Considering Becoming an Owner-Builder?



Important information you need to know **BEFORE** pulling your permit!

The term "Owner-Builder" can mean three different things: "Owner as Worker", "Owner as Contractor" or "Owner as Employer"

Understand each has Benefits or Risk, and it is possible to combine them!

Hiring a California Licensed Contractor means you do not personally perform any of the construction work, the permit is not taken out in your name, you are not personally responsible for the construction and you are *not* an Owner-Builder. Instead, you become a "Customer" and California law provides you the benefit of protection from poor workmanship, failure to finish the job and financial risk due to worker injury.

Benefit/Risk: Highest Benefits and the Least amount of Risk

Owner-as-Worker is a type of Owner-Builder where you *personally perform* the construction work, the permit is taken out in your name and you are *personally responsible* for the construction management, knowledge, workmanship, and completion of the job. You benefit by not paying others to perform this work for you and your risk depends on your own ability to complete the job successfully.

Benefit/Risk: Possible Benefit with Low Financial Risk

Owner-as-*Contractor* is a type of Owner-Builder where you personally act as your own General Contractor, the permit is taken out in your name and you hire California licensed sub-contractors to perform portions of the construction work. **WARNING:** The benefit of protection provided by law when you hire only California licensed sub-contractors can turn to serious financial risk if you hire *unlicensed* contractors to perform *any* of the work.

Benefit/Risk: Possible Benefit and Significant Financial Risk

Owner-as-*Employer* is a type of Owner-Builder where you pay *any* unlicensed individual to perform *any* construction work valued at more than \$500.00, the permit is taken out in your name and you are personally responsible for their employment requirements, supervision, performance, safety and welfare while on your property. **WARNING:** Cost savings benefit can turn to serious financial risk if you fail to deduct *payroll taxes* or provide *workers compensation insurance* for each worker.

Benefit/Risk: Possible Benefit with Significant Financial Risk

(Health and Safety Code Section 19827) The California Legislature declares an "urgent and statewide public interest in assuring" that contractors comply with Contractors' License Law, Business and Professions Code and Workers' Compensation Insurance requirements to ensure property owners are informed about, and protected from the following when improving their property as Owner-Builders:

Fraudulent representations - Liability for worker's injuries - Liability for material and labor costs unpaid by contractors - Licensing requirements - Employers tax liabilities

Over 20,000 consumer complaints are filed each year. Many complaints relate to owner/builder projects and include workmanship and workers' compensation issues Homeowners suffer financial harm due to defective workmanship and injured employees.

Following are alarming examples of what has occurred with Owner-Builder permits:

Example 1: Homeowner received insurance money to rebuild burned-down home.

- Owner/Builder permit pulled to rebuild structure.
- Unlicensed contractor built substandard structure must be torn down and replaced.
- Estimated financial injury is \$225,000.
- Additional financial injury IRS threatened to tax insurance payout if house not completed by the end of the year.

Example 2: Brother-in-law had active license but filed an exemption from Workers Comp.

- Owner-Builder hires brother-in-law to install a new roof.
- Employee falls and sustains multiple spinal and extremity fractures as well as a head injury and remains in a coma to this day.
- The Owner-Builder, who has sold the home, is now a defendant in a lawsuit for reimbursement for benefits paid to the injured worker.

Example 3: Employee of contractor without Workers Comp is hired by Owner-Builder to install septic system and suffers injury that results in permanent disability.

- The Owner-Builder did not have a homeowner's insurance policy on the house against which to submit a claim.
- The Owner-Builder is now a defendant in a lawsuit for reimbursement for benefits paid to the injured worker.

Did you know – unlicensed persons frequently have the property owner obtain an "Owner-Builder" building permit which erroneously implies that the property owner is providing his or her own labor and material personally?

Did you know – your homeowner's insurance may not provide coverage for injuries sustained on your property by an unlicensed contractor and his/her employees?

Did you know – if you are considered an "employer" under state and federal law, you must register with the state and federal government, withhold payroll taxes, provide workers compensation and disability insurance and contribute to unemployment compensation for each "employee"?

Did you know – that if you fail to abide by these laws you may be subjected to serious financial risk?

OWNERS BEWARE AND CONSIDER THE RISK BEFORE ACCEPTING FULL RESPONSIBILITY FOR YOUR CONSTRUCTION PERMIT



OFFICE USE ONLY
Employee Initials:

PROPERTY OWNER'S PACKAGE

Disclosures & Forms for Owner-Builders Applying for Construction Permits

IMPORTANT! NOTICE TO PROPERTY OWNER
Dear Property Owner: An application for a building permit has been submitted in your name listing yourself as the builder of the property improvements specified at
We are providing you with an Owner-Builder Acknowledgment and Information Verification Form to make you aware of your responsibilities and possible risk you may incur by having this permit issued in your name as the Owner-Builder. We will not issue a building permit until you have read, initialed your understanding of each provision, signed, and returned this form to us at our official address indicated. An agent of the owner cannot execute this notice unless you, the property owner, obtain the prior approval of the permitting authority.
OWNER'S ACKNOWLEDGMENT AND VERIFICATION OF INFORMATION DIRECTIONS: Read and initial each statement below to signify you understand or verify this information.
1. I understand a frequent practice of unlicensed persons is to have the property owner obtain an "Owner-Builder" building permit that erroneously implies that the property owner is providing his or her own labor and material personally. I, as an Owner-Builder, may be held liable and subject to serious financial risk for any injuries sustained by an unlicensed person and his or her employees while working on my property. My homeowner's insurance may not provide coverage for those injuries. I am willfully acting as an Owner-Builder and am aware of the limits of my insurance coverage for injuries to workers on my property.
2. I understand building permits are not required to be signed by property owners unless they are responsible for the construction and are not hiring a licensed Contractor to assume this responsibility.
3. I understand as an "Owner-Builder" I am the responsible party of record on the permit. I understand that I may protect myself from potential financial risk by hiring a licensed Contractor and having the permit filed in his or her name instead of my own.
4. I understand Contractors are required by law to be licensed and bonded in California and to list their license numbers on permits and contracts.
5. I understand if I employ or otherwise engage any persons, other than California licensed Contractors, and the total value of my construction is at least five hundred dollars (\$500), including labor and materials, I may be considered an "employer" under state and federal law.
6. I understand if I am considered an "employer" under state and federal law, I must register with the state and federal government, withhold payroll taxes, provide workers' compensation disability insurance, and contribute to unemployment compensation for each "employee." I also understand my failure to abide by these laws may subject me to serious financial risk.
7. I understand under California Contractors' State License Law, an Owner-Builder who builds single-family residential structures cannot legally build them with the intent to offer them for sale, unless all work is performed by licensed subcontractors and the number of structures does not exceed four within any calendar year, or all of the work is performed under contract with a licensed general building Contractor.

8. I understand as an Owner-Builder if I sell the property for which this permit is issued, I may be held liable for any financial or personal injuries sustained by any subsequent owner(s) that result from any latent

construction defects in the workmanship or materials.

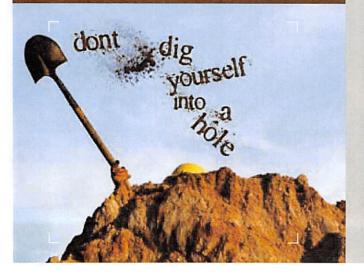
9. I understand I may obtain more information regarding my obligations as an "employer" from Revenue Service, the United States Small Business Administration, the California Department Payments, and the California Division of Industrial Accidents. I also understand I may contact the Contractors' State License Board (CSLB) at 1-800-321-CSLB (2752) or www.cslb.ca.gov for more about licensed contractors.						
10. I am aware of and consent to an Owner-Builder buil that I am the party legally and financially responsible for pro						
11. I agree that, as the party legally and financially resp abide by all applicable laws and requirements that govern Or						
12. I agree to notify the issuer of this form immediately of any additions, deletions, or changes to a information I have provided on this form. Licensed contractors are regulated by laws designed to propublic. If you contract with someone who does not have a license, the Contractors' State License Board unable to assist you with any financial loss you may sustain as a result of a complaint. Your only remed unlicensed Contractors may be in civil court. It is also important for you to understand that if an urange contractor or employee of that individual or firm is injured while working on your property, you may liable for damages. If you obtain a permit as Owner-Builder and wish to hire Contractors, you will be restor verifying whether or not those Contractors are properly licensed and the status of their compensation insurance coverage.						
Before a building permit can be issued, this form must and returned to the agency responsible for issuing the driver's license, form notarization, or other verification presented when the permit is issued to verify the proper	e permit. Note: A copy of the property owner's on acceptable to the agency is required to be					
Signature of property owner	Date:					
Note: The following Authorization Form is required to be designating an agent of the property owner to apply for	pe completed by the property owner only when a construction permit for the Owner-Builder.					
AUTHORIZATION OF AGENT TO ACT OF Excluding the Notice to Property Owner, the execution of whose hereby authorize the following person(s) to act as my agent (necessary to obtain an Owner-Builder Permit for my project. Scope of Construction Project (or Description of Work):	ich I understand is my personal responsibility, I s) to apply for, sign, and file the documents					
Project Location or Address:						
Name of Authorized Agent:	Tel No					
Address of Authorized Agent:						
I declare under penalty of perjury that I am the property own out the above information and certify its accuracy. <i>Note: A c</i>	a at the state of					
notarization, or other verification acceptable to the agency is to verify the property owner's signature.	opy of the owner's driver's license, form					
notarization, or other verification acceptable to the agency is	opy of the owner's driver's license, form required to be presented when the permit is issued					

CHECKLIST

FOR OWNER-BUILDERS

If you choose not to hire licensed contractors, the following checklist may help you comply with your responsibilities:

- Contact your local city hall or county finance office to find out if you need to obtain a business license.
- Contact the state Employment Development Department and Franchise Tax Board for instruction on registering as an employer.
- Contact the Internal Revenue Service for information on registering as an employer.
- Check with your insurance company about purchasing workers' compensation coverage, and any need to increase your liability coverage.



Should I Hire a Consultant to Oversee the Job?

Consultants who submit a bid to construct any structure or portion of a structure and/or supervise all of the construction and hiring of subcontractors are acting in the capacity of a contractor and must have a state contractor license. When a project is identified on permits as an owner-builder job, consultants do not take over the legal responsibility for the job; the homeowner still holds all responsibility. Be cautious: sometimes the consultant is either someone who has had his or her CSLB license suspended or revoked, is not qualified to get a license, or couldn't pass the criminal background check needed to get a license. CSLB urges you to **only hire state-licensed contractors** to perform work on your property.

How Do I Know if My Contractor is Licensed?

By law, anyone who contracts for or bids on a construction project valued at \$500 or more (total labor and materials) must be licensed by CSLB. To qualify for a license, a contractor must pass a criminal background check, verify four years of journey-level experience in the trade, pass both a trade and license law examination, and post a license bond. Contractors are required by law to put their CSLB license number in all advertisements. Unlicensed operators are required to say they are not licensed in their advertisements.

- Ask to see the contractor's plastic pocket license and a photo identification.
- Verify the license and its status on the CSLB website: www.cslb.ca.gov or toll-free automated line: 800.321.CSLB (2752).



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P.O. Box 26000 Sacramento, CA 95826-0026 800.321.CSLB (2752) www.cslb.ca.gov • CheckTheLicenseFirst.com

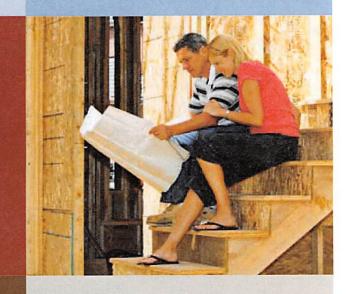
DEPARTMENT OF CONSUMER AFFAIRS

13P-060/0710

OWNER-BUILDERS

Beware!

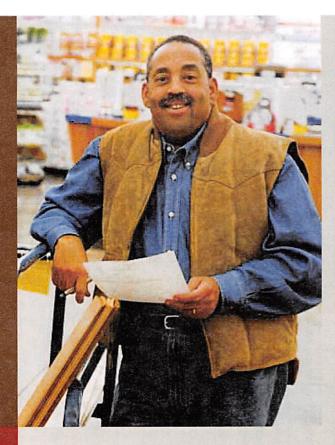
Know Your Responsibilities as an Owner-Builder



CONTRACTORS STATE LICENSE BOARD

Department of Consumer Affairs





What is an Owner-Builder?

An owner-builder is what the term indicates: the person owns the property and acts as the general contractor on the job, and either does the work or has employees (or licensed subcontractors) work on the project.

Some homeowners believe they can save money by not hiring a licensed general contractor to oversee property improvements. Or, they try to save money by hiring unlicensed individuals and lying on the permit application by saying they, as homeowners, will do the work.

Unfortunately, most homeowners don't know they can face very serious legal and financial problems if they choose to be an owner-builder and don't follow the law.

Responsibilities of an Owner-Builder

When you sign a building permit application as an owner-builder, you assume full responsibility for all phases of your project and its integrity. You may be considered an employer if you hire unlicensed contractors to do the work. This could make you responsible for:

- Registering with the state and federal government as an employer;
- Withholding state and federal income taxes, Social Security taxes, paying disability insurance, and making employment compensation contributions; and
- · Providing workers' compensation insurance.

Owner-builders are also responsible for:

- Supervising the job, including scheduling workers and obtaining building permits and requesting inspections;
- Correcting the work and getting it re-inspected if any of the construction doesn't pass building inspections; and
- Making sure all workers and material suppliers are paid, or face the possibility of mechanic's liens against their home or property.

Qualifications for Owner-Builders

For home improvements:

- The work site must be your principal residence that you have occupied for 12 months prior to completion of the work;
- The work must be performed prior to the sale of the home; and

 You cannot take advantage of the contractor license exemption on more than two structures during any three-year period.

For construction of new single-family residences:

- You are limited to selling four or fewer residential structures in one calendar year; and
- The work necessary to complete the project(s) must be performed by licensed subcontractors.

Note: The limitation on the number of structures that can be sold is not applicable if the owner contracts with a General Building (B) contractor for the performance of the work.

FOR MORE INFORMATION

FEDERAL

Internal Revenue Service 800.829.1040

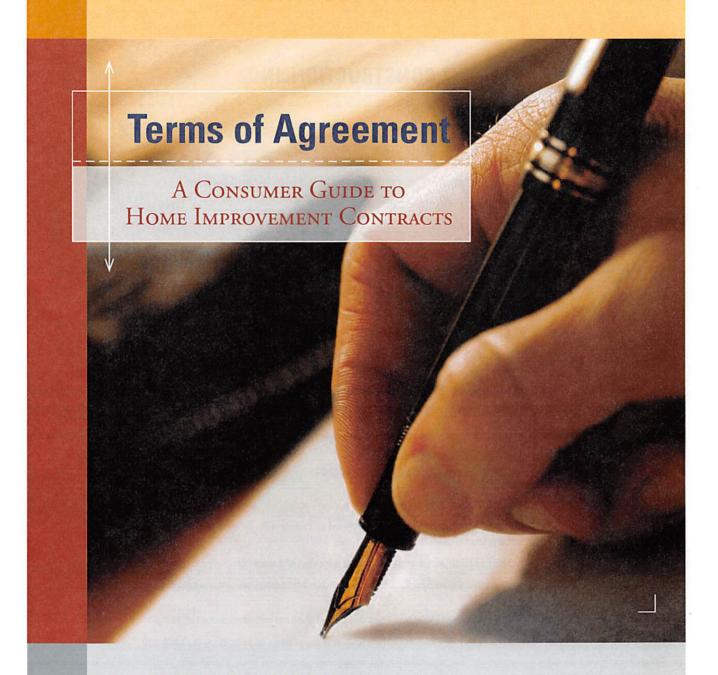
U.S. Small Business Administration 800.359.1833

STATE

Employment Development Department 916.653.0707

Department of Industrial Relations 415.703.5070

Franchise Tax Board 800.852,5711



CONTRACTORS STATE LICENSE BOARD

California Department of Consumer Affairs



Example Contract

XYZ CONSTRUCTION, INC.

		JCTION CONTRACT (Home Impr					
		truction Contract ("Contract") is					
			("Owner"),				
vhose i	re	sidence address is	, and project addres				
s	_	- 1 - 1 - 1 - 1 - 1 - 1 - 1 - 1 - 1 - 1					
1.		DESCRIPTION OF WORK (Full detail of p	roject)				
2.		DESCRIPTION OF MATERIALS AND EQUIPMENT (Include raw material descriptions, quantities, etc., and equipment or appliances)					
3.		CONTRACT PRICE (Detailed breakdown of all costs and compensation)					
4.		PAYMENT SCHEDULE (Identifies payments to be made at specific segments or intervals of the project)					
5.		START AND COMPLETION OF WORK (Id	entifies start and end dates)				
6.		PERMITS AND TESTS (States who will pull building department permits and/or schedule operational tests)					
7.		PERMISSIBLE DELAYS (Identifies potential delays that are acceptable)					
8.		EXTRA WORK (Additional work requires change orders that must be written and signed by all parties.)					
9.		NOTICE OF MECHANICS LIEN					
1	 RELEASE OF MECHANICS LIENS (Conditional and unconditional release forms available on CSLB website) 						
1	1.	I. ATTORNEY FEES (Outlines expectations in the event of a dispute)					
1	2.	CONTRACTORS REQUIRED TO BE LICENSED (Identifies state law requirement for contracting)					
1	3.	COMPLETE AGREEMENT (Describes the	overall contract obligations of each party)				
1	4.	xplains parameters of cancelling the contract)					
E	Зу:						
		Arnold W. Mason, President XYZ CONSTRUCTION, INC.	[Property Owner's Name]				
Г	١٨:	TED:	DATED:				

In California, the terms of all home improvement projects over \$500 (combined material and labor costs) must be in a contract and include specific information about your consumer rights and responsibilities.

What is "Home Improvement?"

"Home improvement" essentially is any change you make to the interior or exterior of your residence or property. It includes:

"...the repairing, remodeling, altering, converting, or modernizing of, or adding to, real or residential property and shall include, but not be limited to, the construction, erection, replacement, or improvement of driveways, swimming pools, including spas and hot tubs, terraces, patios, awnings, storm windows, landscaping, fences, porches, garages, fallout shelters, basements, and other improvements of the structures or land which is adjacent to a dwelling house. Home improvement shall also mean the installation of home improvement goods or the furnishing of home improvement services. (Business and Professions Code section 7151)

What is a Home Improvement Contract and When Do I Need One?

A home improvement contract is an agreement between a contractor and a property owner or between a contractor and a tenant, and includes in its description all labor, services, and materials to be furnished and performed. A home improvement contract also can mean an agreement between a salesperson (home improvement salesperson) and property/home owner or tenant. (Business and Professions Code section 7151.2)

This contract is the most important communication tool between you and your contractor; it should identify all project expectations to help avoid misunderstandings. A thorough contract details who will do the work, what materials will be used, where the work will be done, when it will be done, and how much it will cost.

Your home improvement contract always should be **in writing**, legible, easy to understand, and inform you of the right to cancel or rescind the contract. If you are promised something verbally, make sure that it also is included in writing. Any changes to the contract need to be in writing, as well. These "change orders" should be kept with your other project paperwork.

Anatomy of a Contract

A contract should contain all project details agreed upon by you and your contractor. Among the details should be a description of the work, price, payment schedule, who will pull necessary building department permits, and when the job will begin and end. The contractor's state license number, address, and phone number(s) also should be listed.



Don't sign anything until you understand the contract and agree to the terms.

The Sign of a Well-Built Contract — Describe *Everything*

The best way to avoid disputes over what is or isn't expected from a home improvement job is to include all of the details into a written, signed contract.

The contract should be as specific as possible regarding all materials to be used, such as the style, brand, model, quality, quantity, weight, color, size, or any other description that may apply.

For example: "Install upper and lower maple kitchen cabinets, manufactured by Company XYZ, model 01381A, style/color 0123, hinge and hardware selection, as per the plan dimensions and diagram," not just "install kitchen cabinets."

WILL YOUR PROJECT DESCRIPTION GIVE YOU THE RIGHT RESULTS?					
GOOD EXPECTATIONS	TROUBLE AHEAD	GOOD LUCK			
Install xx (quantity) Company XYZ upper/ lower maple kitchen cabinets, model ABC, style/color 0123, European hinges, hardware model 1000, per plan dimen- sions and diagram.	Install maple kitchen cabinets.	Install some cabinets.			
Paint indoor entry (per plan) using Brand X paint, color 567, two coats, with preparation and taping described in next paragraph.	Prep and paint entryway with blue paint.	Paint the entry.			
Install Brand X kitchen faucet in style ABC and color BCS.	Replace kitchen faucet, if necessary.	Replace kitchen fixtures.			

Swimming pool contracts must include a plan and scale drawing showing the shape, size/dimensions, and construction and equipment specifications.

Make sure the contract includes everything that is agreed to, up to and including complete cleanup and removal of debris and materials, and special requests like saving lumber for firewood or saving certain materials or appliances.

Complaints and Warranties

If the contractor offers a warranty for labor and/or materials, be sure to get that in writing. It should specify which parts of the work are covered and the duration of the warranty. You also should request any written warranties offered by the manufacturers of materials or appliances that are installed by the contractor.

Consumers have four (4) years to file a complaint with the Contractors State License Board (CSLB) about a faulty project. That deadline can be extended if additional warranties are written into the contract.

Money - The Bottom Line

Price – All contracts must include the agreed-to price. Any job costing \$500 or more (combined material and labor) needs a written home improvement contract. By law, the job must be completed for the agreed-upon contract price.

If the contract price needs to be changed, it MUST be done with a written change order that becomes a part of the contract.

Down Payment – If the contract calls for a down payment before work starts, the down payment cannot be more than \$1,000 or 10 percent of the contract price, whichever is less, for a home improvement job or swimming pool, excluding finance charges. **There are no exceptions for special order materials.** There is a down payment exception for about two dozen licensees who carry special bonds to protect consumers, known as blanket performance and payment bonds. These exceptions are noted on CSLB's website.

Schedule of Payments – A home improvement contract must include a payment schedule. It should show the amount of each payment and explain what work, materials or services are to be performed for that particular payment. Payments to the contractor cannot exceed the value of the performed work.

Swimming Pools – A final swimming pool contract payment may be made at the completion of the final plastering phase of construction (provided that any installation of equipment, decking, or fencing required by the contract also is completed).

Finance Charges – If applicable, finance charges must be calculated and laid out in detail, separate from the contract amount.

Sales Commission – If the contract provides for payment of a salesperson's commission as part of the contract price, that payment must be made on a pro rata basis in proportion to the schedule of payments made to the contractor.

Salespersons – A salesperson cannot legally sign a home improvement contract for the contractor unless he or she is a valid, CSLB-registered home improvement salesperson (HIS).

Mechanics Liens

Consumers are required to receive a "Notice to Owner" warning about property liens. Anyone who helps improve property, but is not paid, may place what is called a mechanics lien on the property. A mechanics lien is a claim made against the property by the person who was not paid, and is recorded with the county.

Even if the contractor is paid in full, unpaid subcontractors, suppliers, and laborers involved in the project may record a mechanics lien and sue the property owner in court to foreclose the lien. A property owner could be forced to pay twice or have the court sell the home to pay the lien. Liens also can affect a consumer's personal credit rating, and affect his or her ability to borrow and refinance.

Consumers can protect themselves from liens by getting a list from the contractor of all subcontractors and material suppliers who will work on the project, along with the dates they will start and finish the work. Material suppliers and subcontractors are required to give the property owner a "Preliminary Notice" of their right to file a lien within 20 days of delivering products/materials or 20 days of beginning the work. Have subcontractors sign lien releases when their portion of the work is completed.

Another option for consumers is to pay with a joint check that is payable to both the contractor and the subcontractor or material supplier.



For more information on this subject, go to www.cslb.ca.gov and search for "mechanics liens."

Canceling the Contract

Three-Day Right to Cancel

The Home Solicitation Sales Act requires a seller of home goods or services to give the buyer **three (3) business days** to think about whether to buy the offered goods or services.

To cancel, the buyer need only give the contractor written notice of his or her intent *not* to be bound by the contract—there is no penalty or obligation on the part of the buyer. Under state law, when the contract is canceled, the seller is required to return any money that was paid within 10 days of receiving the cancellation request. The consumer/buyer must return any materials to the contractor that were applied to the contract.

The purpose of the three-day right to cancel is to protect consumers from the pressure they often feel from in-home solicitors.

If the contract is negotiated at the contractor's place of business, the three-day right to cancel does not apply.

The Contract Exception

Service and Repair Contracts

One major exception to the three-day right to cancel is a "service and repair" contract that covers emergency repairs or services that are **requested by the consumer** on short notice. The right to a three-day notice is automatically canceled the moment the contract is signed and the contractor begins working on a service and repair contract.

Building Permits

A construction or building permit is a required document in most jurisdictions for a large range of project types, including new construction or adding to pre-existing structures, major renovations, heating and air-conditioning repairs, and installation of water heaters and swimming pools. Permits are issued by the local building department. Generally, the new construction must be inspected during construction and after completion to ensure compliance with national, regional, and local building codes. Failure to obtain a permit can result in significant fines and penalties, and even demolition of unauthorized construction if it does not meet code requirements.

A Word About Insurance

Does your contractor have employees? Workers' compensation insurance is required by law if the contractor has employees or workers. Check the CSLB website, www.cslb.ca.gov or www.CheckTheLicenseFirst.com to make sure the workers' comp policy is current.

Although not required, it's also a good idea to ask whether the contractor carries general liability insurance in case your property accidentally is damaged during the project. You might consider contacting your homeowner insurance carrier to find out if it would be advisable to take out a temporary "rider" to your insurance policy, which is extended coverage for a determined period of time or for a particular use.

→ III HOMEOWNER CHECKLIST

CHECK OUT YOUR CONTRACTOR Did you contact the Contractors State License Board (CSLB) to check the status of the contractor's license? Connect with CSLB at 800.321.CSLB (2752), www.cslb.ca.gov or www.CheckTheLicenseFirst.com. Did you get at least three local references from the contractors you are considering? Did you call the references and personally view the contractor's completed work? Does the contractor carry general liability insurance? **BUILDING PERMITS** Does your contract state whether you or your contractor will pull necessary building permits before the work starts? Are the permit fees included in the contract price? DOUBLE-CHECK THE CONTRACT Did you read and understand your contract? Does the three-day right to cancel a contract apply to you? Does the contract identify when work will begin and end? Does the contract include a detailed description of the work to be done, the materials to be used, and/or equipment to be installed? Are you required to make a down payment? (The down payment should never be more than 10 percent of the contract price or \$1,000, whichever is less, unless there is a valid blanket performance and payment bond on file with CSLB.) Is there a schedule of payments? (Only pay as work is completed, not before). Did your contractor give you a "Notice to Owner" warning notice that describes mechanics liens and how to prevent them? Do you have changes or additions to your contract? (Remember that all changes must be in writing and signed by both parties to avoid disagreements.)

NOTES



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P.O. Box 26000 Sacramento, CA 95826-0026 800.321.CSLB (2752)

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