

## INSTRUCTIONS FOR SWORN STATEMENTS AND WAIVERS OF LIEN

Examining the Sworn Statement and Waivers is the most important function we perform when insuring construction mortgage draws.

The attached sample Sworn Statement contains numbered columns that correspond with the numbered instructions below.

1. Lists all the **sub-contractors, material suppliers and laborers (their addresses and telephone numbers)** who will provide work or materials for construction of the project. Estimates should be used for unawarded contracts. Any additions or changes must be reflected on future Sworn Statements. It is important that each Sworn Statement reflect **ALL** laborers, material suppliers and subcontractors, not just those who are receiving payment from that draw request.
2. Lists the type of improvements, labor or materials provided. If materials are being provided by one person and the installation is being performed by someone else, they must be listed on separate lines. Do not combine labor and materials.
3. Lists the Contract price to be paid to the party named in Column 1 over the course of the entire project. The total contract price must be shown on each and every draw request.
4. Change Orders (+) or (-). This column allows for adjustments to the original contract price. (This column could be titled "I've changed my mind, I want ----- instead.)
5. Adjusted Contract Price. Amends the original contract price (column 1) to reflect the change in column 4.
6. Amount Already Paid. This is the total of **all previous payments** to the party shown in Column 1.

7. Amount Currently Owing. This column shows the amount actually paid or to be paid through the current draw request. All amounts must be exact, excluding any retention. The lender will be doing their inspection and determining whether the work has been performed to justify this amount.
8. Total Retention Withheld. Shows any and all retention held by the lender through the current status of the construction. Retention is usually withheld only on commercial projects.
9. Balance to Complete. Column 5 (adjusted contract price, minus columns 6 (amount already paid) and 7 (amount currently owing) is the correct amount to be shown in this column.
10. Columns 10 and 11, related to laborer wages and withholdings, are used when a builder employs laborers (vs. sub-contractors). Any unpaid amounts in these columns will have priority over the draw if left unpaid. These columns are seldom used.

Column 7 when totaled, is the amount of the draw requested by the builder. The lender must be willing to disburse that amount based on their inspection. In the event the lender intends to disburse an amount that is less than the amount requested, you would insure only the amount that will be disbursed. Sometimes lenders are willing to disburse more than the amount in Column 7. WE CANNOT INSURE MORE. We would need a new Sworn Statement to reflect the increased draw amount.

**CHECKS AND BALANCES:** All the columns should be added with the total shown at the end of the column. The total figures in Columns 6, 7, 8 and 9 should total the amount shown in Column 5.

We want the original Sworn Statement, signed by the builder, dated and notarized.

## WAIVERS

We need to have original waivers in our file. All waivers must be signed (and verified, if by a party other than the claimant), dated and must state the work, materials or services provided. A court, if the project ends up there, will not accept copies. You may accept a fax copy at the time of draw, but need to obtain the original before the next draw. The name of the subcontractor, supplier or laborer must be fully identified.

When a subcontractor or supplier has been paid a portion of their contract, a **Partial Unconditional Waiver** is submitted. The Waiver must show the exact amount paid as well as the amount previously paid and the balance of the contract amount to be paid.

Once they have been fully paid, a **Full Unconditional Waiver** must be submitted by all parties named on the Sworn Statement, as well as the general contractor.

In the event that **conditional waivers** may be submitted, payment by the bank or title company directly to the sub-contractors and/or suppliers must be made.

**RESIDENTIAL NEW CONSTRUCTION PROJECT**

Owner: \_\_\_\_\_  
 Contractor's Name: \_\_\_\_\_  
 Period from: \_\_\_\_\_ to \_\_\_\_\_  
 Request Number: \_\_\_\_\_

STATE OF MICHIGAN }  
 COUNTY OF: \_\_\_\_\_ }

**SWORN STATEMENT FOR CONTRACTOR OR SUBCONTRACTOR**



*First American  
 Title Insurance Company*

**WARNING TO OWNER OR LESSEE:** An owner or lessee of the property may not rely on this Sworn Statement to avoid the claim of a subcontractor, supplier, or laborer who has provided a notice of furnishing or a laborer who may provide a notice of furnishing under Section 109 of the Construction Lien Act, 1980 PA 497, MCL 570.1109 to the designee or to the owner or lessee if the designee is not named or has died.

being duly sworn, states the

1) \_\_\_\_\_ is the (contractor) (subcontractor) for an improvement to the following real property in \_\_\_\_\_ County, Michigan, described as follows:

{insert legal description of property here}

(2) The following is a statement of each subcontractor, supplier and laborer, for whom payment of wages or fringe benefits and withholdings is due but unpaid, with whom the (contractor) (subcontractor) has (contracted) (subcontracted) for performance under the contract with the owner or lessee, and that the amounts due to the persons as of the date of this statement are correctly and fully set forth opposite their names:

No.	Name, Address and Telephone Number of Subcontractor, Supplier, or Laborer	Type of Improvement Furnished	Total Contract Price	Change Orders (+) or (-)	Adjusted Contract Price	Amount Already Paid	Amount Currently Owing	Total Retention Withheld	Balance to Complete	Amount of Laborer Wages Due but Unpaid	Amount of Laborer Fringe Benefits and Withholdings Due but Unpaid
1		Architectural Services			\$0.00				\$0.00		
2		Excavating			\$0.00				\$0.00		
3		Sand / Gravel / Backfill			\$0.00				\$0.00		
4		Basement Walls			\$0.00				\$0.00		
5		Structural Steel			\$0.00				\$0.00		
6		Rough Lumber / Trusses			\$0.00				\$0.00		
7		Finish Lumber			\$91.00				\$0.00		
8		Rough Carpentry			\$0.00				\$0.00		
9		Finish Carpentry			\$0.00				\$0.00		
10		Windows & Doors			\$0.00				\$0.00		
11		Roofing Labor / Materials			\$0.00				\$0.00		
12		Insulation			\$0.00				\$0.00		
13		Brick			\$0.00				\$0.00		



No.	Name of Subcontractor, Supplier or Laborer	Type of Improvement Furnished	Total Contract Price	Change Orders (+) or (-)	Adjusted Contract Price	Amount Already Paid	Amount Currently Owning	Total Retention Withheld	Balance to Complete	Amount of Laborer Wages Due But Unpaid	Amount of Laborer Fringe Benefits and Withholdings Due But Unpaid
20											
21											
22											
23											
24											
25											
26											
27											
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36											
37											
38											
39											
TOTALS											

(NOTE: SOME COLUMNS ARE NOT APPLICABLE TO ALL PERSONS LISTED.)

(3) That the contractor has not procured material from, or subcontracted with, any person other than those set forth above and owes no money for the improvement other than the sums set forth above.

(4) Deponent further says that he or she makes the foregoing statement as the (contractor) (subcontractor) or as \_\_\_\_\_ of the (contractor) (subcontractor) for the purpose of representing to the owner or lessee of the above-described premises and his or her agents that the above-described property is free from claims of construction liens, or the possibility of construction liens, except as specifically set forth above and except for claims of construction liens by laborers which may be provided pursuant to Section 109 of the Construction Lien Act, Act No. 497 of the Public Acts of 1980, as amended, being Section 570.1109 of the Michigan Compiled Laws. **WARNING TO DEPONENT: A PERSON, WHO WITH INTENT TO DEFRAUD, GIVES A FALSE SWORN STATEMENT IS SUBJECT TO CRIMINAL PENALTIES AS PROVIDED IN SECTION 110 OF THE CONSTRUCTION LIEN ACT, ACT NO. 497 OF THE PUBLIC ACTS OF 1980, AS AMENDED, BEING SECTION 570.1110 OF THE MICHIGAN COMPILED LAWS.**

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

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, \_\_\_\_\_ County, Michigan

Notary Public \_\_\_\_\_ My Commission Expires: \_\_\_\_\_

\_\_\_\_\_ hereby agrees to indemnify and hold First American Title Insurance Company harmless against any lien, claim or suit of or by any subcontractor, supplier, laborer or other construction lien claimant if said lien, claim or suit is asserted by a claimant whose compensation for services or materials furnished was, or should have been, received whether directly or indirectly out of funds paid pursuant hereto. This indemnity includes, but is not limited to, a reimbursement of all legal fees and other reasonable expenses connected with the proper defense by First American Title Insurance Company of its insureds against claims of construction liens.

By: \_\_\_\_\_ Its: \_\_\_\_\_







**FULL CONDITIONAL WAIVER**

My/our contract with \_\_\_\_\_ to provide \_\_\_\_\_ for the improvement of the property described as \_\_\_\_\_ has been fully paid and satisfied. By signing this waiver, all my/our construction lien rights against the described property are waived and released.

This waiver is conditioned on actual payment of \$ \_\_\_\_\_.

***IF THE OWNER OR LESSEE OF THE PROPERTY OR THE OWNER'S OR LESSEE'S DESIGNEE HAS RECEIVED A NOTICE OF FURNISHING FROM ME/ONE OF US OR IF I/WE ARE NOT REQUIRED TO PROVIDE ONE, AND THE OWNER, LESSEE, OR DESIGNEE HAS NOT RECEIVED THIS WAIVER DIRECTLY FROM ME/ONE OF US, THE OWNER, LESSEE, OR DESIGNEE MAY NOT RELY UPON IT WITHOUT CONTACTING ME/ONE OF US, EITHER IN WRITING, BY TELEPHONE, OR PERSONALLY, TO VERIFY THAT IT IS AUTHENTIC.***

Name of Lien Claimant \_\_\_\_\_

By: \_\_\_\_\_ Signed on \_\_\_\_\_  
Signature of lien claimant or authorized officer or agent of lien claimant Date

Address: \_\_\_\_\_  
Street

\_\_\_\_\_  
City, State zip

Telephone: \_\_\_\_\_

**\*\*WARNING: DO NOT SIGN BLANK OR INCOMPLETE FORMS. RETAIN A COPY.**

Form Furnished By

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Name of Lien Claimant \_\_\_\_\_

By: \_\_\_\_\_ Signed on \_\_\_\_\_  
Signature of lien claimant or authorized officer or agent of lien claimant Date

Address: \_\_\_\_\_  
Street

\_\_\_\_\_ City, State Zip

Telephone: \_\_\_\_\_

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**PARTIAL CONDITIONAL WAIVER**

I/we have a contract with \_\_\_\_\_ to provide \_\_\_\_\_ for the improvement of the property described as \_\_\_\_\_, and by signing this waiver, waive my/our construction lien to the amount of \$ \_\_\_\_\_, for labor/materials provided through \_\_\_\_\_.

This waiver, together with all previous waivers, if any, \_\_\_\_\_ cover all amounts due to me/us for contract improvement provided through the date shown above. This waiver is conditioned on actual payment of the amount shown above.

**IF THE OWNER OR LESSEE OF THE PROPERTY OR THE OWNER'S OR LESSEE'S DESIGNEE HAS RECEIVED A NOTICE OF FURNISHING FROM ME/ONE OF US OR IF I/WE ARE NOT REQUIRED TO PROVIDE ONE, AND THE OWNER, LESSEE, OR DESIGNEE HAS NOT RECEIVED THIS WAIVER DIRECTLY FROM ME/ONE OF US, THE OWNER, LESSEE, OR DESIGNEE MAY NOT RELY UPON IT WITHOUT CONTACTING ME/ONE OF US, EITHER IN WRITING, BY TELEPHONE, OR PERSONALLY, TO VERIFY THAT IT IS AUTHENTIC.**

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By: \_\_\_\_\_ Signed on \_\_\_\_\_  
Signature of lien claimant or authorized officer or agent of lien claimant Date

Address: \_\_\_\_\_  
Street  
\_\_\_\_\_  
City, State Zip

Telephone: \_\_\_\_\_

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*The following is supplied for informational purposes only and is not in limitation or modification of the above waiver:*

Amount of Contract: \$ \_\_\_\_\_  
Previously Paid \$ \_\_\_\_\_  
This Payment \$ \_\_\_\_\_  
Retention Withheld \$ \_\_\_\_\_  
Balance to Become Due \$ \_\_\_\_\_

Owner of Premises or Name of Project \_\_\_\_\_

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Name of Lien Claimant \_\_\_\_\_

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Address: \_\_\_\_\_  
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City, State Zip

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