

## 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.