

SWORN STATEMENT AND LIEN WAIVER CHECKLIST

NOTE: This checklist is for use in conducting a one-time review of final sworn statements and final lien waivers at the end of a construction project. Members who would like to issue Construction Loan Policies, which insure mortgages against mechanics' liens on a per draw basis, or who would like to hold and disburse escrows for construction loan proceeds, must be trained and approved by the Underwriting Department, per ATG® Administrative Regulation 5.A.

OWNER'S/GENERAL CONTRACTOR'S STATEMENT

- A. The Owner's Sworn Statement is completed by the owner listing each original contractor, including architect, surveyor, engineer, etc. ☐ Yes ☐ No
- B. Each entity listed on the Owner's Sworn Statement has completed a General Contractor's Sworn Statement listing each subcontractor with whom that contractor has contracted work or materials..... ☐ Yes ☐ No
- C. Have new contractors or subcontractors been added or previously-listed contractors deleted? ☐ Yes ☐ No
1. Has the statement been compared to prior statements? ☐ Yes ☐ No
2. If a contractor/subcontractor has been deleted, has its lien rights been properly waived/terminated? ☐ Yes ☐ No
- D. Amount of contract:
1. Has the contract amount increased or decreased?..... ☐ Yes ☐ No
- a. If increased, is the loan becoming out of balance? (Advise appropriate parties if yes.)..... ☐ Yes ☐ No
- b. Do lien waivers and affidavits conform to the increased/decreased amount? ☐ Yes ☐ No
2. Is the total contract amount correct?..... ☐ Yes ☐ No
- a. Does total equal amount of contract price +/- extras/credits? ☐ Yes ☐ No
- b. If there is retainage, has it been correctly calculated? ☐ Yes ☐ No
- E. Amount previously paid:
1. Does it equal total prior payments to each contractor/subcontractor? ☐ Yes ☐ No
2. Are there partial/final lien waivers totaling amount of prior payments? ☐ Yes ☐ No
3. Does the column total the amount previously paid to all contractors/subcontractors? ☐ Yes ☐ No
- F. Amount of this payment:
1. Are there sufficient funds to pay the current draw?..... ☐ Yes ☐ No
2. Are there partial/final lien waivers from all contractors/subcontractors being paid on current draw? ☐ Yes ☐ No
3. Does column total correctly? ☐ Yes ☐ No
4. Is there a Construction Disbursement Authorization for the total amount of the current payment?..... ☐ Yes ☐ No
- G. Retainage:
1. Is there an amount to be retained from each contractor/subcontractor? ☐ Yes ☐ No
2. Has proper retainage been withheld from disbursement? ☐ Yes ☐ No
3. Does column total equal retainage? ☐ Yes ☐ No
4. If the contract amount has changed, has the retainage been recalculated? ☐ Yes ☐ No

H. Balance to complete:

1. Does balance to complete for each contractor/subcontractor equal the contract amount +/- extras/credits, less amount previously paid, less amount of this payment? ☐ Yes ☐ No
2. Does column total equal the balance to complete the project? ☐ Yes ☐ No
3. Are there sufficient funds to pay total balance to complete the project? ☐ Yes ☐ No

I. Is sworn statement:

1. Complete in all respects? ☐ Yes ☐ No
2. In compliance with state statutes, if any, pertaining to General Contractor's Sworn Statement? ☐ Yes ☐ No
3. Signed by appropriate parties of the owner and original contractors? ☐ Yes ☐ No
4. Acknowledged? ☐ Yes ☐ No

LIEN WAIVERS

A. Generally

1. Do we have partial or final Lien Waiver from all contractors/subcontractors listed in Owner's/ General Contractor's Sworn Statement who are receiving payment? ☐ Yes ☐ No
2. If waiver form is not ATG form, has ATG Underwriting approved form? ☐ Yes ☐ No

B. Waiver Portion

1. Is person (owner, general contractor, or subcontractor) who hired contractor listed? ☐ Yes ☐ No
2. Is the type of work being done by the contractor listed in detail, including whether work is "labor only," "material only," or "labor and materials"? ☐ Yes ☐ No
3. Does the contractor's name and kind of work match the Owner's/General Contractor's Sworn Statement? ☐ Yes ☐ No
4. Has the property where the work is being done been sufficiently described? ☐ Yes ☐ No
5. Has the owner of the property been listed? ☐ Yes ☐ No
6. Is the amount of consideration equal to the amount being currently paid on the Owner's/General Contractor's Sworn Statement (partial) or the full contract price (final)? ☐ Yes ☐ No
7. Does the waiver state that contractor is waiving right to lien on the "premises and improvements thereon" and on the "monies or other consideration due or that may be due from the owner"? ☐ Yes ☐ No
8. Does the waiver state that contractor is waiving right to lien for labor, materials, etc., "furnished to this date" (partial) or "furnished or which may be furnished at any time hereafter" (final)? ☐ Yes ☐ No
9. Is waiver dated? ☐ Yes ☐ No
10. Is waiver signed by appropriate person and is his/her title stated? ☐ Yes ☐ No
11. Does signatory have legal authority to bind the entity? ☐ Yes ☐ No
 - a. Is corporate seal affixed? (optional) ☐ Yes ☐ No
 - b. If so, does corporate name on seal match name on waiver and Owner's/General Contractor's Sworn Statement? ☐ Yes ☐ No

C. Affidavit Portion

1. Are the State and County portions completed?..... ☐ Yes ☐ No
 2. Is signatory's name and title printed/typed on affidavit?..... ☐ Yes ☐ No
 3. Is the kind of work listed in detail including "labor only," "material only," or "labor and material"?..... ☐ Yes ☐ No
 4. Does contractor's name and kind of work match the Owner's/General Contractor's Sworn Statement? ☐ Yes ☐ No
 5. Is the property where the work is being done sufficiently described? ☐ Yes ☐ No
 6. Is the total contract amount listed? ☐ Yes ☐ No
 7. Does total contract amount match the amount shown in Owner's/General Contractor's Sworn Statement? ☐ Yes ☐ No
 - a. If it has increased, have owner/lender, general contractor, and subcontractor approved extras by written change order? ☐ Yes ☐ No
 - b. If it has decreased, has owner/lender, general contractor, and subcontractor approved credit by written change order? ☐ Yes ☐ No
 8. Has the amount previously paid to contractor been listed?..... ☐ Yes ☐ No
 - a. Does it equal the sum of all prior payments to this contractor?..... ☐ Yes ☐ No
 9. Has the contractor listed all subcontractors and material suppliers, their contract amounts, amounts previously paid, amount of current payments, and balance due? ☐ Yes ☐ No
 10. Have waivers been obtained from each subcontractor or material supplier listed? ☐ Yes ☐ No
 - a. Do material waivers match information listed in Lien Waiver Affidavit? (Review checklist items *Lien Waivers*, C.1. to C.8., above.)..... ☐ Yes ☐ No
 - b. If no subcontractor or material suppliers are listed, is there a statement that "all materials taken from fully paid stock delivered to job site by our truck" with principal supplier listed?..... ☐ Yes ☐ No
- WARNING:** Except for minimal contract amounts approved by construction escrowee, the above statement is NOT acceptable. *All material suppliers must be listed and waivers obtained.*
11. Is affidavit signed by proper party (corporate officer, partner, or sole proprietor) with signatory's title listed?.... ☐ Yes ☐ No
 12. Is the affidavit dated? ☐ Yes ☐ No
 13. Is the affidavit notarized and the notary's seal affixed? ☐ Yes ☐ No
 14. Is the notary's acknowledgment dated?..... ☐ Yes ☐ No
 15. Is the contractor's taxpayer identification information correctly completed? ☐ Yes ☐ No
 16. Are the lien waiver and affidavit unconditional and noncontingent? That is, waivers or affidavits that state that they are "conditional upon receipt of payment," or the like, are unacceptable..... ☐ Yes ☐ No