

# Attachment 1—Claim Settlement Request

State of California  
DEPARTMENT OF TRANSPORTATION

Business, Transportation and Housing Agency

## Memorandum

*Flex your power!  
Be energy efficient!*

**To:** Name  
Title  
**Date:** mm/dd/20xx  
**File:** District-EA  
District, County-Road, Post Marker

**From:** Name  
District XX Director

**Subject:** Claim Settlement Request

### **Confidential Attorney-Client Communication Offer prepared at the direction of and in consultation with the Legal Division**

As authorized by Public Contract Code Section 9201, District XX of the Department of Transportation requests your confirming signature of approval to settle all contract claims on this project submitted by [contractor's name](#) (contractor) and its subcontractors. The district seeks authorization to pay the contractor a total of [\\$\\$\\$\\$,\\$\\$\\$.](#) to settle all outstanding claims. The following facts summarize the district's ([or Board of Review's](#)) recommendation that paying this amount to settle all claims will best serve the interest of the state.

#### **Project Description**

[The project to be built was . . .](#)  
[The bid amount was . . .](#)  
[The next higher bid amount was . . .](#)  
[The date of the award was . . .](#)  
[The amount of the award was . . .](#)  
[The date the project was accepted was . . .](#)  
[The proposed final estimate amount was . . .](#)  
[The date of issuance was . . .](#)

#### **Chronology**

Event	Date
Contract approval date	mm/dd/20xx
First working day	mm/dd/20xx
Contractual completion date	mm/dd/20xx
Actual completion date	mm/dd/20xx
Proposed final estimate issued	mm/dd/20xx
Contractor's exceptions to proposed final estimate received	mm/dd/20xx

**Attachment 1—Claim Settlement Request Example**

Claims Settlement Request  
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**Time Extension Summary**

Event	Calendar Days
Working (calendar) days specified	XXX
Time extension granted for contract change orders	XXX
Time extension granted for Holidays	XXX
Time extension granted for Contractor Requested Suspension	XXX
Time extension granted for Entitlement Claims	XXX
Time extension remaining in dispute	XXX
Time extension for director days	XXX

**Description of Claims**

On mm/dd/20xx, the contractor submitted # exceptions to the proposed final estimate for a total amount of \$ \$,,\$\$. \$\$.

The contractor describes each claim as follows:

- What happened to initiate this claim was . . .
- The event or events happened when . . .
- The location where the event or events happened was . . .
- The person or group that caused the event was . . .
- A partial resolution was . . .
- The contract change order issued to pay for the partial resolution was . . .
- The value of the claim at this time is . . .
- The Department’s responsibility in the claim is . . .

**Summary of Claims**

The district has concluded its entitlement analysis of the claims and determined that the contractor is entitled to additional compensation for the claims summarized below:

Claim #	Description	Original Claimed \$ Amount	Unresolved Claimed \$ Amount	District / BOR Recommended \$ Amount
<b>Prime Contractor Claims</b>				
5	Extra work to be paid at force account	\$ \$,,\$\$. \$\$	\$ \$,,\$\$. \$\$	\$ \$,,\$\$. \$\$
7	Late paid contract change order No. 9	\$ \$,,\$\$. \$\$	\$ \$,,\$\$. \$\$	\$ \$,,\$\$. \$\$
11	Extended field office overhead	\$ \$,,\$\$. \$\$	\$ \$,,\$\$. \$\$	\$ \$,,\$\$. \$\$
12	Extended home office overhead	\$ \$,,\$\$. \$\$	\$ \$,,\$\$. \$\$	\$ \$,,\$\$. \$\$
<b>Subcontractor Claims</b>				
8	Striping subcontractor quantities	\$ \$,,\$\$. \$\$	\$ \$,,\$\$. \$\$	\$ \$,,\$\$. \$\$
	Subtotal	\$ \$,,\$\$. \$\$	\$ \$,,\$\$. \$\$	\$ \$,,\$\$. \$\$
	Interest	\$ \$,,\$\$. \$\$	\$ \$,,\$\$. \$\$	\$ \$,,\$\$. \$\$
	Total	\$ \$,,\$\$. \$\$	\$ \$,,\$\$. \$\$	\$ \$,,\$\$. \$\$

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### Entitlement and Settlement Justification

Disputed project features include . . .  
Impacted construction operations include . . .  
During construction many contractual changes and additions took place . . .  
During construction the following unanticipated events and conditions were encountered . . .  
The above-described changes and problems caused the following impacts: . . .  
The general nature of this work was different because . . .  
A significant amount of delay in completion of the project was experienced because . . .  
The contractor's direct costs increased because . . .  
The contractor's overhead costs increased because . . .  
These disputes should be resolved because of the following entitlement contract provisions: . . .  
These disputes should be settled because . . .

### Funding Status

Discuss the total cost of the contract to date, the source of funding, and whether available funds are adequate to pay for the settlement of the claims or if supplemental funds need to be secured.

Discuss the total claims amount, interest, and costs as a whole. Summarize each claim as shown below.

Claim #	Description	Entitlement \$ Amount	Settlement \$ Amount	Interest \$ Amount	Line Total \$ Amount
5	Extra work to be paid at force account	,\$,\$,\$,\$,\$	,\$,\$,\$,\$,\$	,\$,\$,\$,\$,\$	,\$,\$,\$,\$,\$
7	Late paid contract change order No. 9	,\$,\$,\$,\$,\$	,\$,\$,\$,\$,\$	,\$,\$,\$,\$,\$	,\$,\$,\$,\$,\$
11	Extended field office overhead	,\$,\$,\$,\$,\$	,\$,\$,\$,\$,\$	,\$,\$,\$,\$,\$	,\$,\$,\$,\$,\$
12	Extended home office overhead	,\$,\$,\$,\$,\$	,\$,\$,\$,\$,\$	,\$,\$,\$,\$,\$	,\$,\$,\$,\$,\$
8	Striping subcontractor underpayment	,\$,\$,\$,\$,\$	,\$,\$,\$,\$,\$	,\$,\$,\$,\$,\$	,\$,\$,\$,\$,\$
	<b>Totals</b>	,\$,\$,\$,\$,\$	,\$,\$,\$,\$,\$	,\$,\$,\$,\$,\$	,\$,\$,\$,\$,\$

Discuss project's funding, remaining contingency balance, zeroed out bid items and change orders.

If supplemental funds are to be secured, address the process that will be used to obtain the funds, that is, G-11, G-12, SFR-CTC vote, or funds from local partners. Estimate when the funds would become available.

### Consequences of Not Settling

State the risk exposure to the Department if certain claims are not settled and the contractor decides to file for arbitration. Make a reference to the legal, expert witness and engineering support costs that would be expended to defend the Department in the arbitration proceedings.

### Recommendation

State the district's recommendation for resolution of these construction claims.

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**Prepared by:**

_____ Date	and	_____ Date
Name		Name
Chair, Board of Review or (District Claims Engineer)		Assistant Chief Counsel Legal Division—Contracts

**Recommended by:**

_____ Date	_____ Date
Name	Name
Deputy District Director, Construction District XX	Field Coordinator Division of Construction

\_\_\_\_\_ Date

Name  
Chief  
Division of Construction  
(only when amount is >\$1million, otherwise delete)

**Approved by:**

\_\_\_\_\_ Date

Name  
Title