

**CALIFORNIA LAWS on CONDITIONAL and UNCONDITIONAL
PROGRESS PAYMENT and FINAL PAYMENT
STATUTORY MECHANICS LIEN RELEASE FORMS**

Four Types of Statutory California Mechanics Lien Waiver and Release Forms

1. Conditional Mechanics Lien Waiver and Release Upon Progress Payment
 - Contractor and Subcontractors Submit with Progress Payment Application
2. Unconditional Mechanics Lien Waiver and Release Upon Progress Payment
 - Contractor and Subcontractors Submit After Receipt of Prior Progress Payment
3. Conditional Mechanics Lien Waiver and Release Upon Final Payment
 - Contractor and Subcontractors Submit with Final Payment Application
 - Be Careful to State and Include Amount of Disputed Claims Not Covered by Release
4. Unconditional Mechanics Lien Waiver and Release Upon Final Payment
 - Contractor and Subcontractors Do not Provide Unless Fully Paid for All Work

Scope of Mechanics Lien Waiver and Release Forms

- Only the above mentioned statutory forms of Waiver and Release Forms are permitted under the law to waive rights to record a mechanics lien.
- Mechanic's lien, stop notice and bond rights cannot be waived by provisions contained in a contract or by using other forms of release.
- Waiver and Release Forms DO NOT release Breach of Contract etc claims, or claims for:
 - Rescission
 - Abandonment
 - Breach of Contract
 - Fraud Claims
 - Tort Claims

Waiver and Release Forms - Extra Work Claims Not Reserved in Lien Release Forms

- If there was an Executed Change Order as of date of release - Claim is Released
- If there were unsigned Oral Change Orders as of date of release - Not Released
- **BE VERY CAREFUL IN FILLING IN and EXECUTING THESE FORMS!**

New Mechanics Lien Release Forms Must be Used Effective July 1, 2012.

Please be aware that as part of recent wholesale changes made to the Mechanics Lien, Stop Notice and Payment Bond laws by the General Assembly, effective July 1, 2012 there are new forms for Conditional and Unconditional Lien Releases on Progress Payments and Final Payments. (See Civil Code §§ 8132-8138, below.)

The last time the Legislature made changes in these forms, one court held that a contractor or owner who did NOT use the new forms after their effective date **did NOT obtain a valid lien release!!!**

CONDITIONAL WAIVER AND RELEASE ON PROGRESS PAYMENT NOTICE: THIS

DOCUMENT WAIVES THE CLAIMANT'S LIEN, STOP PAYMENT NOTICE, AND PAYMENT BOND RIGHTS EFFECTIVE ON RECEIPT OF PAYMENT. A PERSON SHOULD NOT RELY ON THIS DOCUMENT UNLESS SATISFIED THAT THE CLAIMANT HAS RECEIVED PAYMENT.

Identifying Information

Name of Claimant:___ Name of Customer:___ Job Location:___ Owner:_____ Through Date:_____

Conditional Waiver and Release

This document waives and releases lien, stop payment notice, and payment bond rights the claimant has for labor and service provided, and equipment and material delivered, to the customer on this job through the Through Date of this document. Rights based upon labor or service provided, or equipment or material delivered, pursuant to a written change order that has been fully executed by the parties prior to the date that this document is signed by the claimant, are waived and released by this document, unless listed as an Exception below.

This document is effective only on the claimant's receipt of payment from the financial institution on which the following check is drawn: Maker of Check:_____ Amount of Check: \$___ Check Payable to:_ Exceptions This document does not affect any of the following: (1) Retentions. (2) Extras for which the claimant has not received payment. (3) The following progress payments for which the claimant has previously given a conditional waiver and release but has not received payment:

Date(s) of waiver and release:_____ Amount(s) of unpaid progress payment(s): \$_____ (4) Contract rights, including (A) a right based on rescission, abandonment, or breach of contract, and (B) the right to recover compensation for work not compensated by the payment. Signature Claimant's Signature:___ Claimant's Title:_____ Date of Signature:___

UNCONDITIONAL WAIVER AND RELEASE ON PROGRESS PAYMENT NOTICE TO CLAIMANT: THIS DOCUMENT WAIVES AND RELEASES LIEN, STOP PAYMENT NOTICE, AND PAYMENT BOND RIGHTS UNCONDITIONALLY AND STATES THAT YOU HAVE BEEN PAID FOR GIVING UP THOSE RIGHTS. THIS DOCUMENT IS ENFORCEABLE AGAINST YOU IF YOU SIGN IT, EVEN IF YOU HAVE NOT BEEN PAID. IF YOU HAVE NOT BEEN PAID, USE A CONDITIONAL WAIVER AND RELEASE FORM.

Identifying Information:

Name of Claimant:_____ Name of Customer:_____ Job Location:___ Owner:_____
Through Date:___

Unconditional Waiver and Release

This document waives and releases lien, stop payment notice, and payment bond rights the claimant has for labor and service provided, and equipment and material delivered, to the customer on this job through the Through Date of this document. Rights based upon labor or service provided, or equipment or material delivered, pursuant to a written change order that has been fully executed by the parties prior to the date that this document is signed by the claimant, are waived and released by this document, unless listed as an Exception below.

The claimant has received the following progress payment: \$_____ Exceptions

This document does not affect any of the following: (1) Retentions. (2) Extras for which the claimant has not received payment. (3) Contract rights, including (A) a right based on rescission, abandonment, or breach of contract, and (B) the right to recover compensation for work not compensated by the payment.

Signature Claimant's Signature:_____ Claimant's Title:_____ Date of Signature:_____

CONDITIONAL WAIVER AND RELEASE ON FINAL PAYMENT NOTICE: THIS DOCUMENT WAIVES THE CLAIMANT'S LIEN, STOP PAYMENT NOTICE, AND PAYMENT BOND RIGHTS EFFECTIVE ON RECEIPT OF PAYMENT. A PERSON SHOULD NOT RELY ON THIS DOCUMENT UNLESS SATISFIED THAT THE CLAIMANT HAS RECEIVED PAYMENT.

Identifying Information Name of Claimant:___ Name of Customer:___ Job Location:___
Owner:_____

Conditional Waiver and Release

This document waives and releases lien, stop payment notice, and payment bond rights the claimant has for labor and service provided, and equipment and material delivered, to the customer on this job. Rights based upon labor or service provided, or equipment or material delivered, pursuant to a written change order that has been fully executed by the parties prior to the date that this document is signed by the claimant, are waived and released by this document, unless listed as an Exception below.

This document is effective only on the claimant's receipt of payment from the financial institution on which the following check is drawn:

Maker of Check:_____ Amount of Check: \$___ Check Payable to:_____
Exceptions:_____

This document does not affect any of the following: Disputed claims for extras in the amount of:
\$ _____

Signature Claimant's Signature: _ Claimant's Title:_____ Date of Signature: _

UNCONDITIONAL WAIVER AND RELEASE ON FINAL PAYMENT NOTICE TO CLAIMANT: THIS DOCUMENT WAIVES AND RELEASES LIEN, STOP PAYMENT NOTICE, AND PAYMENT BOND RIGHTS UNCONDITIONALLY AND STATES THAT YOU HAVE BEEN PAID FOR GIVING UP THOSE RIGHTS. THIS DOCUMENT IS ENFORCEABLE AGAINST YOU IF YOU SIGN IT, EVEN IF YOU HAVE NOT BEEN PAID. IF YOU HAVE NOT BEEN PAID, USE A CONDITIONAL WAIVER AND RELEASE FORM.

Identifying Information Name of Claimant: _____ Name of Customer: _____ Job Location: _____
Owner: _____

Unconditional Waiver and Release

This document waives and releases lien, stop payment notice, and payment bond rights the claimant has for all labor and service provided, and equipment and material delivered, to the customer on this job. Rights based upon labor or service provided, or equipment or material delivered, pursuant to a written change order that has been fully executed by the parties prior to the date that this document is signed by the claimant, are waived and released by this document, unless listed as an Exception below.

The claimant has been paid in full.
Exceptions _____

This document does not affect the following: Disputed claims for extras in the amount of: \$ _____

Signature Claimant's Signature: _____ Claimant's Title: _____ Date of Signature: _____

N.B. The contents of this Article do not constitute legal advice or create an attorney-client relationship, and you may not rely on it without seeking legal advice regarding your particular situation and contract from a competent construction attorney. Please also note that statutes and case law are frequently changing and these materials may become outdated.

For further information on this topic and how the current law may apply to your particular project and issues, [Contact Us](#) via email, phone (415)788-1881 or visit our website at www.wolfflaw.com for other contract information.