

# California Preliminary Notice (Public Works of Improvement)

This is not a lien. This notice is given pursuant to Civil Code Sections 8034(b), 8102, & 9300 et seq.

DATE: \_\_\_\_\_

You are hereby notified that the undersigned has furnished or will furnish labor, services, equipment, or material of the following description:

Person Furnishing Labor, Services, Equipment, Or Material  
(Name) \_\_\_\_\_  
(Address) \_\_\_\_\_  
(City) \_\_\_\_\_ (State) \_\_\_\_\_ (Zip) \_\_\_\_\_  
Relationship to the parties of the one giving this notice (subcontractor, supplier, describe if otherwise): \_\_\_\_\_

To: Owner Or Reputed Owner (Public Entity)  
(Name) \_\_\_\_\_  
(Address) \_\_\_\_\_  
(City) \_\_\_\_\_ (State) \_\_\_\_\_ (Zip) \_\_\_\_\_

To: Direct or Reputed Direct Contractor (Prime or Original Contractor)  
(Name) \_\_\_\_\_  
(Address) \_\_\_\_\_  
(City) \_\_\_\_\_ (State) \_\_\_\_\_ (Zip) \_\_\_\_\_

To: Construction Lender Or Reputed Construction Lender, If Any  
(Name) \_\_\_\_\_  
(Address) \_\_\_\_\_  
(City) \_\_\_\_\_ (State) \_\_\_\_\_ (Zip) \_\_\_\_\_

Description Of Labor, Work, Services, Equipment Or Material Supplied/Provided, Or To Be Supplied/Provided  
\_\_\_\_\_  
\_\_\_\_\_  
The Name And Address Of Person Contracting For The Above (Your Customer) Is:  
\_\_\_\_\_  
\_\_\_\_\_  
Jobsite (Street And Legal Description, If Known):  
\_\_\_\_\_  
\_\_\_\_\_  
An Estimate Of The Total Price Of The Labor, Work, Services, Equipment Or Materials Provided Or To Be Provided Is:  
\$ \_\_\_\_\_

Trust Funds To Which Supplemental Fringe Benefits Are Payable  
(Name And Address) \_\_\_\_\_  
\_\_\_\_\_  
*(Only Subcontractors Are Required To Identify The Trust Fund)*

(Signature) \_\_\_\_\_ (Date) \_\_\_\_\_  
(Name of Person Signing) \_\_\_\_\_  
(Title) \_\_\_\_\_

## PROOF OF SERVICE AFFIDAVIT

I, \_\_\_\_\_, declare that I served copies of the above PRELIMINARY NOTICE (check appropriate circle):

- (a)  By personally delivering copies to \_\_\_\_\_ (name(s) and title(s) of person served) at \_\_\_\_\_ (Address) on \_\_\_\_\_ (date), at \_\_\_\_\_ (time).
- (b)  By Registered or Certified Mail, Express Mail or Overnight Delivery by an express service carrier, addressed to each of the parties at the address shown above on \_\_\_\_\_ (date).
- (c)  By leaving the notice and mailing a copy in the manner provided in Section 415.20 of the California Code of Civil Procedure for service of Summons and Complaint in a Civil Action.

**I declare under penalty of perjury under the laws of the state of California that the foregoing is true and correct.**

Signed at \_\_\_\_\_, California, on \_\_\_\_\_.

Signature of person making service \_\_\_\_\_

Attach Receipts  
Of Certified Or  
Registered Mail  
When Returned



## *Instructions for Completion and Service of Preliminary Notice – Public Works*

This form is for public works only. CLCA recommends that contractors serve a different Preliminary Notice for public works than for private works.

In the event that you have any doubt as to whether your project is a public works or private works project, particularly if you are doing work where public funds are involved (as an example HUD projects), you may want to use both forms.

It is also important that your estimate of the total price of the labor, work, services, equipment or materials to be furnished is an accurate estimate, either based upon purchase orders from your contractor, or based upon your experience dealing with the particular type of project and your relationship with your customer. You should not merely guess just to fill in a number. Be as accurate as possible.

**Service of the Preliminary Notice is most important.** Failure to serve the a Preliminary Notice within 20 days after you first furnish labor, services, equipment or supplies on a public work may prevent the government entity from withholding funds from the contractor and may prevent you from enforcing, in full or in part, a Stop Payment Notice or Payment Bond claim.

Preliminary Notices are generally served in one of four ways. The first is by personal service. The second is by first-class certified or registered mail with a return receipt. The third is by express mail. The fourth is by overnight delivery by an express service carrier. Personal service is not recommended because it is difficult to establish proof of service to the satisfaction of a court. Regardless of the method used, a Proof of Service Affidavit must be filled out by all persons and/or entities that serve the Preliminary Notice. The Proof of Service Affidavit is found on the bottom of the Preliminary Notice.

To personally serve a Preliminary Notice for public works, hand the Preliminary Notice to the contracting officer of the public agency and the direct or reputed direct contractor. Again, personal service is not recommended due to difficulty of proof.

Service by U.S. mail of a Preliminary Notice for a public work must be done by first-class certified or registered mail with a return receipt. The law provides that, when using the U.S. Postal Service, you must mail in this manner. The law does not provide that the mailing must be accepted by the recipient. Therefore, if the certified or registered mail envelope is refused, you should take the return envelope and put it in your job file and keep it there sealed. Service is complete at the time of the deposit of that registered or certified mail. If you choose to serve by mail, you must serve every person and/or entity referred to in the Preliminary Notice and then attach the receipts of the certified or registered mail to your copy of the Preliminary Notice when returned. If you serve by express mail or by overnight delivery by an express service carrier, you must save your applicable documentation to demonstrate that service has been made.

We strongly recommend serving a Preliminary Notice at the time that the contract for work on a project is entered into. There can never be an argument that a Preliminary Notice was served too early. On the other hand, a Preliminary Notice never relates back more than twenty days and due to legislative changes effective July 1, 2012, there are some fears with respect to Civil Code Section 8116(b), which refers to a Code of Civil Procedure section pertaining to service by mail. The code section suggests that you must give an additional five days' notice due to the fact that the notice is being served by mail. (That same section also shortens that five days to two days for Federal Express mail, and there is no extension for personal delivery.) The section in question pertains to litigation matters and gives additional time for a response when something is mailed rather than hand delivered. At least one commentator has suggested that the effect of the legislation, including a reference to Section 1013 of the Code of Civil Procedure, means that a Preliminary Notice must be served no more than fifteen days after material is first delivered, or else it will only relate back fifteen days when served by mail. While we are not sure that this necessarily applies, good business practice is to serve the notice as quickly as possible to avoid any such argument.

In the case of public work, the direct, or reputed direct, contractor with whom you contracted may be served at his/her office, home or place where he/she conducts business. The contracting officer can be served at the address of the agency.

To serve a Preliminary Notice for a work constructed by the Department of Public Works or the Department of General Services of the State, either personally deliver or mail or otherwise serve the Preliminary Notice to the disbursing officer of the department in charge of the project in the same manner as described above.

If there is a bond on the project, you should also serve this notice on the bonding company in lieu of serving a separate bond notice.

**Remember... You Should Serve Your Preliminary Notice Within 20 Days Of When You First Provide Labor Or Supply Materials To The Jobsite. Serving The Notice After This Time Will Result In Your Stop Payment Notice or Payment Bond Claim Rights To Apply Only To The Period Of Time Starting 20 Days Prior To The Time You Served The Preliminary Notice.**