

**D. CONTRACT SECTION**

(All of the following documents to be submitted by the successful bidder after the project is awarded.)

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TOWN OF DANVILLE  
DEVELOPMENT SERVICES DEPARTMENT

**Contract**

**Construction Agreement**

**TOWN OF DANVILLE**

- 1) SPECIAL TERMS. These special terms are incorporated below by reference.

Parties: Town of Danville

Contractor: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Project: \_\_\_\_\_

Contract No.: \_\_\_\_\_

Completion Time: As defined in Section 4.1.01(A) of these Special Provisions.

Liquidated Damages: As defined in Section 4.1.01(B) of these Special Provisions.

Contract Price: \$\_\_\_\_\_ more or less, in accordance with finished quantities at unit bid price.

- 2) SIGNATURE & ACKNOWLEDGEMENT.

Town of Danville, by: \_\_\_\_\_  
Town Manager

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

Attest: \_\_\_\_\_  
City Clerk

Contractor, by: \_\_\_\_\_  
(DESIGNATED OFFICIAL CAPACITY IN THE BUSINESS)

Contractor, by: \_\_\_\_\_  
(2<sup>nd</sup> SIGNATURE FOR CORPORATIONS PER CORPORATION CODE SECTION 313)

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

Note to Contractor: (1) Execute acknowledgement form below, and (CORPORATE SEAL)  
(2) If a corporation, affix Corporate Seal

# ACKNOWLEDGEMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )  
County of \_\_\_\_\_ )

On \_\_\_\_\_ before me, \_\_\_\_\_  
(Insert Name and Title of the Officer)

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

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing  
paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_ (Seal)

- 3) WORK CONTRACT. The contract for this project shall consist of: this Agreement and the special terms contained herein; the project plans, drawings and specifications including but not limited to the Notice to Contractors; the Contract Specifications, including the Special Provisions contained therein; Contractors Bid Proposal; all bonds, affidavits and insurance certificates; and any Change Orders approved by the Town as provided for in the Contract Specifications. All of these documents shall be integrated and are intended to cooperate with one another. Differences or conflicts between these integrated documents shall be finally determined by the Engineer.
- 4) TIME: NOTICE TO PROCEED. Contractor shall start work as directed in the specifications or the Notice to Proceed provided by the Town and shall complete all work within the time specified in Section 1 of this Agreement.
- 5) LIQUIDATED DAMAGES. Liquidated damages may be assessed as provided for in Section 4.1.01 of the Contract Specifications and in the amount provided for in Section 1 of this Agreement.
- 6) PAYMENTS. Payments to Contractor shall be reviewed and processed as provided for in Section 5.2 of the Contract Specifications.
- 7) INSURANCE. Contractor shall deliver to the Town of Danville for approval, a certificate evidencing that Contractor possesses the minimum insurance specified in Section 5.2.04 of the Contract Specifications.
- 8) BONDS. On signing this Contract, Contractor shall deliver to the Town of Danville for approval good and sufficient bonds with sureties in amount(s) specified in the Contract Specifications or Special Provisions and in the format provided in the Contract Specifications, guaranteeing faithful performance of this contract, payment for all labor and materials hereunder, and any needed remedies during the 12 month material guaranty period.
- 9) HOLD HARMLESS & INDEMNITY. Contractor agrees to hold harmless and indemnify the Town as provided for in Section 5.2.05 of the Contract Specifications.
- 10) ASSIGNMENT. This agreement binds the heirs, successors, assigns, and representatives of the Contractor; but Contractor cannot assign it in whole or in part, nor any monies due or to become due under it, without the prior written consent of the Town of Danville and Contractor's surety or sureties, unless they have waived notice of assignment.
- 11) NO WAIVER BY TOWN OF DANVILLE. Inspection of the work and/or materials, or approval of work and/or materials inspected, or statement by any officer, agent of the requirements of this Contract, or acceptance of the whole or any part of said work and/or materials, or payments therefor, or any combination of these acts, shall not relieve the Contractor's obligation to fulfill this contract as prescribed; nor shall the Town of Danville be thereby stopped from bringing any action for damages or enforcement arising from failure to comply with any of the terms and conditions hereof.
- 12) LITIGATION COSTS. In the event either party commences legal action to enforce this Agreement, the prevailing party shall be entitled to reasonable costs and expenses, including attorney's fees.



TOWN OF DANVILLE  
DEVELOPMENT SERVICES DEPARTMENT

**Performance Bond**  
(To Accompany Contract)

Bond No. \_\_\_\_\_

**WHEREAS**, the Town of Danville, acting by and through the Development Services Department, has awarded to Contractor \_\_\_\_\_, hereafter designated as the "Contractor", a contract for the work described as follows:

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Contract Name	Contract Number
---------------	-----------------

**AND WHEREAS**, the Contractor is required to furnish a bond in an amount equal to at least one-hundred percent (100%) of the contract price in connection with said contract, guaranteeing the faithful performance thereof:

**NOW, THEREFORE**, we the undersigned Contractor and Surety are held firmly bound to the Town of Danville in the sum of \_\_\_\_\_ dollars (\$\_\_\_\_\_), to be paid to said Town or its certain attorney, its successors and assigns: for which payment, well and truly to be made, we bind ourselves, our heirs, executors and administrators, successors or assigns, jointly and severally, firmly by these presents.

**THE CONDITION OF THIS OBLIGATION IS SUCH,**

That if the above bound Contractor, its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and agreements in the foregoing contract and any alteration thereof made as therein provided, on his or their part to be kept and performed at the time and in the manner therein specified, and in all respects according to their intent and meaning, and shall indemnify and save harmless the Town of Danville, its officers and agents, as therein stipulated, then this obligation shall become and be null and void; otherwise it shall be and remain in full force and virtue.

**IN WITNESS WHEREOF**, We have hereunto set our hands and seals on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Correspondence or claims relating to this bond  
Should be sent to the surety at the following  
Address:

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\_\_\_\_\_  
Contractor

\_\_\_\_\_  
Name of Surety (SEAL)

\_\_\_\_\_  
By: Attorney-in-Fact

NOTE: Signatures of those executing for the surety must be properly acknowledged.

# ACKNOWLEDGEMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )  
County of \_\_\_\_\_ )

On \_\_\_\_\_ before me, \_\_\_\_\_  
(Insert Name and Title of the Officer)

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

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing  
paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_ (Seal)

**TOWN OF DANVILLE**  
**DEVELOPMENT SERVICES DEPARTMENT**

**Payment Bond**  
(Civil Code Section 9550)

**WHEREAS**, the Town of Danville, acting by and through the Development Services Department, hereafter referred to as "Obligee", has awarded to Contractor \_\_\_\_\_, hereafter designated as the "Principal", a contract for the work described as follows:

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Contract Name	Contract Number
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**AND WHEREAS**, said Principal is required to furnish a bond in an amount equal to at least one-hundred percent (100%) of the contract price in connection with said contract, to secure the payment of claims of laborers, mechanics, materialmen and other persons as provided by law.

**NOW, THEREFORE**, we the undersigned Principal and Surety are bound unto the Obligee in the sum of \_\_\_\_\_ dollars (\$\_\_\_\_\_), for which payment, we bind ourselves, jointly and severally.

**THE CONDITION OF THIS OBLIGATION IS SUCH,**

That if said Principal or its subcontractors shall fail to pay any of the persons named in Civil Code Section 9100, or amounts due under the Unemployment Insurance Code with respect to work or labor performed by such claimant, or any amounts required to be deducted, withheld, and paid over to the Franchise Tax Board for the wages of employees of the Principal and his subcontractors pursuant to Section 13020 of the Unemployment Insurance Code, with respect to such work and labor, that the surety herein will pay for the same in an amount not exceeding the sum specified in this bond, otherwise the above obligation shall be void. In case suit is brought upon this bond, the surety will pay a reasonable attorney's fee to be fixed by the court.

This bond shall inure to the benefit of any of the persons named in Civil Code Section 9100 as to give a right of action to such persons or their assigns in any suit brought upon this bond.

Dated: \_\_\_\_\_, 20 \_\_\_\_

Correspondence or claims relating to this bond  
Should be sent to the surety at the following  
Address:

	Contractor
	Name of Surety <b>(SEAL)</b>
	By: Attorney-in-Fact

NOTE: Signatures of those executing for the surety must be properly acknowledged.

# ACKNOWLEDGEMENT

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State of California )  
County of \_\_\_\_\_ )

On \_\_\_\_\_ before me, \_\_\_\_\_  
(Insert Name and Title of the Officer)

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

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing  
paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_ (Seal)

TOWN OF DANVILLE  
DEVELOPMENT SERVICES DEPARTMENT

**Escrow Agreement for Security Deposits in Lieu of Retention**

This Escrow Agreement is made and entered into by and between the Town of Danville, whose address is 510 La Gonda Way, Danville CA 94526, hereinafter called "Owner," and \_\_\_\_\_, hereinafter called "Contractor", and \_\_\_\_\_, hereinafter called "Escrow Agent".

Contractor

Escrow Agent

For the consideration hereinafter set forth, the Owner, Contractor, and Escrow Agent agree as follows:

(1) Pursuant to Section 22300 of the Public Contract Code of the State of California, Contractor has the option to deposit securities with Escrow Agent as a substitute for retention earnings required to be withheld by Owner pursuant to the Construction Contract entered into between the Owner and Contractor for \_\_\_\_\_ in the amount of \_\_\_\_\_ dated \_\_\_\_\_ (hereinafter referred to as the "Contract"). Alternatively, on written request of the Contractor, the Owner shall make payments of the retention earnings directly to the Escrow Agent. When the Contractor deposits the securities as a substitute for Contract earnings, the Escrow Agent shall notify the Owner within 10 days of the deposit. The market value of the securities at the time of the substitution shall be at least equal to the cash amount then required to be withheld as retention under the terms of the Contract between the Owner and Contractor. Securities shall be held in the name of \_\_\_\_\_, and shall designate the Contractor as the beneficial owner.

(2) The Owner shall make progress payments to the Contractor for those funds which otherwise would be withheld from progress payments pursuant to the Contract provisions, provided that the Escrow Agent holds securities in the form and amount specified above.

(3) When the Owner makes payment of retentions earned directly to the Escrow Agent, the Escrow Agent shall hold them for the benefit of the Contractor until the time that the escrow created under this contract is terminated. The Contractor may direct the investment of the payments into securities. All terms and conditions of this agreement and the rights and responsibilities of the parties shall be equally applicable and binding when the Owner pays the Escrow Agent directly.

(4) Contractor shall be responsible for paying all fees for the expenses incurred by Escrow Agent in administering the Escrow Account and all expenses of the Owner. These expenses and payment terms shall be determined by the Owner, Contractor, and Escrow Agent.

(5) The interest earned on the securities or the money market accounts held in escrow and all interest earned on that interest shall be for the sole account of Contractor and shall be subject to withdrawal by Contractor at any time and from time to time without notice to the Owner.

(6) Contractor shall have the right to withdraw all or any part of the principal in the Escrow Account only by written notice to Escrow Agent accompanied by written authorization from the Owner to the Escrow Agent that Owner consents to the withdrawal of the amount sought to be withdrawn by Contractor.

(7) The Owner shall have a right to draw upon the securities in the event of default by the Contractor. Upon seven days' written notice to the Escrow Agent from the owner of the default, the Escrow Agent shall immediately convert the securities to cash and shall distribute the cash as instructed by the Owner.

(8) Upon receipt of written notification from the Owner certifying that the Contract is final and complete, and that the Contractor has complied with all requirements and procedures applicable to the Contract, Escrow Agent shall release to Contractor all securities and interest on deposit less escrow fees and charges of the Escrow Account. The escrow shall be closed immediately upon disbursement of all moneys and securities on deposit and payments of fees and charges.

(9) Escrow Agent shall rely on the written notifications from the Owner and the Contractor pursuant to Sections (5) to (8), inclusive, of this Agreement and the Owner and Contractor shall hold Escrow Agent harmless from Escrow Agent's release and disbursement of the securities and interest as set forth above.

(10) The names of the persons who are authorized to give written notice or to receive written notice on behalf of the Owner and on behalf of Contractor in connection with the foregoing, and exemplars of their respective signatures are as follows:

On behalf of Owner:

On behalf of Contractor:

\_\_\_\_\_  
Title  
\_\_\_\_\_  
Name  
\_\_\_\_\_  
Signature  
\_\_\_\_\_  
Address  
\_\_\_\_\_  
City/State/Zip Code

\_\_\_\_\_  
Title  
\_\_\_\_\_  
Name  
\_\_\_\_\_  
Signature  
\_\_\_\_\_  
Address  
\_\_\_\_\_  
City/State/Zip Code

On behalf of Escrow Agent:

\_\_\_\_\_  
Title  
\_\_\_\_\_  
Name  
\_\_\_\_\_  
Signature  
\_\_\_\_\_  
Address  
\_\_\_\_\_  
City/State/Zip Code

At the time the Escrow Account is opened, the Owner and Contractor shall deliver to the Escrow Agent a fully executed counterpart of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement by their proper officers on the date first set forth above.

Owner

Contractor

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Title

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Title

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Name

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Name

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Signature

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Signature

TOWN OF DANVILLE  
DEVELOPMENT SERVICES DEPARTMENT

**INSTRUCTIONS FOR COMPLETING  
EXTRACT OF PUBLIC WORKS CONTRACT AWARD**

**STATE OF CALIFORNIA  
DEPARTMENT OF INDUSTRIAL RELATIONS  
DIVISION OF APPRENTICESHIP STANDARDS**

**FORM DIR-PWC 100 (rev. 10/11)**

The successful bidder shall complete the information on the following Form DIR-PWC 100 and return the form to the Town of Danville after the project has been awarded. The Notice to Proceed will not be issued until said form is satisfactorily completed and submitted. The contractor is responsible for disclosing the following information on the form:

Box 1	Name of General Contractor
Box 2	Contractor's License No.
Box 3	Mailing Address (Street Number or P.O. Box)
Box 4	City
Box 5	Zip Code
Box 6	Telephone Number
Box 7	General Contractor's Contact Email Address
Box 23	Classification or Type of Worker (carpenter, plumber, etc.) that will be employed by the Contractor(s)
Page 2	Listing of Sub-Contractors

Boxes not noted above will be completed by the Town of Danville. The completed form will be forwarded to the California Department of Industrial Relations, in conformance with California Labor Code §1776 and §1777.5. For more information about this requirement, refer to Caltrans Standard Specification Sections 7-1.02K(3) "Certified Payroll Records (Labor Code §1776)" and 7-1.02K(4) "Apprentices" respectively.



