiation, which may involve mediation. **For disputes not resolved by the foregoing procedure, the parties agree to resolve the dispute by arbitration. Subcontractor agrees to include this arbitration requirement in all contracts with its lower tier subcontractors and material suppliers.**

If the Prime Contract or any other agreement between the Project Owner and the Contractor contains an arbitration provision applicable to the Project, arbitration shall be held in accordance with that provision. On demand of the arbitrator or any party to an arbitration initiated under such provisions, the Subcontractor and all parties bound by this provision agree to join in and become parties to and be bound by such arbitration proceedings. Otherwise, disputes shall be resolved under the Construction Industry Rules of the American Arbitration

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Association that are in effect at the time of the arbitration, and judgment may be entered in any court of competent jurisdiction on the award.

If any party refuses or neglects to appear at or to participate in arbitration proceedings after reasonable notice, the arbitrator may decide the controversy in accordance with whatever evidence is presented by the participating party or parties. The arbitrator shall award costs, including without limitation expert witness fees, and reasonable attorney fees to the prevailing party or parties.

Subcontractor agrees that it shall proceed with its performance of work under this Agreement notwithstanding any claim, dispute or controversy between Subcontractor and Contractor, Project Owner, any other subcontractor, or any other party involved in any way in the Project.

**15. Guaranty of Work.** The Subcontractor guarantees its work and shall hold the Project Owner and the Contractor harmless against all loss or damage arising from any defect in materials, equipment, or workmanship furnished under this Agreement for the same period of time as stated in the Prime Contract or the Contractor's guaranty. Upon the Contractor's notification, the Subcontractor shall promptly replace defective material and perform labor necessary to correct any such defect in the work. The Subcontractor shall pay for all work and expense that may be incurred in correcting the defects under the Contractor's guaranty. If the Subcontractor fails to make necessary repairs and replacements promptly, the Project Owner or the Contractor may, at the Subcontractor's expense, furnish necessary materials or labor, and the Subcontractor shall pay their cost on demand.

**16. Bond Requirements.** The Subcontractor shall promptly furnish, on the Contractor's written request, a corporate surety bond written by a surety company, authorized to write surety business, to guarantee the faithful performance of this Agreement and/or the payment for all work and materials furnished under this Agreement. The bond shall be in an amount required by the Contractor but shall not exceed the full amount of the Subcontractor's Price. The Contractor shall pay for the surety bond if its premium does not exceed standard industry rates. If the Contractor notifies the Subcontractor before a bid is submitted that a surety bond will be required, then the Subcontractor shall include the premium of that bond in the Subcontractor's price. The Contractor shall have the right to demand such surety bond at any time during the job, and if the Subcontractor fails to furnish a surety bond within ten (10) calendar days after the Contractor's written demand, then the Subcontractor shall be deemed to be materially in default under this Agreement.

**17. Cleanup.** The Subcontractor shall at all times keep the job site free from its accumulations of waste material or rubbish. On completion of the Subcontractor's Work, the Subcontractor shall promptly remove all of its rubbish, surplus material, tools, scaffolding, and equipment from the job site, and the premises shall be left "broom-clean" or its equivalent unless cleanup is more exactly specified in the Prime Contract and in that case the Subcontractor shall clean the site to that standard. In a dispute about the responsibility for cleanup, the Contractor may charge clean-up costs to the various subcontractors responsible for the waste material and/or

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rubbish in such ratio as the Contractor shall decide to be just, and this allocation shall be binding on all subcontractors.

**18. Compliance With Laws; Labor Laws.** Subcontractor and its employees shall at all times observe and comply with all applicable laws and regulations of the United States and of the State of California and of any local government entity having jurisdiction of the place where any work hereunder is being done, and with all rules and regulations of Contractor and Principal. Without limitation, Subcontractor shall be bound by the Fair Labor Standards Act, the Americans With Disabilities Act, the federal Family and Medical Leave Act, the California Labor Code, the California Fair Employment and Housing Act, and the California Family Rights Act. The provisions of California Labor Code sections 1771, 1775, 1776, 1777.5, 1813, and 1815 are incorporated into this Agreement by reference, and are attached hereto as Exhibit 6. Subcontractor agrees to comply with these provisions and all interpretations thereof by the Director of the Department of Industrial Relations (“DIR”) insofar as they apply to Subcontractor.

Subcontractor is performing “public work,” as defined in Labor Code section 1720. As a result, Subcontractor shall be registered with DIR in accordance with Labor Code section 1725.5 at the time of bidding and shall remain registered throughout the performance of its work under this Agreement.

Subcontractor and its subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of characteristics set forth in Government Code section 12940(a).

Subcontractor is an independent contractor and is responsible for all payments of taxes, contributions and premiums payable on its employees or on its operations under workers’ compensations laws, unemployment compensations laws, the federal Social Security Act, health and welfare benefit plans, gross business taxes, sales and use taxes and any other taxes, contributions and premiums which become payable by operation of law or contract, including contributions payable by the employees, and shall save Contractor harmless from all liability, loss and expense resulting from Subcontractor’s failure to comply with all requirements of such laws or contracts. Subcontractor agrees to comply with any rules and regulations at any time applicable to this provision.

**19. Job Safety.** The Subcontractor, the Subcontractor’s employees, the lower tier subcontractors, and their employees shall comply with all applicable federal, state, local, and any other legally required safety and health standards, orders, rules, regulations, and other laws. The Subcontractor shall bear full financial responsibility, as between the parties to this Agreement, for the compliance by all persons mentioned in the previous sentence. Subcontractor shall conduct inspections to determine that safe working conditions and equipment exist and accepts sole responsibility for providing a safe place to work for its employees and for employees of its subcontractors and suppliers of material and equipment,

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for the adequacy for and required use of all safety equipment and for full compliance with the aforesaid laws, orders, citations, rules, regulations, standards and statutes.

If the Subcontractor, the Subcontractor's employees, the lower tier subcontractors, or their employees fail to comply, then the Contractor may give Notice of Default to the Subcontractor, and the Subcontractor shall correct improper conditions within 24 hours after the Contractor issues the Subcontractor a Notice of Noncompliance or within the time of an abatement period specified by any government agency, whichever period is shorter. The Subcontractor's failure to cure the default within 24 hours after Notice shall give Contractor the following options:

(a) Without terminating this Agreement or the Subcontractor's obligation, the Contractor may take such action as the Contractor, in its sole discretion, may deem necessary to avoid noncompliance with any applicable safety or health laws. The cost of materials, equipment, or other items shall be deducted from the Subcontractor's price, and, if the cost of such work or materials or other items exceeds the unpaid balance, then the excess shall be immediately due and owing from the Subcontractor to the Contractor.

(b) The Contractor may suspend the Subcontractor from performance of all affected work until the default is corrected. Such suspension shall not entitle Subcontractor to any time extension or added costs, and may subject Subcontractor to liquidated damages if Subcontractor is suspended from performing critical path (controlling) Work. This right to suspend the Subcontractor shall not be construed to deny the Contractor any other right or remedy at law or in equity.

The Subcontractor shall be liable for all damages suffered by the Contractor by reason of the Subcontractor's default, and the Contractor's exercise of the option to eject the Subcontractor shall not relieve the Subcontractor of that liability or its liability for breach of this Agreement.

**20. Taxes, Licenses, and Fees.** The Subcontractor shall pay all taxes, licenses, and fees of every nature that may be imposed or charged by any governmental authority on labor, material, or other things used by the Subcontractor in performing the work or on the transaction between the Contractor and the Subcontractor. If the Subcontractor fails to pay any tax, license, or fee required to be paid by this paragraph, then the Contractor may pay it and the Subcontractor shall repay the sum to the Contractor on demand.

**21. Union Matters.** In the event that labor agreements cover work at the Project with a labor union, the Subcontractor and its lower tier subcontractors will contract only with persons or entities that are parties to the appropriate covered labor agreement with the appropriate labor union. If the Subcontractor or any lower tier subcontractor causes or is the subject of any picketing or other economic action or labor trouble on the Project, or is listed by the administrative office of a health and welfare, pension, vacation, or apprenticeship fund as being delinquent in payment to that fund, regardless of the job in connection with which the alleged

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delinquency occurred, then the Subcontractor will be deemed to be in default under this Agreement and may be ejected from the job.

**22. Alternative Equipment, Material, or Method.** The Subcontractor shall not deviate from the project drawings and specifications as to material and equipment to be furnished or the method of performing the Subcontractor's Work unless prior written approval has been obtained from Project Owner. The Subcontractor warrants that any alternative equipment, material, or method proposed by the Subcontractor will meet or exceed all performance standards established by the Prime Contract and will perform to the Project Owner's satisfaction.

**23. Insurance.** Subcontractor shall comply with all insurance requirements in the Prime Contract. Notwithstanding the foregoing, if the Prime Contract does not provide for insurance requirements to flow down to subcontractors, then Subcontractor shall, at its own expense, obtain and maintain insurance on all operations with carriers licensed to provide insurance in California and acceptable to the Contractor, including the following minimum coverages:

- (a) Workers' compensation and employer's liability insurance in the amounts required by law;
- (b) Commercial General Liability Insurance covering all operations with a limit of at least \$1,000,000 each occurrence (combined single limit for bodily injury and property damage), \$1,000,000 personal injury liability, \$2,000,000 aggregate for products-completed operations and \$2,000,000 general aggregate. Such policy or policies shall include coverage for the following:
  - 1. Premises and Operation Liability;
  - 2. Completed Operations and Products Liability;
  - 3. Broad Form Property Damage Liability;
  - 4. Personal Injury Liability;
  - 5. Liability which Subcontractor may incur as a result of the operations, acts or omissions of his subcontractors, suppliers or material men, and their agents or employees;
  - 6. Explosion, Collapse, Subsidence, and Underground Hazards; and
  - 7. Construction means, methods, techniques, sequences and procedures including safety and field inspection.

and

- (c) Business Automobile Liability Insurance, including coverage for all owned, hired, and non-owned automobiles with a limit of at least \$1,000,000 each occurrence (combined single limit for bodily injury and property damage).

The Subcontractor's deductibles shall not exceed \$5,000, or such lower amount provided in the Prime Contract, without advance written consent by the Contractor. The Subcontractor shall furnish a certificate of insurance and an endorsement executed by its insurers, showing compliance with this requirement before the Subcontractor begins work, unless otherwise agreed to in writing by Contractor. The certificates and endorsements shall provide for a 30-day notice to the Contractor before canceling any policy, unless the Prime Contract allows for a shorter period for non-renewal. The certificates and endorsements shall show the Contractor named as an additional insured, as well as all parties required by the Prime Contract, on the Commercial General Liability policy and Business Automobile Liability policy, if required by the Prime Contract. Subcontractor's insurance shall be primary insurance, up to the full value of the policy even if the policy exceeds minimum amounts set forth above, and any insurance held by the Contractor and the Project Owner shall be excess and not contributory insurance.

Subcontractor shall maintain such insurance throughout the performance of its work under this Agreement, and for such additional time as may be set forth in the Prime Contract. Such insurance is an express condition precedent to Subcontractor's right to payment, and Contractor may withhold payments otherwise due to Subcontractor if Contractor receives notice of intent to cancel any policy until withdrawal of said notice or the reinstatement of any canceled policy. Should Subcontractor fail or refuse to obtain any insurance after receipt of a notice to cure from Contractor, then Contractor may (but is not required to) procure such insurance on Subcontractor's behalf, and deduct the cost of such insurance from amounts otherwise owed to Subcontractor.

Contractor and Subcontractor waive all rights against each other and Project Owner for loss or damage to the extent reimbursed by any applicable insurance, except such rights as they may have to the proceeds of such insurance. If any insurance policy requires an endorsement or consent of the insurance company to provide for continued coverage where there is a waiver of subrogation, the owners of such policies will cause them to be so endorsed or obtain such consent.

ADDITIONAL INSURANCE COVERAGE IS REQUIRED AND IS DESCRIBED ON THE INSURANCE REQUIREMENTS CHECKLIST.

**24. Indemnity.** The Subcontractor shall indemnify, defend, and save harmless the Contractor, the Project Owner, and any other party that Contractor is obligated to indemnify under the Prime Contract, including their officers, directors, employees, and agents ("Indemnified Party"), against all claims, demands, causes of action, costs, damages, judgments, awards, attorneys' fees, expenses, and liability of every nature ("Damages") arising out of or related to Subcontractor's failure to perform under this Agreement or which are caused by or contributed to by any act or omission, whether active or passive, of Subcontractor, or anyone acting under Subcontractor's direction or control or on its behalf in connection with the Project.

Subcontractor's indemnification and defense obligation shall extend to Damages occurring after completion of the Project, as well as during the performance of the Project, and extends to

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Damages contributed to by the negligence or misconduct of others, if the Damages are alleged to be caused, or are caused, in part by the negligence or misconduct of the Subcontractor or of its officers, employees, agents, or suppliers. This defense and indemnity obligation does not extend to Damages (1) to the extent the Damages arise out of, pertain to, or relate to the sole negligence or willful misconduct of the Project Owner; (2) for defects in design furnished by the Project Owner; or (3) to the extent the Damages do not arise out of Subcontractor's obligations under this Agreement. Defense obligations are limited by California Civil Code section 2782.05(1) and (2).

Except as otherwise provided by law, Subcontractor's obligations under this paragraph are not affected by the insurance required under this Agreement. With respect to claims by an employee, the indemnification obligation shall not be limited by a limitation on the amount or type of damages, compensation or benefits payable by or for Subcontractor under Workers' Compensation acts, disability benefit acts or other employee benefit acts.

**25. Default and Termination.** If the Subcontractor fails to perform in accordance with this Agreement, the Contractor shall give the Subcontractor written Notice of such default, including a description of the default, and shall demand Subcontractor cure the default within a reasonable time. If the Subcontractor fails to cure the default within the reasonable time specified in the Notice, or three (3) business days after the giving of the Notice if no such time is specified, then the Contractor may terminate this Subcontract, terminate Subcontractor's right to proceed, supplement Subcontractor's forces, and/or seek Project Owner's consent to substitute Subcontractor. If Contractor has Subcontractor's Work performed by others, and the cost of the work, including any liquidated damages or other damages incurred by Contractor as a result of the default termination, exceeds the amount Contractor would have paid Subcontractor for such work, then the excess cost shall be deducted from amounts owed to Subcontractor. If the added cost of such work exceeds the difference between the Subcontractor's Price and the amount paid to the Subcontractor, that excess shall be immediately due and owing from the Subcontractor to the Contractor.

The Subcontractor and/or its surety (if any) shall be liable for all damages suffered by the Contractor because of the default, and the Contractor's exercise of the option to eject the Subcontractor shall not relieve the Subcontractor or its surety from such liability. The Subcontractor shall have no right to receive any further payment after default until the work has been completed and the Contractor's damages, if any, have been ascertained and paid.

**26. Audit.** The Subcontractor will permit the Contractor to audit or review its payroll accounts and other Project records upon written request, during normal business hours and with reasonable advanced notice, including making copies of Project records at Contractor's cost, to determine whether Subcontractor has performed in accordance with this Agreement and the Prime Contract.

**27. Assignment.** The Subcontractor shall not assign, sublet, subcontract, or transfer this Agreement, or any part of it, nor shall the Subcontractor make any assignment or transfer of

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funds payable to Subcontractor under this Agreement without the Contractor's prior written consent, which may be granted or withheld at the Contractor's discretion. Any assignment by Subcontractor, or consent thereto by Contractor, shall in no event relieve Subcontractor or its sureties on any bonds given hereunder of any of their obligations, duties, responsibilities or liabilities.

Subcontractor acknowledges that assignment of any work designated to a small business, Disabled Veteran Business Enterprise, federal DBE, or other disadvantaged entity may be subject to restrictions, including without limitation requirements that Subcontractor attempt to assign such work to a similar organization as that originally designated. If Subcontractor seeks to assign or subcontract such work, then Subcontractor agrees to comply fully with such additional requirements limiting the entities to which the work may be assigned, and agrees to fully defend and indemnify Contractor against any damages or other losses due to assignment in violation of such requirements.

**28. Bankruptcy.** If the Subcontractor becomes bankrupt or makes an assignment for the benefit of creditors, or if a receiver is appointed, then the Subcontractor shall be deemed to be materially in default under this Agreement.

**29. Notices.** All notices and demands ("Notices") shall be given in writing and maybe served personally to the superintendent, foreman, or other person in charge of work for either party at the project site or email followed by US certified mail sent to the address identified above, which may be changed from time to time by Notice. If Notice is by personal delivery it is deemed given on the day of delivery; if by email, it is deemed given on the next business day if the sender receives confirmation that the email was successfully sent; if by certified mail, it shall be deemed given on the date appearing on the return receipt, but, if the receipt is not returned within five (5) business days, then three (3) business days after mailing or two (2) days after being sent by overnight delivery service, for overnight delivery.

**30. Integration.** This Agreement shall supersede all written or oral Agreements, if any, between the parties and constitutes the entire, integrated, and only Agreement pertaining to the Subcontractor's Work to be performed. This Agreement can be modified only in writing signed by both the Contractor and the Subcontractor.

**31. Governing Law.** This Agreement shall be construed in accordance with, and governed by, the laws of the State of California, without reference to choice of law provisions. This paragraph does not prevent the application of the Federal Arbitration Act to any dispute that may arise under this Agreement.

**32. Counting of Days.** Any reference to a number of days herein is a reference to calendar days, unless specified as "business days." "Business days" means Monday through Friday, excluding Saturdays, Sundays, and holidays. If a party is required to complete the performance of an obligation under this Agreement by a date certain or within a fixed number of days and such a date or last day is a Saturday, Sunday, or Federal bank holiday (collectively, a Nonbusiness Day),

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then the date for the completion of such performance will be the next succeeding day that is not a Nonbusiness Day.

**33. Contractors' License Notice.** Contractors are required by law to be licensed and regulated by the Contractor's State License Board, which has jurisdiction to investigate complaints against contractors if a complaint regarding a patent act or omission is filed within four (4) years of the date of the alleged violation. A complaint regarding a latent act or omission pertaining to structural defects must be filed within 10 years of the alleged violation. Any questions concerning a contractor may be referred to the Registrar, Contractors State License Board, P.O. Box 26000, Sacramento, California 95826.

**34. Representation on Authority of Parties/Signatories.** Each person signing this Agreement on behalf of an entity represents and warrants that he or she is duly authorized and has legal capacity to execute and deliver this Agreement on behalf of said entity, that the party has had the opportunity to confer with legal counsel regarding the terms of this Agreement, that the execution and delivery of the Agreement and the performance of such party's obligations hereunder have been duly authorized, and that the Agreement is a valid and legal agreement that is binding on such entity and is and will be enforceable in accordance with its terms. This Agreement was jointly negotiated and drafted, and shall not be interpreted for or against either party as the drafter.

**35. Signatures, Counterparts and Use of Faxed or E Mailed Signatures.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original. This Agreement shall be effective when executed by both parties. Delivery of executed counterparts may occur by fax or e mail and shall be, upon such delivery, as binding as the delivery of the original signatures. The parties authorize each other to detach and combine such signature pages and consolidate them into a single original. Any one of such completely executed counterparts shall be sufficient proof of this Agreement.

**Contractor, Danco Builders**

Signature: \_\_\_\_\_

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

**Subcontractor, Error! Reference source not found.**

Signature: \_\_\_\_\_

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



## EXHIBIT 1

### DESCRIPTION OF SUBCONTRACTOR'S WORK

The portion of the work on the Project to be performed by the Subcontractor is described below.

The description of the work to be performed or material to be furnished by the Subcontractor by reference to a section or sections of the drawings or specifications shall not limit the Subcontractor's obligation to perform only such work or furnish only such materials as are described in that section or sections if work or material that is within the general description of the section or sections is required of the Subcontractor by trade practice or by any other provision or section of the drawings or specifications. The Subcontractor shall furnish all material and perform all work coming within the general description of the designated section or sections, and reference to such section or sections is solely for convenience in describing the Subcontractor's work. Any dispute between subcontractors over responsibility for divisions or categories of work shall be resolved by the Contractor, whose decision shall be final.

#### **The work is to include but is not limited to:**

All material, labor, equipment, cleanup and repairs needed to: **include project scope**

Work to be coordinated with other trades. Schedule will be distributed by the project manager.

All subcontractors must follow the Danco subcontractor safety policies and COVID 19 policies while on the job site.

Pay requests are due on or before the 20th of the month; they are to be projected to the end of the month. All pay requests must be submitted to [billing@danco-group.com](mailto:billing@danco-group.com)

This is a prevailing wage job. It is the subcontractor's responsibility to know the labor rates. All prevailing wage reports are due on or before the 20th of the month to Evan Brown at [billing@danco-group.com](mailto:billing@danco-group.com). Any questions regarding prevailing wage can be answered by Evan Brown, at 707-822-9000.

This contract and all required insurance must be submitted and complete prior to any work being performed on the project.



Exhibit 2A

(AIA G702 AND G703 BILLING FORMS MAY BE USED AS A SUBSTITUTION TO THE DANCO BUILDERS BILLING FORMS 2A AND 2B)

APPLICATION FOR PAYMENT

DATE:

PROJECT: Error! Reference source not found.

PAYMENT REQUEST NO.

BILLING PERIOD FROM:

BILLING PERIOD TO:

SUBCONTRACTOR:

- 1. Original Contract Amount
2. Approved Change Orders (Net) Add/Deduct
3. Adjusted Contract Amount
4. Value of Work Completed to Date
5. Materials Stored on Site
6. Sub-Total (Lines 4 and 5)
7. Less Amount previously billed
8. Balanced Due this Billing
9. Less retention
10. Amount due this Request

Subcontractor Name

Subcontractor Signature

Corporate Officer

Date

ALL PAY REQUESTS ARE DUE TO THE DANCO BUILDERS ON SITE SUPERINTENDENT BY THE 20TH OF EACH MONTH FOR APPROVAL AND PROCESSING.

## Exhibit 2B

(AIA G702 and G703 billing forms may be used as a substitution to Danco Builders Billing Forms 1A and 1B)

PROJECT: \_\_\_\_\_ SUBCONTRACTOR: \_\_\_\_\_ INVOICE NUMBER: \_\_\_\_\_

WORK COMPLETED FROM \_\_\_\_\_ 20\_\_ TO \_\_\_\_\_ 20\_\_

DESCRIPTION OF WORK	Task #	A CURRENT CONTRACT	B % COMPLETE	C GROSS BILLINGS TO DATE <small>AxB=C</small>	D PRIOR GROSS BILLINGS <small>Prev. Billing</small>	E CURRENT GROSS BILLING <small>C-D=E</small>	F 5% CURRENT RETENTION <small>Ex5%=F</small>	G CURRENT NET BILLING <small>E-F=G</small>
			%	\$	\$	\$	\$	\$
<b>Total Contract</b>				\$				

(ONLY APPROVED CHANGE ORDERS ARE TO BE LISTED ON THE BILLING FORM)

DESCRIPTION OF CHANGE	CO #	CO AMOUNT	% COMPLETE	GROSS BILLINGS TO DATE	PRIOR GROSS BILLINGS	CURRENT GROSS BILLING	5% CURRENT RETENTION	CURRENT NET BILLING
<b>Change Order/s Total</b>								

<b>Revised Contract Total</b>	\$	%	\$	\$	\$	\$	\$
-------------------------------	----	---	----	----	----	----	----

\_\_\_\_\_  
Danco Superintendent Signature      Date

ALL PAY REQUESTS ARE DUE TO [billing@danco-group.com](mailto:billing@danco-group.com)  
FOR APPROVAL AND PROCESSING BY THE 20<sup>TH</sup> OF EACH MONTH.





Exhibit 3

Subcontractor's Proposed Change Order

Date:  
Project:  
Project Manager:

**This is NOT an invoice, and does not authorize Subcontractor to invoice for amounts on this form. Please submit this form when proposing a change or proposing an alternate cost or time for a change requested by Contractor or Project Owner. Once you receive an approved change order on a Danco Builders form, signed by both Subcontractor and Danco Builders, then you may bill for changed work. Please reference the change order number in your invoice.**

---

A. Description of Work:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

B. Labor

Danco Builders may request additional breakdown of labor.

\_\_\_\_\_

C. Materials:

Please attach Material breakdown.

\_\_\_\_\_

D. Markup:

\_\_\_\_\_

**E. TOTAL REQUESTED CHANGE ORDER**

\_\_\_\_\_  
(Add B, C and D)

F. Total number of additional working days to existing prime

\_\_\_\_\_

G. Date shop drawings will be ready for submission (if applicable)

\_\_\_\_\_

PCO#: \_\_\_\_\_

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

Representative: \_\_\_\_\_

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



## Exhibit 4

### SUBCONTRACTOR BILLING CHECKLIST

- Pay Application sheets (Exhibit 2A and 2B OR equivalent AIA G702 & G703) submitted to and approved by the Danco Builders onsite Superintendent no later than the 20<sup>th</sup> of each month. The on site Superintendent will be processing all applications for payment and change orders. Send via one of the following methods:
  - Mail to:
    - Attn: Billing**
    - The Danco Group**
    - 5251 Ericson Way, Suite A**
    - Arcata, CA 95521**
  - Fax to:
    - Attn: Billing**
    - The Danco Group**
    - 707-825-2812**
  - Email to:
    - billing@danco-group.com**
  
- Note all lien releases for current and previous month must be received with your pay request (i.e. unconditional progress for last month's payment received and conditional progress for current billing)
  
- Certified payroll reports for the current month must be received with your pay request.



**Exhibit 5**

**Prevailing Wage – SEE ATTACH DOCUMENTS**



## EXHIBIT 6

### LABOR CODE SECTIONS 1771, 1775, 1776, 1777.5, 1813, and 1815

#### **Labor Code § 1771**

Except for public works projects of one thousand dollars (\$1,000) or less, not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the public work is performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work fixed as provided in this chapter, shall be paid to all workers employed on public works.

This section is applicable only to work performed under contract, and is not applicable to work carried out by a public agency with its own forces. This section is applicable to contracts let for maintenance work.

#### **Labor Code § 1775**

(a) (1) The contractor and any subcontractor under the contractor shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit not more than two hundred dollars (\$200) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rates as determined by the director for the work or craft in which the worker is employed for any public work done under the contract by the contractor or, except as provided in subdivision (b), by any subcontractor under the contractor.

(2) (A) The amount of the penalty shall be determined by the Labor Commissioner based on consideration of both of the following:

(i) Whether the failure of the contractor or subcontractor to pay the correct rate of per diem wages was a good faith mistake and, if so, the error was promptly and voluntarily corrected when brought to the attention of the contractor or subcontractor.

(ii) Whether the contractor or subcontractor has a prior record of failing to meet its prevailing wage obligations.

(B) (i) The penalty may not be less than forty dollars (\$40) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate, unless the failure of the contractor or subcontractor to pay the correct rate of per diem wages was a good faith

mistake and, if so, the error was promptly and voluntarily corrected when brought to the attention of the contractor or subcontractor.

(ii) The penalty may not be less than eighty dollars (\$80) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate, if the contractor or subcontractor has been assessed penalties within the previous three years for failing to meet its prevailing wage obligations on a separate contract, unless those penalties were subsequently withdrawn or overturned.

(iii) The penalty may not be less than one hundred twenty dollars (\$120) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate, if the Labor Commissioner determines that the violation was willful, as defined in subdivision (c) of Section 1777.1.

(C) If the amount due under this section is collected from the contractor or subcontractor, any outstanding wage claim under Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 against that contractor or subcontractor shall be satisfied before applying that amount to the penalty imposed on that contractor or subcontractor pursuant to this section.

(D) The determination of the Labor Commissioner as to the amount of the penalty shall be reviewable only for abuse of discretion.

(E) The difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate shall be paid to each worker by the contractor or subcontractor, and the body awarding the contract shall cause to be inserted in the contract a stipulation that this section will be complied with.

(b) If a worker employed by a subcontractor on a public works project is not paid the general prevailing rate of per diem wages by the subcontractor, the prime contractor of the project is not liable for any penalties under subdivision (a) unless the prime contractor had knowledge of that failure of the subcontractor to pay the specified prevailing rate of wages to those workers or unless the prime contractor fails to comply with all of the following requirements:

(1) The contract executed between the contractor and the subcontractor for the performance of work on the public works project shall include a copy of the provisions of this section and Sections 1771, 1776, 1777.5, 1813, and 1815.

(2) The contractor shall monitor the payment of the specified general prevailing rate of per diem wages by the subcontractor to the employees, by periodic review of the certified payroll records of the subcontractor.

(3) Upon becoming aware of the failure of the subcontractor to pay his or her workers the specified prevailing rate of wages, the contractor shall diligently take corrective action to halt or rectify the failure, including, but not limited to, retaining sufficient funds due the subcontractor for work performed on the public works project.

(4) Prior to making final payment to the subcontractor for work performed on the public works project, the contractor shall obtain an affidavit signed under penalty of perjury from the subcontractor that the subcontractor has paid the specified general prevailing rate of per diem wages to his or her employees on the public works project and any amounts due pursuant to Section 1813.

(c) The Division of Labor Standards Enforcement shall notify the contractor on a public works project within 15 days of the receipt by the Division of Labor Standards Enforcement of a complaint of the failure of a subcontractor on that public works project to pay workers the general prevailing rate of per diem wages.

**Labor Code § 1776**

(a) Each contractor and subcontractor shall keep accurate payroll records, 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 him or her in connection with the public work. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:

(1) The information contained in the payroll record is true and correct.

(2) The employer has complied with the requirements of Sections 1771, 1811, and 1815 for any work performed by his or her employees on the public works project.

(b) The payroll records enumerated under subdivision (a) shall be certified and shall be available for inspection at all reasonable hours at the principal office of the contractor on the following basis:

(1) A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee or his or her authorized representative on request.

(2) A certified copy of all payroll records enumerated in subdivision (a) shall be made available for inspection or furnished upon request to a representative of the body awarding the contract and the Division of Labor Standards Enforcement of the Department of Industrial Relations.

(3) A certified copy of all payroll records enumerated in subdivision (a) shall be made available upon request by the public for inspection or for copies thereof. However, a request by the public shall be made through either the body awarding the contract or the Division of Labor Standards Enforcement. If the requested payroll records have not been provided pursuant to paragraph (2), the requesting party shall, prior to being provided the records, reimburse the costs of preparation by the contractor, subcontractors, and the entity through which the request was made. The public may not be given access to the records at the principal office of the contractor.

(c) Unless required to be furnished directly to the Labor Commissioner in accordance with paragraph (3) of subdivision (a) of Section 1771.4, the certified payroll records shall be on forms provided by the Division of Labor Standards Enforcement or shall contain the same information as the forms provided by the division. The payroll records may consist of printouts of payroll data that are maintained as computer records, if the printouts contain the same information as the forms provided by the division and the printouts are verified in the manner specified in subdivision (a).

(d) A contractor or subcontractor shall file a certified copy of the records enumerated in subdivision (a) with the entity that requested the records within 10 days after receipt of a written request.

(e) Except as provided in subdivision (f), any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by the awarding body or the Division of Labor Standards Enforcement shall be marked or obliterated to prevent disclosure of an individual's name, address, and social security number. The name and address of the contractor awarded the contract or the subcontractor performing the contract shall not be marked or obliterated. Any copy of records made available for inspection by, or furnished to, a multiemployer Taft-Hartley trust fund (29 U.S.C. Sec. 186(c)(5)) that requests the records for the purposes of allocating contributions to participants shall be marked or obliterated only to prevent disclosure of an individual's full social security number, but shall provide the last four digits of the social security number. Any copy of records made available for inspection by, or furnished to, a joint labor-management committee established pursuant to the federal Labor Management Cooperation Act of 1978 (29 U.S.C. Sec. 175a) shall be marked or obliterated only to prevent disclosure of an individual's social security number.

(f) (1) Notwithstanding any other provision of law, agencies that are included in the Joint Enforcement Strike Force on the Underground Economy established pursuant to Section 329 of the Unemployment Insurance Code and other law enforcement agencies investigating violations of law shall, upon request, be provided nonredacted copies of certified payroll records. Any copies of records or certified payroll made available for inspection and furnished upon request to the public by an agency included in the Joint Enforcement Strike Force on the Underground Economy or to a law enforcement agency investigating a violation of law shall be marked or redacted to prevent disclosure of an individual's name, address, and social security number.

(2) An employer shall not be liable for damages in a civil action for any reasonable act or omission taken in good faith in compliance with this subdivision.

(g) The contractor shall inform the body awarding the contract of the location of the records enumerated under subdivision (a), including the street address, city, and county, and shall, within five working days, provide a notice of a change of location and address.

(h) The contractor or subcontractor has 10 days in which to comply subsequent to receipt of a written notice requesting the records enumerated in subdivision (a). In the event that the contractor or subcontractor fails to comply within the 10-day period, he or she shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit one hundred dollars (\$100) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Labor Standards Enforcement, these penalties shall be withheld from progress payments then due. A contractor is not subject to a penalty assessment pursuant to this section due to the failure of a subcontractor to comply with this section.

(i) The body awarding the contract shall cause to be inserted in the contract stipulations to effectuate this section.

(j) The director shall adopt rules consistent with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and the Information Practices Act of 1977 (Title 1.8 (commencing with Section 1798) of Part 4 of Division 3 of the Civil Code) governing the release of these records, including the establishment of reasonable fees to be charged for reproducing copies of records required by this section.

### **Labor Code § 1777.5**

(a) (1) This chapter does not prevent the employment upon public works of properly registered apprentices who are active participants in an approved apprenticeship program.



(2) For purposes of this chapter, “apprenticeship program” means a program under the jurisdiction of the California Apprenticeship Council established pursuant to Section 3070.

(b) (1) Every apprentice employed upon public works shall be paid the prevailing rate of per diem wages for apprentices in the trade to which he or she is registered and shall be employed only at the work of the craft or trade to which he or she is registered.

(2) Unless otherwise provided by a collective bargaining agreement, when a contractor requests the dispatch of an apprentice pursuant to this section to perform work on a public works project and requires the apprentice to fill out an application or undergo testing, training, an examination, or other preemployment process as a condition of employment, the apprentice shall be paid for the time spent on the required preemployment activity, including travel time to and from the required activity, if any, at the prevailing rate of per diem wages for apprentices in the trade to which he or she is registered. Unless otherwise provided by a collective bargaining agreement, a contractor is not required to compensate an apprentice for the time spent on preemployment activities if the apprentice is required to take a preemployment drug or alcohol test and he or she fails to pass that test.

(c) Only apprentices, as defined in Section 3077, who are in training under apprenticeship standards that have been approved by the Chief of the Division of Apprenticeship Standards and who are parties to written apprentice agreements under Chapter 4 (commencing with Section 3070) of Division 3 are eligible to be employed at the apprentice wage rate on public works. The employment and training of each apprentice shall be in accordance with either of the following:

(1) The apprenticeship standards and apprentice agreements under which he or she is training.

(2) The rules and regulations of the California Apprenticeship Council.

(d) If the contractor to whom the contract is awarded by the state or any political subdivision, in performing any of the work under the contract, employs workers in any apprenticeable craft or trade, the contractor shall employ apprentices in at least the ratio set forth in this section and may apply to any apprenticeship program in the craft or trade that can provide apprentices to the site of the public work for a certificate approving the contractor under the apprenticeship standards for the employment and training of apprentices in the area or industry affected. However, the decision of the apprenticeship program to approve or deny a certificate shall be subject to review by the Administrator of Apprenticeship. The apprenticeship program or programs, upon approving the contractor, shall arrange for the dispatch of apprentices to the contractor. A contractor covered by an apprenticeship program’s standards shall not be required to submit any additional

application in order to include additional public works contracts under that program. "Apprenticeable craft or trade," as used in this section, means a craft or trade determined as an apprenticeable occupation in accordance with rules and regulations prescribed by the California Apprenticeship Council. As used in this section, "contractor" includes any subcontractor under a contractor who performs any public works not excluded by subdivision (o).

(e) Before commencing work on a contract for public works, every contractor shall submit contract award information to an applicable apprenticeship program that can supply apprentices to the site of the public work. The information submitted shall include an estimate of journeyman hours to be performed under the contract, the number of apprentices proposed to be employed, and the approximate dates the apprentices would be employed. A copy of this information shall also be submitted to the awarding body, if requested by the awarding body. Within 60 days after concluding work on the contract, each contractor and subcontractor shall submit to the awarding body, if requested, and to the apprenticeship program a verified statement of the journeyman and apprentice hours performed on the contract. The information under this subdivision shall be public. The apprenticeship programs shall retain this information for 12 months.

(f) The apprenticeship program supplying apprentices to the area of the site of the public work shall ensure equal employment and affirmative action in apprenticeship for women and minorities.

(g) The ratio of work performed by apprentices to journeymen employed in a particular craft or trade on the public work may be no higher than the ratio stipulated in the apprenticeship standards under which the apprenticeship program operates if the contractor agrees to be bound by those standards. However, except as otherwise provided in this section, in no case shall the ratio be less than one hour of apprentice work for every five hours of journeyman work.

(h) This ratio of apprentice work to journeyman work shall apply during any day or portion of a day when any journeyman is employed at the jobsite and shall be computed on the basis of the hours worked during the day by journeymen so employed. Any work performed by a journeyman in excess of eight hours per day or 40 hours per week shall not be used to calculate the ratio. The contractor shall employ apprentices for the number of hours computed as above before the end of the contract or, in the case of a subcontractor, before the end of the subcontract. However, the contractor shall endeavor, to the greatest extent possible, to employ apprentices during the same time period that the journeymen in the same craft or trade are employed at the jobsite. When an hourly apprenticeship ratio is not feasible for a particular craft or trade, the Administrator of Apprenticeship, upon

application of an apprenticeship program, may order a minimum ratio of not less than one apprentice for each five journeymen in a craft or trade classification.

(i) A contractor covered by this section who has agreed to be covered by an apprenticeship program's standards upon the issuance of the approval certificate, or who has been previously approved for an apprenticeship program in the craft or trade, shall employ the number of apprentices or the ratio of apprentices to journeymen stipulated in the applicable apprenticeship standards, but in no event less than the 1-to-5 ratio required by subdivision (g).

(j) Upon proper showing by a contractor that he or she employs apprentices in a particular craft or trade in the state on all of his or her contracts on an annual average of not less than one hour of apprentice work for every five hours of labor performed by journeymen, the Administrator of Apprenticeship may grant a certificate exempting the contractor from the 1-to-5 hourly ratio, as set forth in this section for that craft or trade.

(k) An apprenticeship program has the discretion to grant to a participating contractor or contractor association a certificate, which shall be subject to the approval of the Administrator of Apprenticeship, exempting the contractor from the 1-to-5 ratio set forth in this section when it finds that any one of the following conditions is met:

(1) Unemployment for the previous three-month period in the area exceeds an average of 15 percent.

(2) The number of apprentices in training in the area exceeds a ratio of 1 to 5.

(3) There is a showing that the apprenticeable craft or trade is replacing at least one-thirtieth of its journeymen annually through apprenticeship training, either on a statewide basis or on a local basis.

(4) Assignment of an apprentice to any work performed under a public works contract would create a condition that would jeopardize his or her life or the life, safety, or property of fellow employees or the public at large, or the specific task to which the apprentice is to be assigned is of a nature that training cannot be provided by a journeyman.

(l) If an exemption is granted pursuant to subdivision (k) to an organization that represents contractors in a specific trade from the 1-to-5 ratio on a local or statewide basis, the member contractors shall not be required to submit individual applications for approval to local joint apprenticeship committees, if they are already covered by the local apprenticeship standards.

(m) (1) A contractor to whom a contract is awarded, who, in performing any of the work under the contract, employs journeymen or apprentices in any apprenticeable craft or trade shall contribute to the California Apprenticeship Council the same amount that the director determines is the prevailing amount of apprenticeship training contributions in the area of the public works site. A contractor may take as a credit for payments to the council any amounts paid by the contractor to an approved apprenticeship program that can supply apprentices to the site of the public works project. The contractor may add the amount of the contributions in computing his or her bid for the contract.

(2) (A) At the conclusion of the 2002–03 fiscal year and each fiscal year thereafter, the California Apprenticeship Council shall distribute training contributions received by the council under this subdivision, less the expenses of the Department of Industrial Relations for administering this subdivision, by making grants to approved apprenticeship programs for the purpose of training apprentices. The grant funds shall be distributed as follows:

(i) If there is an approved multiemployer apprenticeship program serving the same craft or trade and geographic area for which the training contributions were made to the council, a grant to that program shall be made.

(ii) If there are two or more approved multiemployer apprenticeship programs serving the same craft or trade and county for which the training contributions were made to the council, the grant shall be divided among those programs based on the number of apprentices from that county registered in each program.

(iii) All training contributions not distributed under clauses (i) and (ii) shall be used to defray the future expenses of the Department of Industrial Relations for the administration and enforcement of apprenticeship and preapprenticeship standards and requirements under this code.

(B) An apprenticeship program shall only be eligible to receive grant funds pursuant to this subdivision if the apprenticeship program agrees, prior to the receipt of any grant funds, to keep adequate records that document the expenditure of grant funds and to make all records available to the Department of Industrial Relations so that the Department of Industrial Relations is able to verify that grant funds were used solely for training apprentices. For purposes of this subparagraph, adequate records include, but are not limited to, invoices, receipts, and canceled checks that account for the expenditure of grant funds. This subparagraph shall not be deemed to require an apprenticeship program to provide the Department of Industrial Relations with more documentation than is necessary to verify the appropriate expenditure of grant funds made pursuant to this subdivision.

(C) The Department of Industrial Relations shall verify that grants made pursuant to this subdivision are used solely to fund training apprentices. If an apprenticeship program is unable to demonstrate how grant funds are expended or if an apprenticeship program is found to be using grant funds for purposes other than training apprentices, then the apprenticeship program shall not be eligible to receive any future grant pursuant to this subdivision and the Department of Industrial Relations may initiate the process to rescind the registration of the apprenticeship program.

(3) All training contributions received pursuant to this subdivision shall be deposited in the Apprenticeship Training Contribution Fund, which is hereby created in the State Treasury. Upon appropriation by the Legislature, all moneys in the Apprenticeship Training Contribution Fund shall be used for the purpose of carrying out this subdivision and to pay the expenses of the Department of Industrial Relations.

(n) The body awarding the contract shall cause to be inserted in the contract stipulations to effectuate this section. The stipulations shall fix the responsibility of compliance with this section for all apprenticeable occupations with the prime contractor.

(o) This section does not apply to contracts of general contractors or to contracts of specialty contractors not bidding for work through a general or prime contractor when the contracts of general contractors or those specialty contractors involve less than thirty thousand dollars (\$30,000).

(p) An awarding body that implements an approved labor compliance program in accordance with subdivision (b) of Section 1771.5 may, with the approval of the director, assist in the enforcement of this section under the terms and conditions prescribed by the director.

### **Labor Code § 1813**

The contractor or subcontractor shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit twenty-five dollars (\$25) for each worker employed in the execution of the contract by the respective contractor or subcontractor for each calendar day during which the worker is required or permitted to work more than 8 hours in any one calendar day and 40 hours in any one calendar week in violation of the provisions of this article. In awarding any contract for public work, the awarding body shall cause to be inserted in the contract a stipulation to this effect. The awarding body shall take cognizance of all violations of this article committed in the course

of the execution of the contract, and shall report them to the Division of Labor Standards Enforcement.

**Labor Code § 1815**

Notwithstanding the provisions of Sections 1810 to 1814, inclusive, of this code, and notwithstanding any stipulation inserted in any contract pursuant to the requirements of said sections, work performed by employees of contractors in excess of 8 hours per day, and 40 hours during any one week, shall be permitted upon public work upon compensation for all hours worked in excess of 8 hours per day at not less than 1 1/2 times the basic rate of pay.



#### EXHIBIT 7

#### **PUBLIC CONTRACT CODE SECTION 9204 (Local Public Entity Claims Process)**

(a) The Legislature finds and declares that it is in the best interests of the state and its citizens to ensure that all construction business performed on a public works project in the state that is complete and not in dispute is paid in full and in a timely manner.

(b) Notwithstanding any other law, including, but not limited to, Article 7.1 (commencing with Section 10240) of Chapter 1 of Part 2, Chapter 10 (commencing with Section 19100) of Part 2, and Article 1.5 (commencing with Section 20104) of Chapter 1 of Part 3, this section shall apply to any claim by a contractor in connection with a public works project.

(c) For purposes of this section:

(1) "Claim" means a separate demand by a contractor sent by registered mail or certified mail with return receipt requested, for one or more of the following:

(A) A time extension, including, without limitation, for relief from damages or penalties for delay assessed by a public entity under a contract for a public works project.

(B) Payment by the public entity of money or damages arising from work done by, or on behalf of, the contractor pursuant to the contract for a public works project and payment for which is not otherwise expressly provided or to which the claimant is not otherwise entitled.

(C) Payment of an amount that is disputed by the public entity.

(2) "Contractor" means any type of contractor within the meaning of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code who has entered into a direct contract with a public entity for a public works project.

(3) (A) "Public entity" means, without limitation, except as provided in subparagraph (B), a state agency, department, office, division, bureau, board, or commission, the California State University, the University of California, a city, including a charter city, county, including a charter county, city and county, including a charter city and

county, district, special district, public authority, political subdivision, public corporation, or nonprofit transit corporation wholly owned by a public agency and formed to carry out the purposes of the public agency.

(B) "Public entity" shall not include the following:

(i) The Department of Water Resources as to any project under the jurisdiction of that department.

(ii) The Department of Transportation as to any project under the jurisdiction of that department.

(iii) The Department of Parks and Recreation as to any project under the jurisdiction of that department.

(iv) The Department of Corrections and Rehabilitation with respect to any project under its jurisdiction pursuant to Chapter 11 (commencing with Section 7000) of Title 7 of Part 3 of the Penal Code.

(v) The Military Department as to any project under the jurisdiction of that department.

(vi) The Department of General Services as to all other projects.

(vii) The High-Speed Rail Authority.

(4) "Public works project" means the erection, construction, alteration, repair, or improvement of any public structure, building, road, or other public improvement of any kind.

(5) "Subcontractor" means any type of contractor within the meaning of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code who either is in direct contract with a contractor or is a lower tier subcontractor.

(d) (1) (A) Upon receipt of a claim pursuant to this section, the public entity to which the claim applies shall conduct a reasonable review of the claim and, within a period not to exceed 45 days, shall provide the claimant a written statement identifying what portion of the claim is disputed and what portion is undisputed. Upon receipt of a claim, a public entity and a contractor may, by mutual agreement, extend the time period provided in this subdivision.

(B) The claimant shall furnish reasonable documentation to support the claim.



(C) If the public entity needs approval from its governing body to provide the claimant a written statement identifying the disputed portion and the undisputed portion of the claim, and the governing body does not meet within the 45 days or within the mutually agreed to extension of time following receipt of a claim sent by registered mail or certified mail, return receipt requested, the public entity shall have up to three days following the next duly publicly noticed meeting of the governing body after the 45-day period, or extension, expires to provide the claimant a written statement identifying the disputed portion and the undisputed portion.

(D) Any payment due on an undisputed portion of the claim shall be processed and made within 60 days after the public entity issues its written statement. If the public entity fails to issue a written statement, paragraph (3) shall apply.

(2) (A) If the claimant disputes the public entity's written response, or if the public entity fails to respond to a claim issued pursuant to this section within the time prescribed, the claimant may demand in writing an informal conference to meet and confer for settlement of the issues in dispute. Upon receipt of a demand in writing sent by registered mail or certified mail, return receipt requested, the public entity shall schedule a meet and confer conference within 30 days for settlement of the dispute.

(B) Within 10 business days following the conclusion of the meet and confer conference, if the claim or any portion of the claim remains in dispute, the public entity shall provide the claimant a written statement identifying the portion of the claim that remains in dispute and the portion that is undisputed. Any payment due on an undisputed portion of the claim shall be processed and made within 60 days after the public entity issues its written statement. Any disputed portion of the claim, as identified by the contractor in writing, shall be submitted to nonbinding mediation, with the public entity and the claimant sharing the associated costs equally. The public entity and claimant shall mutually agree to a mediator within 10 business days after the disputed portion of the claim has been identified in writing. If the parties cannot agree upon a mediator, each party shall select a mediator and those mediators shall select a qualified neutral third party to mediate with regard to the disputed portion of the claim. Each party shall bear the fees and costs charged by its respective mediator in connection with the selection of the neutral mediator. If mediation is unsuccessful, the parts of the claim remaining in dispute shall be subject to applicable procedures outside this section.

(C) For purposes of this section, mediation includes any nonbinding process, including, but not limited to, neutral evaluation or a dispute review board, in which

an independent third party or board assists the parties in dispute resolution through negotiation or by issuance of an evaluation. Any mediation utilized shall conform to the timeframes in this section.

(D) Unless otherwise agreed to by the public entity and the contractor in writing, the mediation conducted pursuant to this section shall excuse any further obligation under Section 20104.4 to mediate after litigation has been commenced.

(E) This section does not preclude a public entity from requiring arbitration of disputes under private arbitration or the Public Works Contract Arbitration Program, if mediation under this section does not resolve the parties' dispute.

(3) Failure by the public entity to respond to a claim from a contractor within the time periods described in this subdivision or to otherwise meet the time requirements of this section shall result in the claim being deemed rejected in its entirety. A claim that is denied by reason of the public entity's failure to have responded to a claim, or its failure to otherwise meet the time requirements of this section, shall not constitute an adverse finding with regard to the merits of the claim or the responsibility or qualifications of the claimant.

(4) Amounts not paid in a timely manner as required by this section shall bear interest at 7 percent per annum.

(5) If a subcontractor or a lower tier subcontractor lacks legal standing to assert a claim against a public entity because privity of contract does not exist, the contractor may present to the public entity a claim on behalf of a subcontractor or lower tier subcontractor. A subcontractor may request in writing, either on their own behalf or on behalf of a lower tier subcontractor, that the contractor present a claim for work which was performed by the subcontractor or by a lower tier subcontractor on behalf of the subcontractor. The subcontractor requesting that the claim be presented to the public entity shall furnish reasonable documentation to support the claim. Within 45 days of receipt of this written request, the contractor shall notify the subcontractor in writing as to whether the contractor presented the claim to the public entity and, if the original contractor did not present the claim, provide the subcontractor with a statement of the reasons for not having done so.

(e) The text of this section or a summary of it shall be set forth in the plans or specifications for any public works project that may give rise to a claim under this section.

(f) A waiver of the rights granted by this section is void and contrary to public policy, provided, however, that (1) upon receipt of a claim, the parties may mutually agree to waive, in writing,

mediation and proceed directly to the commencement of a civil action or binding arbitration, as applicable; and (2) a public entity may prescribe reasonable change order, claim, and dispute resolution procedures and requirements in addition to the provisions of this section, so long as the contractual provisions do not conflict with or otherwise impair the timeframes and procedures set forth in this section.

(g) This section applies to contracts entered into on or after January 1, 2017.

(h) Nothing in this section shall impose liability upon a public entity that makes loans or grants available through a competitive application process, for the failure of an awardee to meet its contractual obligations.

(i) This section shall remain in effect only until January 1, 2027, and as of that date is repealed, unless a later enacted statute that is enacted before.



W-9 REQUEST FOR TAX PAYER IDENTIFICATION NUMBER AND CERTIFICATION.

Required only for Subcontractors not previously contracted with Danco Builders or Danco Builders Northwest.

W-9 Link below:

<https://www.irs.gov/pub/irs-pdf/fw9.pdf>