

Framing Subcontracts

by Gary Ransone

Contractors who normally take on complete remodels or whole-house new construction projects occasionally find themselves working as subcontractors. This often happens, for example, when a contractor who loses the bid for the primary contract takes on just the framing. Whether the contract for this work is with the owner or with the GC, there are plenty of opportunities for misunderstandings.

To prove my point, here are a few scenarios I encountered in my law practice. In one case, the framing sub discovered that the GC expected him to provide an itemized material takeoff for a 7,000-square-foot structure, even though he was not furnishing the materials.

In another case, the owner expected the framing sub to construct a 180-foot-long temporary road to the perimeter of the structure or face the prospect of hand-carrying or craning all materials into the site. And when several windows developed small leaks, the framer was also expected to warrant the windows, even though they were provided by the owner.

Another contractor was expected to furnish all saw blades, chalk, string line, porta-potty, and debris removal, even though he was working directly for the owner under a "labor only" agreement. The owner just thought that this was fair, but the framer was out \$1,600, which he hadn't factored into his fixed-price labor-only contract.

The best way to insulate yourself from problems like these is to spell out in the Construction Agreement what you will and won't include as part of your lump-sum price so you won't have to argue about it later in the field. The sample language below is a good place to start. Over time, you may also want to develop a chart of services and materials (see chart,

page 56) that will serve as a checklist of the framing work that is most often the subject of misunderstandings.

As always, ask an attorney to review your contract before putting it into use.

I. PARTIES

This contract (hereinafter referred to as "Agreement") is entered into between _____ (hereinafter referred to as "Owner/Contractor") and _____ (hereinafter referred to as "Subcontractor"). If this Agreement is with a General Contractor, then "owner/contractor" below refers to the General Contractor. If this Agreement is with an owner, then "owner/contractor" below refers to the project owner. In consideration of the mutual promises contained herein, Subcontractor agrees to perform the following work:

II. GENERAL SCOPE OF WORK

[Provide a general description of the scope of work.]

III. GENERAL CONDITIONS

A. EXCLUSIONS

This Agreement does not include labor or materials for the following work:

1. Project-Specific Exclusions:

[Fill these in based on the unique requirements of the job.]

2. Standard Exclusions: Unless specifically included in the "General Scope of Work" section above, this Agreement does not include labor or materials for the following work:

- Repair of concealed underground utilities not located on prints or physically staked out by Owner/Contractor that are damaged during construction.
- Surveying that may be required to establish accurate property boundaries.

- Temporary sanitation, power, or fencing.
- Removal of filled ground or rock or any other materials not removable by ordinary hand tools.
- Repair of damage to roadways, sidewalks, or driveways that could occur when construction equipment and vehicles are being used in the normal course of construction.
- Preparation of temporary road for access to site when required in Subcontractor's opinion due to inclement weather or accessibility problems.
- Where Subcontractor is furnishing labor only, furnishing consumable materials such as chalk, saw blades, wood stakes, etc., is excluded from this Agreement and must be furnished by Owner/Contractor.
- Crane work and forklift with driver unless specifically included in this Agreement.
- Supervision of other subtrades.

B. MISCELLANEOUS CONTRACT CONDITIONS:

1. Temporary Utilities & Debris Removal: Owner/Contractor to furnish to job site prior to commencement of work by Subcontractor the following: power within 50 feet of structure (both 110v and 220v); temporary sanitation (porta-potty); debris box or debris pile location next to structure. Subcontractor to pile its debris in one place where it can be removed by others. Debris removal has not been included in this Agreement.

2. Road Access Requirements: Road access requirements include compacted base rock from nearest accessible paved road to within 5 feet of proposed structure to allow for safe accessibility to site during inclement weather.

Table A. CLARIFICATION OF SUBCONTRACTOR PROVIDED LABOR AND MATERIALS:-

Item:	<u>LABOR</u>		<u>MATERIALS</u>	
	Included	Excluded	Included	Excluded
1. Mud sill to roof sheathing rough frame:				
2. Furnace and water heater stands:				
3. Cut outs for mechanical trades:				
4. Built up tub enclosures:				
5. Interior stairs & landings (carpet grade):				
6. Sloped shower pans:				
7. Foundation access doors:				
8. Rough frame exterior decks/landings:				
9. Finish redwood decking:				
10. Exterior wood handrails, guardrails:				
11. Backing for special wall/ceiling mounts:				
12. Roof Trusses:				
13. Wood I-joists:				
14. Exterior doors and windows:				
15. Skylights:				
16. Exterior wood siding:				
17. Exterior wood trim:				
18. Arched / round exterior window casings:				
19. Exterior door hardware:				
20. Stucco molding:				
21. Foundation vents:				
22. Roof/attic sidewall vents:				
23. Enclosed soffit vent strips:				
24. Vapor barrier:				
25. Decorative exterior columns:				
26. Decorative interior columns:				
27. Permanent wood fencing:				
28. Trellis/planter boxes:				
29. Structural steel beams:				
30. Custom structural steel connectors:				
31. Z metal flashing:				
32. Consumables such as blades, chalk, etc.				

Use a chart like this to avoid confusion over which materials and labor are included in a framing subcontract. A similar chart can be created for equipment and services, and for other phases of construction, such as foundation or excavation work.

Owner/Contractor to provide this access if requested by Subcontractor due to inclement weather or accessibility problems.

3. Exterior Doors & Windows: Exterior doors and windows furnished by Owner/Contractor to be ordered, stocked, uncrated, and delivered to site and inspected by Contractor/Owner prior to installation by Subcontractor. Delivery of these items to site must be scheduled by Contractor/Owner 7 days prior to completion of framing work by Subcontractor to allow for timely installation. All sheet-metal work that must precede installation of exterior doors, decking, mudsills, or other locations must be scheduled and performed by Owner/Contractor at least 3 days prior to installation of these items. Subcontractor is not responsible for installing sheet metal of any kind. All wood windows and doors must be primed by Contractor/Owner at least 3 days prior to

installation by Subcontractor. Where failure to meet these requirements occurs and Sub-contractor is required to return at a later date to install exterior doors and windows, Subcontractor will charge for an additional trip to site.

4. Verification of Rough Openings: All rough opening dimensions for windows, doors, skylights, fireplaces, medicine chests, tub platforms, masonry, hvac, plumbing wall sizes (if different from size shown on plans), electrical panels, roofing vents, and any other framing details not specifically called out in plans, must be verified and confirmed in writing by Owner/Contractor prior to commencement of work by Subcontractor.

5. Exterior Details to Be Performed by Others: All exterior details such as foam, masonry, precast concrete, etc., are to be performed by others, not by Subcontractor named in this Agreement.

6. Verification of Dimensions: All dimensions shall be built by Subcontractor per plans. Deviations from plans desired by Owner/Contractor must be specified in writing by Owner/Contractor or the designated design professional.

7. Wet-Set Framing Anchors: Where wet-set framing anchors are to be installed by others, responsibility for placement of these wet-set anchors lies with the contractor who places them. Any change that must be made to the placement of these wet-set anchors after framing begins will be the responsibility of others or will be performed as additional work by Subcontractor.

8. Other Subcontractors: Within one week of signing this Agreement, Owner/Contractor shall furnish Subcontractor with a list of the names and phone, pager, and fax numbers of other subcontractors who will be working on the project.

9. Cutting, Drilling, Removal of Framing Members by Others: Any cutting, drilling or removal of framing members performed by others must be done according to the specifications of the [specify applicable code]. Subcontractor takes no responsibility for any modifications made by others to his framing work. Owner/Contractor to assure that any modifications made to Subcontractor's framing work meet the [specify applicable code] and conform with plans, specifications, and engineering requirements for this project.

10. Protection of Materials: Lumber and other materials furnished by Owner/Contractor will be minimally protected by Subcontractor. Subcontractor takes no responsibility for damage to these materials. Owner/Contractor shall provide all tarps, fencing, and other measures required for protecting owner-supplied materials. Subcontractor will provide labor to protect these stored materials, within reason. Moisture content of the dwelling is the responsibility of the Owner/Contractor. Owner/Contractor to verify the moisture content of the fram-

ing materials is at an acceptable level prior to installation of any work that follows rough framing. Subcontractor not responsible for problems that could occur due to excessive moisture content of the framing materials.

11. Steel Framing and Structural Steel Work Performed by Others: Steel moment frames and other structural steel work performed by others must be laid out and discussed in the field with Subcontractor prior to commencement of this work to ensure coordinated and orderly installation.

C. WARRANTY

Subcontractor provides a limited warranty on all Subcontractor and subtier-Subcontractor-supplied labor and materials used in this project for a period of one year following substantial completion of all work under this Agreement.

No warranty is provided by Subcontractor on any materials furnished by the Owner/Contractor for installation. No warranty is provided on any existing materials that are moved, and/or removed and reinstalled by the Subcontractor within the dwelling (including any warranty that existing/used materials will not be damaged during the removal and reinstallation process). One year after substantial completion of the project, the Owner's/Contractor's sole remedy (for materials and labor) on all materials that are covered by a manufacturer's warranty is strictly with the manufacturer, not with the Subcontractor.

Repair of the following items is specifically excluded from Subcontractor's warranty: Damages resulting from lack of Owner/Contractor maintenance; damages resulting from Owner/Contractor abuse or ordinary wear and tear; deviations that arise such as the minor cracking of concrete, stucco, and plaster; minor stress fractures in drywall due to the curing of lumber; warping and deflection of wood.



Gary Ransone is an attorney and former contractor in Santa Cruz, Calif.